

OCTOBER 23, 2017 DRAFT

Zoning Text Amendment No.: 17-XX
Concerning: Telecommunications
Towers – Limited Use

Draft No. & Date:

Introduced:

Public Hearing:

Adopted:

Effective:

Ordinance No.:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: Council President at the request of the Executive

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- allow telecommunications towers as a limited use under certain circumstances;
- revise the use standards for antennas;
- revise the standards for antennas on existing structures;
- allow telecommunications towers as a limited use in certain zones; and
- generally amend telecommunications tower and cell antenna provisions.

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-3.1. “Use Table”

Section 3.1.6. “Use Table”

DIVISION 59-3.5. “Commercial Uses”

Section 3.5.2. “Communication Facility”

Section 3.5.14 “Accessory Commercial Uses”

DIVISION 59-8.3 “Planned Unit Development Zones”

Section 59-8.3.2. “PD Zone”

Section 59-8.3.3. “T-S Zone”

Section 59-8.3.4. “Planned Neighborhood Zone”

Section 59-8.3.5. “Planned Retirement Zone”

Section 59-8.3.6. “Planned Cultural Center Zone”

EXPLANATION: **Boldface** indicates a Heading or a defined term.
Underlining indicates text that is added to existing law by the original text amendment or by ZTA 14-09.
[Single boldface brackets] indicate text that is deleted from existing law by original text amendment.
Double underlining indicates text that is added to the text amendment by amendment or text added by this amendment in addition to ZTA 14-09.
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment or indicates a change from ZTA 14-09.
* * * indicates existing law unaffected by the text amendment.

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

1 **Sec. 1. DIVISION 59-3.1 is amended as follows:**

2 **DIVISION 59-3.1. Use Table**

3 * * *

4 **Section 3.1.6. Use Table**

5 The following Use Table identifies uses allowed in each zone. Uses may be modified in Overlay zones under

6 Division 4.9.

USE OR USE GROUP	Definitions and Standards	Ag		Rural Residential				Residential									Commercial/ Residential			Employment				Industrial											
		AR	R	RC	RNC	Residential Detached					Residential Townhouse			Residential Multi-Unit			CRN	CRT	CR	GR	NR	LSC	EOF	IL	IM	IH									
						RE-2	RE-2C	RE-1	R-200	R-90	R-60	R-40	TLD	TMD	THD	R-30											R-20	R-10							
COMMERCIAL																																			
Animal Services	<u>3.5.1</u>																																		
Animal Boarding and Care	<u>3.5.1.B</u>	C	C	C	C	C	C	C	C											C	C	C	L	C					L	L					
Veterinary Office/ Hospital	<u>3.5.1.C</u>	C	C	C	C	C	C	C	C	C	C									L	L	L	L	L	L			L	L						
Communication Facility	<u>3.5.2</u>																																		
Cable Communications System	<u>3.5.2.A</u>	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P	C	C	C	C	C	C	C	C	C	
Media Broadcast Tower	<u>3.5.2.B</u>	C	C	C		C	C	C	C	C	C	C				C	C	C				C			L	C	C	C	C	P					
Telecommunications Tower	<u>3.5.2.C</u>	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L	L	L	L	L	L	L	L	L	L	L	L	L/C	L/C	L	L/C	L	L	L	L	L	L	

7 **Key:** P = Permitted Use L = Limited Use C = Conditional Use Blank Cell = Use Not Allowed

Sec. 2. DIVISION 59-3.5 is amended as follows:

DIVISION 3.5 Commercial Uses

* * *

Section 3.5.2. Communication Facility

* * *

C. Telecommunications Tower

1. Defined

a. Telecommunications Tower means any structure other than a building, [providing] used to provide wireless voice, data or image transmission within a designated service area.

