

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2010, Legislative Day No. 17

Bill No. 109-10

Mr. T. Bryan McIntire, Councilman

By the County Council, October 18, 2010

A BILL
ENTITLED

AN ACT concerning

Wireless Telecommunications Towers

FOR the purpose of imposing certain requirements, limitations and restrictions on wireless telecommunications towers that are located in the R.C. Zones of the County; and generally relating to wireless telecommunications towers.

By repealing and re-enacting, with amendments

Sections 426.1, 426.2, 426.4E., 426.5, 426.9.A. and 502.7A. and B.1. and 2.
Baltimore County Zoning Regulations, as amended

BY adding

Sections 426.6F and G and 426.9D
Baltimore County Zoning Regulations, as amended

WHEREAS, the protection of Baltimore County's scenic resources and scenic viewsheds and other aesthetic considerations play a proper role in the zoning process; and

WHEREAS, the Baltimore County Master Plan Rural Area Amendment discusses the importance of preserving Baltimore County's scenic and historic rural areas; now, therefore

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
 [Brackets] indicate matter stricken from existing law.
 ~~Strike out~~ indicates matter stricken from bill.
 Underlining indicates amendments to bill.

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
2 COUNTY, MARYLAND, that Sections 426.1, 426.2, 426.4E., 426.5, 426.9.A. and 502.7A. and B.1.
3 and 2. of the Baltimore County Zoning Regulations, as amended, be and they are hereby repealed
4 and re-enacted, with amendments, to read as follows:

5 426.1. Definitions.

6 In this area the following words have the meanings indicated:

7 ANTENNA – A Wireless telecommunications antenna.

8 CAMOUFLAGED/STEALTH WIRELESS TELECOMMUNICATIONS FACILITY – A
9 TELECOMMUNICATIONS FACILITY THAT BLENDS INTO THE SURROUNDING
10 ENVIRONMENT AND IS COMPATIBLE WITH THE IMMEDIATE SURROUNDINGS, SUCH
11 AS A FLAG POLE, OR MONOPOLE THAT IS FLUSH-MOUNTED, SET INTO A WOODED
12 HILLSIDE, OR PAINTED TO BLEND INTO TREES OR FOREST IN THE IMMEDIATE
13 VICINITY OF THE PROPOSED TOWER.

14 EXPANSIVE VIEW – A BROAD VISTA EXTENDED BEYOND THE ROAD EDGE
15 THAT MAY ENCOMPASS BUT IS NOT LIMITED TO OPEN PASTURES, CROPLANDS,
16 MARSHES, OR A BODY OF WATER.

17 OWNER – the owner, agent, lessee or person in control of a wireless telecommunications
18 tower.

19 PROVIDER – a wireless telecommunications service provider.

20 SERVICE AREA – THE AREA SERVED BY A SINGLE TELECOMMUNICATIONS
21 FACILITY.

22 SERVICE NETWORK – THE TELECOMMUNICATIONS TRANSMISSION SYSTEM

1 OPERATED BY A SERVICE PROVIDER IN A COMMUNITY.

2 SCENIC RESOURCE – A SIGNIFICANT SCENIC RESOURCE, INCLUDING BUT NOT
3 LIMITED TO THE SCENIC CORRIDORS, ROUTES, AND VIEWS DESIGNATED ON THE
4 BALTIMORE COUNTY MASTER PLAN SCENIC RESOURCES MAP.

5 SCENIC VIEWSHED – [A scenic route or view as designated in the Baltimore County
6 Master Plan.] THE NATURAL ENVIRONMENT THAT IS VISIBLE WHEN THE SCENIC
7 RESOURCE, AND THE PROPOSED CELL TOWER OR ANTENNA, CAN BE SEEN
8 SIMULTANEOUSLY.

9 SCENIC VIEWSHED ELEMENTS –

10 a. Those visual elements of a scenic viewshed which are of a quality, character, rarity and
11 nature to cause a viewshed to be designated in the Baltimore County Master Plan by the Baltimore
12 County Planning Board; and

13 b. Which are catalogued by the Planning Board in accordance with § 32-4-417 of the
14 Baltimore County code.

