

Small Antenna, "Small Cell," Microtower, & Zoning Frequently Asked Questions October 20, 2017

Q: Why is the County trying to amend the Zoning Code?

A: Because wireless technology is evolving, Montgomery County has recently received an unprecedented number of applications to deploy small cell antennas in residential neighborhoods as well as commercial areas around the County. Federal law is clear that Montgomery County cannot pass zoning laws that would have the effect of prohibiting service throughout the County. Therefore, the proposed ZTA is intended to allow providers to provide service while protecting the character of both our residential neighborhoods and commercial areas by regulating how and where these antennas can be placed, and how they should be screened or camouflaged.

Currently, the County reviews and charges for each of these antennas separately and the Federal Communications Commission is considering preempting our local zoning authority because it sees this requirements as potentially having the effect of prohibiting service. Already, 13 states have passed legislation to preempt local zoning authority over small antennas.

Q: Why can't we just say no to more antennas in neighborhoods?

A: As noted above, under federal law, the County may not prohibit the provision of telecommunications service. More antennas installed closer to the ground is one means to provide service, and there are other ways to get broadband service, such as FIOS or Comcast with a wifi router. But County cannot prohibit one means because there is another.

Q: What about the health hazards of antennas? Why should antennas be allowed to be placed close to homes if we are uncertain about the health of effects of have them near people?

A: The Federal Communications Commission (FCC) sets limits for RF (radio frequency) emissions and the County reviews every antenna application to enforce the federal RF limits. The RF exposure from standing 9 feet from a 20-foot pole with 3 antennas is similar to the RF exposure for a person holding a cell phone.

It is also important to note that under federal law, local and state governments are prohibited from zoning on the basis of RF emissions.

Q: Why are there so many applications to install a lot of antennas in some areas and no antennas planned for similar nearby neighborhoods?

A: The providers are proposing antennas in areas where demand is high and where they are projected to require more capacity in the near future. Nearby areas will also be proposed for new antennas as the providers build out the system based on demand and capacity needs.

Q: Why can't antennas be placed in open or commercial areas, away from neighborhoods?

A: 5G technology and spectrum requires antennas to be closer to devices. A small cell antenna on a 20-foot tall pole serves a radius of about 750 feet.

Q: How can the County encourage use of larger structures, away from neighborhoods?

A: The County is encouraging the use of structures outside of neighborhoods. The draft changes to the zoning code would allow carriers to install antennas on lower height buildings, such as bank buildings, and in retail areas. Antennas installed on buildings can be larger than those installed on poles. The goal is to provide alternative locations to place antennas.

Q: What size antenna and equipment cabinets would be permitted?

A: If an existing streetlight, utility pole or parking lot light pole is being used, the antenna is limited to 6 cu feet and a maximum length of 4 feet, and the equipment is limited to 12 cu feet. The equipment must also be in the base of the pole or on the ground.

Q: Can equipment be required to be placed underground?

A: The equipment requires electrical power and generates heat. It must be cooled and large air vents at ground level would be needed. To avoid potential hazards from snow piling up and melting into the equipment vaults, the County is not requiring equipment to be undergrounded.

Q: Can antennas be placed in attics?

A: The zoning code prohibits placing these antennas on detached house and duplexes, and the draft amendment would also prohibit placement on townhouses.

Q: What is the difference between “limited use” and “conditional use”?

A: A “limited use” meets specific conditions or requirements that would make it a compatible use in that zone. If that use meets those conditions it is deemed to conform to community use – thus, no zoning hearing is required. A “conditional use” is not assumed to be automatically compatible in the zone and therefore requires discretionary review to determine if the use is permissible. A conditional use requires approval from a hearing examiner in the Office of Zoning and Administrative Hearings. A public hearing is scheduled, notice is provided to surrounding properties, and the hearing examiner either approves or denies the application.

Q: Why is the 300 foot setback in residential areas being removed?

A: In response to community input, this draft amendment has been revised. The 300 foot setback will remain, but an exception will be created to allow towers 35 feet or shorter to meet a one-foot-for-one-foot set back. The purpose is to avoid a conflict with the federal requirement not to prohibit the provision of service.

Some providers may seek to add antennas to streetlights in residential areas where the utilities are buried. They need the permission of the streetlight owner. If permission cannot be obtained, the provider may have no option to collocate or replace an existing pole, and would need to seek approval for a conditional use to install a new streetlight that can hold an antenna. A public hearing would be scheduled by the Office of Zoning and Administrative Hearings, and a hearing examiner would take testimony, review the size and placement, and determine whether to allow the installation. However, a new streetlight would almost never meet the 300 foot set back, and to avoid the risk of prohibiting service, the hearing examiner could allow the new streetlight with antennas, if it is less than 35 feet tall, and is set back from dwellings, a distance of at least one foot for every foot of height.

Q: Who pays the cost of installing antenna and for the power they use?

A: The companies deploying antennas will pay the costs of installation, for the power they use, to be responsible for removing graffiti, repairing damage, and removing an antenna if it is no longer in use.