Telecommunications Tower [consists of] includes one or more antennas attached to a support structure and related equipment, but does not include amateur radio antenna (see Section 3.5.14.A and Section 3.5.14.B, Amateur Radio Facility), radio or TV tower (see Section 3.5.2.B, Media Broadcast Tower), or an antenna on an existing structure (See Section 3.5.14.C, Antenna on Existing Structure).

b. Antenna Dimension means an antenna and any enclosure containing the antenna, in which the total combined size of the antenna within any enclosure, meets the following dimensions:

Standard	Maximum Length on Any Side (in feet)	Maximum Volume (in cubic feet)
A	4 feet	6 cubic feet
B	4 feet	46 cubic feet
C	6 feet	30 cubic feet
D	9 feet	13 cubic feet
E	15 feet	1 cubic foot

2. Use Standards

- 30 a. Where a Telecommunications Tower is allowed as a limited use
31 in the Agricultural zone, Rural zone, Rural Cluster zone,
32 Employment zones, and Industrial zones, it must satisfy the
33 following standards:
- 34 i. It must not be staffed.
 - 35 ii. Antennas are limited to the following types and
36 dimensions:
 - 37 (a) an antenna that satisfies one of the Antenna
38 Dimensions standards in Section 59.3.5.2.C.1.b;
39 [(a) omni-directional (whip) antennas with a maximum
40 height of 15 feet and a maximum diameter of 3
41 inches;
 - 42 (b) directional or panel antennas with a maximum
43 height of 8 feet and a maximum width of 2 feet;]
44 and
 - 45 ([c]b) satellite or microwave dish antennas with a
46 maximum diameter of 8 feet.
 - 47 iii. Signs or illumination on the antennas or support structure
48 are prohibited unless required by the Federal
49 Communications Commission, the Federal Aviation
50 Administration, or the County.
 - 51 iv. In the AR, R, and RC zones, the tower must be located
52 within an overhead transmission line right-of-way and is
53 a maximum height of [199]179 feet. The tower must be a
54 minimum of 300 feet from any residence. A
55 Telecommunications Tower conditional use application

56 may be filed with the Hearing Examiner to deviate from
57 this standard.

58 v. In the LSC, IL, IM, IH₁ zones, the tower is a maximum
59 height of [199]179 feet with a setback of one foot for
60 every foot of height from all properties zoned
61 Agricultural, Rural Residential, or Residential.

62 vi. In the GR and EOF zones, the tower is a maximum
63 height of [150]130 feet with a setback of one foot for
64 every foot of height from all properties zoned
65 Agricultural, Rural Residential, or Residential. A
66 Telecommunications Tower conditional use application
67 may be filed with the Hearing Examiner to deviate from
68 this standard.

69 b. Where a Telecommunications Tower is allowed as a limited use
70 in the Residential, Rural Neighborhood Cluster, Neighborhood
71 Retail, Commercial/Residential, and Planned Unit Development
72 zones, it must satisfy the following standards:

73 i. Antennas must comply with the Antenna Classification
74 Category A under Section 59.3.5.2.C.1.b and must be
75 installed perpendicular to the ground;

76 ii. The tower must replace a pre-existing utility pole, street
77 light pole, or parking lot light pole, and be located:

78 (a) within 2 feet of the base of a pre-existing pole and
79 at the same distance from the curb line, or edge of
80 travel lane in an open section, as the pre-existing
81 pole in a public right-of-way;

- 82 (b) outside of the roadway clear zone as determined by
83 the Department of Transportation;
- 84 (c) in a manner that allows for adequate sight
85 distances as determined by the Department of
86 Transportation;
- 87 (d) in a manner that complies with applicable
88 accessibility requirements as determined by the
89 Department of Transportation; and
- 90 iii. the pre-existing pole must be removed within 10 business
91 days after power is activated to the replacement tower.
- 92 iv. The height of the tower, including any attached antennas
93 and equipment, must not exceed:
- 94 (a) for other than utility poles or parking lot lights, the
95 height of the pole that is being replaced
- 96 (1) plus 5 feet when abutting a right-of-way
97 with a paved section width of 30 feet or less;
- 98 (2) plus 10 feet when abutting a right-of-way
99 with a paved section width of greater than
100 30 feet and less than 60 feet;
- 101 (3) plus 20 feet when abutting a right-of-way
102 with a paved section width 60 feet or
103 greater;
- 104 (b) for utility poles and parking lot lights, the height of
105 the pre-existing utility pole plus 10 feet;
- 106 v. The tower must be the same color as the nearest pre-
107 existing pole;