15 Tower – A wireless telecommunications tower.

16 Tower Applicant – A person who applies to the committee pursuant to section 426.4.
17 426.2 Legislative policy for siting of wireless telecommunications antennas and towers. It is the
18 intent of Baltimore County that:

19 A. Antennas should be placed on existing towers, buildings and structures, including those of public
20 utilities, where feasible; and

21 B. If a new tower must be built, the tower should be:

22 1. [Constructed to accommodate at least 3 providers;] CO-LOCATED, PROVIDED THAT

1 THE TOWER OTHERWISE COMPLIES WITH THESE REGULATIONS;

2 2. Erected in a medium- or high-intensity commercial zone when available; and

3 3. Located and designed to minimize its visibility from residential and transitional zones.

4 C. IN RC ZONE SCENIC RESOURCES AND SCENIC VIEWSHEDS, ANTENNAS AND
5 TOWERS SHALL BE DESIGNED AND LOCATED TO MINIMIZE THEIR VISUAL IMPACT
6 ON THE LANDSCAPE THROUGH THE USE OF CAMOUFLAGE/STEALTH TECHNIQUES
7 THAT ARE COMPATIBLE WITH THE IMMEDIATE SURROUNDINGS.

8 D. IN R.C. ZONE SCENIC RESOURCES AND SCENIC VIEWSHEDS, CELL TOWER/
9 ANTENNA DESIGN AND LOCATION SHALL COMPLY WITH SCENIC VIEW POLICIES AS
10 CONTAINED IN THE BALTIMORE COUNTY COMPREHENSIVE DEVELOPMENT
11 POLICIES MANUAL, INCLUDING BUT NOT LIMITED TO AVOIDING PLACING SUCH
12 STRUCTURES ON THE TOPS OF PROMINENT RIDGES OR HILLTOPS.

13 426.4 Tower Review Committee.

14 E. Committee review.

15 1. Prior to submitting a petition for a special exception or an application for a building
16 permit for a tower, a petitioner or an applicant shall meet with the Committee. The Committee shall
17 meet with the petitioner or the applicant within 45 days after a written request for a meeting is
18 submitted.

19 2. The petitioner or the applicant shall submit to the Committee:

20 a. Information detailing the maximum number of providers and antennas the
21 proposed tower can support.

22 B. SUFFICIENT INFORMATION TO ALLOW THE COMMITTEE TO

1 DETERMINE COMPLIANCE WITH THESE REGULATIONS, INCLUDING INFORMATION
2 REGARDING THE PROPOSED TOWER’S LOCATION AND HEIGHT, AND TECHNIQUES
3 EMPLOYED TO MINIMIZE ITS VISUAL IMPACT ON THE LANDSCAPE, AS LISTED IN
4 SECTION 426.9.

5 [b.] C. Any other relevant technical information requested by the Committee.

6 3. The Committee shall review the information submitted by the petitioner or the applicant
7 and evaluate the proposed tower with regard to the legislative policy under Section 426.2.

8 4. The Committee may provide advisory comments to the Zoning Commissioner or the Code
9 Official concerning the proposed tower.

10 426.5 Location and height restrictions for wireless telecommunications towers and antennas. In this
11 section, the following words have the meanings indicated:

12 A. "R" means by right.

13 B. "SE" means by special exception.

14 C. The column for antennas refers to antennas located on a tower, building or structure legally
15 existing prior to the installation of the antenna even if the tower, building or structure was approved
16 by special exception.

17 D. The height of a tower is measured from the base of the tower to the tip of the tower or the tip of
18 the highest antenna on the tower, whichever distance is greater.

			Antennas	Towers	
			Maximum Antenna Height and Antenna Diameter	Less than 200 ft. High	Greater than or equal to 200 ft. High
1					
2					
3					
4					
5		How			
6		Permitted			
7	Residential Zones	R	15 feet high,	SE	SE
8	[R.C.,] R.C.C., C.R.		diameter 3 feet		
9	District, D.R., R-O-A				
10					R if in an R.C. Zone within the
11					rights-of-way of public utility
12					overhead electrical transmission
13					lines carrying more than 69,000
14					volts, provided that the height of
15					the tower does not exceed 250 feet
16					
17	Transitional Zones	R	15 feet high,	SE	SE
18	S-E, R-O, OR-1,		diameter 3 feet		
19	B.M.M., B.M.Y.C,				
20	B.M.B., C.B.				
21	Medium Intensity	R	Not regulated	R	SE
22	Commercial				
23	OR-2, B.L.R., B.L.,				
24	B.M., B.R., M.R.,				
25	M.L., M.L.R.				
26	High Intensity	R	Not regulated	R	SE
27	Commercial				
28	O-3, O.T., M.H.				
29	Section 1A01				
30	RC	SE	IN SCENIC RESOURCES AND SCENIC		
31			VIEWSHEDS, A TOWER OR ANTENNA MAY NOT		
32			PROJECT ABOVE THE TOP OF THE PROMINENT		
33			RIDGES OR HILLTOPS.		