- 108 vi. The tower must have no exterior wiring, except that
109 exterior wiring may be enclosed in shielded conduit on
110 wooden poles, or, enclosed in shielded conduit on utility
111 poles if the utility pole owner’s policies do not permit
112 third-party wiring inside of a utility pole.
- 113 vii. Any equipment cabinet:
114 (a) must not exceed a maximum volume of 12 cubic
115 feet;
116 (b) must be installed in the Telecommunications
117 Tower base or at ground level;
118 (c) is the same color or pattern as the pre-existing
119 structure, except as provided in Section
120 59.3.5.2.C.2.b.vi.(d);
121 (d) may be a stealth design to disguise equipment as
122 authorized by law.
- 123 viii. The tower must include a replacement street light, if a
124 street light existed on the pre-existing pole.
- 125 ix. The design of a replacement tower located in a public
126 right-of-way, including the footer and the replacement
127 street light, must be approved by the Department of
128 Transportation.
- 129 x. The noise level of any fans used to cool antenna and
130 equipment must comply with Chapter 31B.
- 131 xi. The tower must not be staffed.
- 132 xii. Signs or illumination on the antennas or support
133 structure, excepting a street light, are prohibited unless

- 134 required by the Federal Communications Commission,
135 the Federal Aviation Administration, or the County.
- 136 viii. Each owner of antennas attached to the tower must
137 maintain antennas, equipment and abutting tower areas in
138 a safe condition, remove graffiti, and repair damage.
- 139 ix. If a tower does not have a streetlight, the tower must be
140 removed at the cost of the owner of the tower when the
141 tower is no longer in use for more than 12 months.
142 Antennas and equipment must be removed at the cost of
143 the owner of the antenna and equipment when the
144 antennas and equipment are no longer in use for more
145 than 12 months. The Transmission Facilities
146 Coordinating Group must be notified within 30 days of
147 removal.
- 148 x. Any proposed modification of a tower in this category
149 under 47 U.S.C. § 1455, is a substantial change under
150 47 U.S.C. § 1455; each of the above elements is a
151 concealment or stealth element as defined by the Federal
152 Communications Commission.

153 [b]c. Where a Telecommunications Tower is allowed as a conditional
154 use, it may be permitted by the Hearing Examiner under all
155 applicable limited use standards, Section 7.3.1 Conditional Use,
156 and the following standards:

157 * * *

- 158 ii. A Telecommunications Tower must meet the following
159 setbacks[be set back from the property line], as measured
160 from the base of the support structure, as follows:

- 161 (a) A Telecommunications Tower is prohibited in any
162 scenic setback indicated in a master plan.
- 163 (b) In the Agricultural, Rural Residential, and
164 Residential Detached zones, for a
165 Telecommunications Tower taller than 35 feet, a
166 distance of one foot for every foot of height or 300
167 feet from an existing dwelling or 300 feet from the
168 property line, whichever provides the greater
169 setback. If a Telecommunications Tower is 35 feet
170 or less in height, a distance of one foot for every
171 foot of height from an existing dwelling.
- 172 (c) In the Employment zones, a distance of one-half
173 foot for every foot of height when abutting
174 Commercial/Residential, Employment, or
175 Industrial zoned properties, and one foot for every
176 foot of height when abutting Agricultural, Rural
177 Residential, [or] Residential, RT, R-H, or Planned
178 Unit Development zoned properties.

179 * * *

180 **Section 3.5.14. Accessory Commercial Uses**

181 * * *

182 C. Antenna on Existing Structure

183 1. Defined

184 Antenna on Existing Structure means one or more antennas attached
185 to an existing support structure, including [such as] a building, a
186 transmission tower, a monopole, a light pole, a utility pole, a water

187 tank, a silo, a barn, or an overhead transmission line support structure.
188 Antenna on Existing Structure includes related equipment.

189 2. Use Standards

190 Where an Antenna on Existing Structure is allowed as a limited use, it
191 must satisfy the following standards:

- 192 a. Antennas are limited to the following types and dimensions:
- 193 i. an antenna that satisfies one of the Antenna Dimensions
194 standards in Section 59.3.5.2.C.1.b; and
195 [i. omni-directional (whip) antennas with a maximum height
196 of 15 feet and a maximum diameter of 3 inches;
 - 197 ii. directional or panel antennas with a maximum height of 8
198 feet and a maximum width of 2 feet;
 - 199 iii]ii. satellite or microwave dish antennas with a maximum
200 diameter of 8 feet.]; and
 - 201 iv. small cell antennas with a maximum height of 3 feet and
202 a maximum width of 2 feet.]

203 * * *

204 c. Associated equipment:

- 205 i. For an antenna on an existing structure that is less than
206 60 feet in height and located in a right of way, associated
207 equipment must be located in an equipment cabinet. An
208 equipment cabinet must satisfy the following standards:
 - 209 (a) it is the same color or pattern as the existing
210 structure; and
 - 211 (b) has a maximum volume of 12 cu. feet.
- 212 ii. For an antenna on an existing structure that is less than
213 60 feet in height and located outside of a right of way,

214 associated equipment must be located in an equipment
215 cabinet or equipment room in an existing building. An
216 equipment cabinet must satisfy the following standards:

- 217 (a) it is a maximum volume of 25 cubic feet; and
218 (b) it is the same color or pattern as the existing
219 structure.

220 [c]iii. For an antenna on an existing structure located outside of
221 a right of way that is 60 feet or greater in height,
222 a[A]ssociated equipment must be located in an unmanned
223 building, equipment cabinet, or equipment room in an
224 existing building. An equipment building must satisfy the
225 following standards:

226 * * *

227 d. Except under Section 3.5.14.C.2.f, [for a small cell antenna that
228 satisfies Section 3.5.14.C.2.a.iv] when mounted on a rooftop or
229 structure located outside of a right of way [on privately owned
230 land], the antenna must meet the following standards:

- 231 i. An antenna is prohibited:
- 232 (a) on any detached house, [or] duplex, or townhouse
233 building type or an accessory structure associated
234 with either building type; and
- 235 (b) in any scenic setback indicated in a master plan.
- 236 ii. An antenna and a related unmanned equipment building
237 or cabinet may be installed on a rooftop, if a building is a
238 minimum height of:
- 239 (a) [50] 35 feet in any Residential Detached, Rural
240 Residential, or Planned Unit Development zone; or

- 241 (b) [30] 20 feet in any Residential Multi-Unit,
242 Commercial/Residential, Employment, or
243 Industrial zone.
- 244 iii. An antenna may be mounted on the facade of a building;
245 [at a minimum height of]:
- 246 (a) if it is the same color or pattern as the existing
247 structure;
- 248 (b) if mounted at least 15 feet above ground level on a
249 building;
- 250 (c) if the antenna satisfies the Antenna Dimension
251 Standard B under Section 3.5.2.C.1.b, on a
252 building with a minimum height of 35 [50] feet in
253 [a]any Residential Detached, Rural Residential, or
254 Planned Unit Development zone; or
- 255 (d) if the antenna satisfies Antenna Dimension
256 Standard B under Section 3.5.2.C.1.b, on a
257 building with a minimum height of 20 feet, or if it
258 satisfies Antenna Dimension Standards C, D, or E
259 under Section 3.5.2.C.1.b, on a building with a
260 minimum height of 30 feet, in any Residential
261 Multi-Unit, Commercial/Residential, Employment,
262 [and] or Industrial zone.
- 263 [e. When located at least 60 feet from a detached house or a duplex
264 building type, a small cell antenna that satisfies Section
265 3.5.14.C.2.a.iv may be installed on any existing structure, at a
266 minimum height of 15 feet, in any zone where an antenna on an
267 existing structure is allowed.]

- 268 f. An antenna classified as Category A under Section 3.5.2.C.1.b,
- 269 may be installed on any existing structure in any zone where an
- 270 antenna on an existing structure is allowed, if:
- 271 i. it is the same color or pattern as of the existing structure;
- 272 ii. installed at a minimum height of 15 feet;
- 273 iii. the structure is at least 20 feet from a detached house or
- 274 duplex, and at least 10 feet from any structure in any
- 275 Residential Multi-Unit, Commercial/Residential,
- 276 Employment, or Industrial zone.
- 277 g. Any proposed modification of an antenna in this category under
- 278 47 U.S.C. § 1455, is a substantial change under 47 U.S.C.
- 279 § 1455; each of the above elements is a concealment or stealth
- 280 element as defined by the Federal Communications
- 281 Commission.

282 * * *

283 **Sec. 3. DIVISION 59-8.3 is amended as follows:**

284 **DIVISION 8.3. Planned Unit Development Zones**

285 * * *

286 **Section 8.3.2 PD Zone**

287 **B. Uses**

288 * * *

289 3. Other Uses

290 Property located in a PD zone may also be used for:

- 291 a. a noncommercial community recreational facility for the exclusive use
- 292 of the residents of the development and their guests;

- 293 b. a nonresidential, noncommercial use if the District Council finds that
294 it is compatible with the planned development and satisfies the
295 compatibility requirements of Section 8.3.2.D.
- 296 c. a Cable Communications System as a conditional use under Section
297 3.5.2.A; or
- 298 d. any conditional use allowed in the R-90 zone, as shown in the use
299 table in Section 3.1.6 if the District Council finds that the use meets
300 any applicable use standard in Article 59-3 and satisfies the findings
301 for conditional use approval under Section 7.3.1.E. If the use is
302 proposed after the District Council has approved the development
303 plan, a petition for a conditional use must be filed with the Hearing
304 Examiner. The Hearing Examiner may approve the conditional use if
305 it finds the use is:
- 306 i. consistent with the design standards of the development plan;
307 and
- 308 ii. satisfies the applicable use standards in Article 59-3 and the
309 requirements of Section 7.3.1.E; or
- 310 iii. not consistent with the design standards of the development
311 plan, but the approval is contingent on the District Council's
312 approval of an amendment to the development plan that
313 incorporates the conditional use.
- 314 e. an Antenna on an Existing Structure and related unmanned equipment
315 building, equipment cabinet, or equipment room under Section
316 3.5.14.C.
- 317 f. A Telecommunications Tower that satisfies Section 3.5.2.C.2.b.,
318 including any antennas and equipment, is allowed as a limited use and
319 a site plan amendment is not required. A Telecommunications Tower

320 that satisfies Section 3.5.2.C.2.c.ii.(c)., including any antennas and
321 equipment, is allowed as a conditional use and a site plan amendment
322 is not required. Any proposed modification of a tower under 47
323 U.S.C. § 1455, is a substantial change under 47 U.S.C. § 1455. Each
324 of the required elements is a concealment or stealth element as
325 defined by the Federal Communications Commission.
326

327 * * *

328 **Section 8.3.3. T-S Zone**

329 * * *

330 **B. Land Uses**

- 331 1. A use described on the approved development plan is allowed by right
332 in the T-S zone.
- 333 2. All uses authorized in any zone, by right or as conditional uses, may
334 also be authorized in the T-S zone if the use is shown on the approved
335 site plan or the site plan is first amended under Section 7.3.4.J.
- 336 3. An amendment to the site plan is not required for construction of
337 accessory buildings and additions or modifications to existing
338 detached houses, townhouses, and accessory buildings if:
- 339 a. the Planning Board has approved homeowners association
340 documents establishing a procedure to review such
341 development prior to construction; and
- 342 b. the development is approved under this procedure.
- 343 4. No use may occupy a location other than indicated on the approved
344 site plan.

345 * * *

346 6. An Antenna on an Existing Structure that satisfies the limited use
347 standards in Section. 3.5.14.C is allowed.

348 7. A Telecommunications Tower that satisfies Section 3.5.2.C.2.b,
349 including any antennas and equipment, is allowed as a limited use
350 without a development plan amendment. A Telecommunications
351 Tower that satisfies Section 3.5.2.C.2.c.ii.(c)., including any antennas
352 and equipment, is allowed as a conditional use and a site plan
353 amendment is not required. Any proposed modification of a tower
354 under 47 U.S.C. § 1455, is a substantial change under 47 U.S.C.
355 § 1455. Each of the required elements is a concealment or stealth
356 element as defined by the Federal Communications Commission.

357 8. Privately owned roads and community open spaces may be held in
358 perpetuity by the developer or by an approved [home owners]
359 homeowners association with substantial membership and duration if
360 the Planning Board approves easements for such uses granted to the
361 County and recorded in the land records of the County.

362 [8] 9. All utility lines in the T-S zone must be placed underground. The
363 developer or subdivider must ensure final and proper completion and
364 installation of utility lines under Section 50-40(c). The developer must
365 provide street lighting satisfying the standards contained in the
366 approved site plan. A use-and-occupancy permit must not be issued
367 for any building [which is] not served by an approved sewer and water
368 supply.

369 * * *

370 **Section 8.3.4. Planned Neighborhood Zone**

371 * * *

372 **B. Land Uses**

373 Each use, except any transitory use, must be shown on the development plan
374 for the PNZ zone. A development in the PNZ zone may include:

- 375 1. a detached house used for:
 - 376 a. Single-Unit Living;
 - 377 b. professional office for the practice of medicine, dentistry, law,
378 accounting, or architecture by a resident of the dwelling,
379 incidental to its principal use as a dwelling, and with the
380 assistance of only one nonresident;
 - 381 c. any other permitted or limited use allowed in the R-90 zone
382 under Article 59-3; or
 - 383 d. any conditional use allowed in the R-90 zone under Article 59-
384 3, which must also satisfy Section 7.3.1;
- 385 2. an apartment used for:
 - 386 a. Household Living, up to the maximum number of units
387 indicated on the site plan;
 - 388 b. an office for the rental, operation, service, and maintenance of
389 an apartment building or group of buildings;
 - 390 c. any other permitted or limited use in the R-30 zone under
391 Article 59-3; or
 - 392 d. any conditional use allowed in the R-30 zone under Article
393 59-3, which must also satisfy Section 7.3.1;
- 394 3. any commercial use allowed in the NR zone under Article 59-3,
395 except a Recreational and Entertainment Facility, located on a
396 property of no more than 15 acres at any one location if:
 - 397 a. a market analysis of the local trade area, filed as a part of the
398 development plan, indicates a need for the amount of
399 commercial use proposed; and

- 400 b. the adopted master plan recommends commercial use within the
- 401 area covered by the application; or
- 402 c. there are inadequate local shopping areas, either existing or
- 403 proposed on a master plan, within a reasonable distance and
- 404 with reasonable access from the site;
- 405 4. an Antenna on an Existing Structure that satisfies the limited use
- 406 standards in Section 3.5.14.C;
- 407 5. a Transitory Use that satisfies the limited use standards in Section
- 408 3.5.15.C;
- 409 6. an Independent Living Facility for Seniors or Persons with
- 410 Disabilities; or
- 411 7. utility lines, which must be placed underground. The developer or
- 412 subdivider must ensure final and proper completion and installation of
- 413 utility lines as provided in Chapter 50 (Section 50-40(c)). The
- 414 developer must provide street light standards that satisfy the approved
- 415 site plan.
- 416 8. A Telecommunications Tower that satisfies Section 3.5.2.C.2.b,
- 417 including any antennas, is allowed as a limited use without a
- 418 development plan amendment. A Telecommunications Tower that
- 419 satisfies Section 3.5.2.C.2.c.ii.(c), including any antennas and
- 420 equipment, is allowed as a conditional use and a development plan
- 421 amendment is not required. Any proposed modification of a tower
- 422 under 47 U.S.C. § 1455, is a substantial change under
- 423 47 U.S.C. § 1455. Each of the required elements is a concealment or
- 424 stealth element as defined by the Federal Communications
- 425 Commission.

426 * * *

427 **Section 8.3.5. Planned Retirement Community Zone**

428 * * *

429 **B. Land Uses**

430 * * *

431 5. A Telecommunications Tower that satisfies Section 3.5.2.C.2.b,
432 including any antennas, is allowed as a limited use. A
433 Telecommunications Tower that satisfies Section 3.5.2.C.2.c.ii.(c).,
434 including any antennas and equipment, is allowed as a conditional
435 use. Any proposed modification of a tower under 47 U.S.C. § 1455, is
436 a substantial change under 47 U.S.C. § 1455. Each of the required
437 elements is a concealment or stealth element as defined by the Federal
438 Communications Commission.

439 * * *

440 **D. Procedures for Development**

441 1. Except for Telecommunications Facilities permitted at limited or
442 conditional use, [S]ite plan approval is required under Section 7.3.4.

443 * * *

444 **Section 8.3.6. Planned Cultural Center Zone**

445 * * *

446 **B. Uses**

447 * * *

448 2. If the District Council finds that a specific supplemental use would be
449 compatible with the cultural uses proposed on the site and will not
450 adversely affect surrounding uses because of traffic or other factors,
451 the development may include:
452 a. an accessory building and use;
453 b. a caretaker's residence or apartment;

- 454 c. a child day care facility, limited to children of persons
- 455 employed by or using the cultural arts facilities;
- 456 d. a community activities building;
- 457 e. a detached house constructed prior to property being classified
- 458 in the zone;
- 459 f. a restaurant;
- 460 g. a hotel/motel with no more than 30 guest rooms or suites;
- 461 h. a meeting room and conference facility for the arts;
- 462 i. a publicly owned or publicly operated use;
- 463 j. a residence hall for persons associated with cultural arts uses on
- 464 the site;
- 465 k. an antenna on an existing structure under Section 3.5.14.C;
- 466 l. a retail establishment for the sale of materials or works of art
- 467 produced on the premises; and
- 468 m. a workshop used for the construction of scenery and props for
- 469 use on site or for sale to other theatrical productions.
- 470 n. A Telecommunications Tower that satisfies Section 3.5.2.C.2.b,
- 471 including any antennas and equipment, is allowed as a limited
- 472 use and no site plan amendment is required. A
- 473 Telecommunications Tower that satisfies Section
- 474 3.5.2.C.2.c.ii.(c)., including any antennas and equipment, is
- 475 allowed as a conditional use and a site plan amendment is not
- 476 required. In either the limited use or conditional use category,
- 477 any proposed modification of a tower under 47 U.S.C. § 1455,
- 478 is a substantial change under 47 U.S.C. § 1455. Each of the
- 479 required elements is a concealment or stealth element as
- 480 defined by the Federal Communications Commission.

481

482 **Sec. 4. Effective date.** This ordinance becomes effective 20 days after

483 approval.

484

485 This is a correct copy of Council action.

486

487 _____

488 Linda M. Lauer, Clerk of the Council