1 426.9. Additional conditions for towers permitted by exception.

2 Towers permitted by special exception shall meet the requirements of this section.

3 A. A petitioner shall have the burden of demonstrating that:

4 1. The petitioner has made a diligent attempt to locate the antenna on an existing tower or
5 nonresidential building or structure;

6 2. Due to the location, elevation, engineering, technical feasibility or inability to obtain a
7 lease or ownership of a location elsewhere, the construction of a tower at the proposed location is
8 warranted;

9 3. To the extent technically feasible, the tower has been designed to accommodate antennas
10 of at least two other providers; [and]

11 4. The height of the tower is no higher than what is required to enable present and future
12 co-location of other providers; AND

13 5. THE TOWER IS DESIGNED AND LOCATED TO SUBSTANTIALLY MINIMIZE ITS
14 VISUAL IMPACT ON THE LANDSCAPE AND MAINTAIN THE INTEGRITY OF ANY
15 AFFECTED SCENIC RESOURCE OR SCENIC VIEWSHED.

16 502.7 Wireless telecommunications towers.

17 A. [A] SUBJECT TO THE HEIGHT LIMITATIONS IN RC ZONES, A special exception may not
18 be granted for any wireless telecommunications tower over 200 feet in height which is within 1 ½
19 miles of an existing district on the Baltimore County Final Historic Landmarks list or any of the
20 following historical districts on the National Register of Historic Places, namely, Oella, My Lady's
21 Manor, Western Run, Worthington Valley, Greenspring Valley, Corbett and Long Green Valley,
22 unless the Zoning Commissioner or the Board of Appeals, upon appeal, finds that the proposed use

1 will not be detrimental to or materially detract from the documented values of any such district due
2 to the height of the proposed tower and its placement and visibility relative to such district.

3 B. Towers within scenic viewshed.

4 1. A Special exception may not be granted for a wireless telecommunications tower located
5 in an RC-2, RC-3, RC-4, RC-5, RC-6 or RC-7 Zone within a scenic viewshed unless the Zoning
6 Commissioner finds that the proposed tower will not interfere with or be detrimental to the scenic
7 viewshed [elements.] EXPANSIVE ELEMENT, AS LISTED IN THE COMPREHENSIVE
8 MANUAL OF DEVELOPMENT POLICIES, SCENIC VIEWS.

9 2. The Zoning Commissioner shall determine interference or detriment based upon
10 substantial evidence, comparing the scenic viewshed EXPANSIVE elements to the proposed tower
11 location, AND THE METHOD OF CAMOUFLAGE PROPOSED FOR THE PROPOSED TOWER
12 LOCATION, in order to determine whether the proposed tower [blocks any scenic viewshed
13 elements or] is not visually in harmony with any OF THE scenic viewshed elements when the
14 elements and the tower can be seen simultaneously.

15 SECTION 2. AND BE IT FURTHER ENACTED, that Sections 426.6.F and G and 426.9.D
16 be and they are hereby added to the Baltimore County Zoning Regulations, as amended, to read as
17 follows:

18 426.6. Setback AND OTHER requirements for wireless telecommunications towers.

19 F. IN RC ZONE SCENIC RESOURCES AND SCENIC VIEWSHEDS, A TOWER SHALL BE
20 A CAMOUFLAGED/STEALTH WIRELESS TELECOMMUNICATIONS FACILITY.

1 G. ALL SPECIAL EXCEPTION APPLICATIONS FOR A WIRELESS
2 TELECOMMUNICATIONS TOWER SHALL SUBMIT TO THE OFFICE OF PLANNING THE
3 FOLLOWING:

4 1. GEOGRAPHIC SERVICE AREA. AN IDENTIFICATION OF THE GEOGRAPHIC
5 SERVICE AREA FOR THE SUBJECT INSTALLATION, INCLUDING A MAP SHOWING ALL
6 OF THE APPLICANT'S EXISTING SITES IN THE LOCAL SERVICE NETWORK
7 ASSOCIATED WITH THE GAP IN COVERAGE THE FACILITY IS MEANT TO CLOSE, AND
8 A DESCRIPTION OF HOW THIS SERVICE AREA FITS INTO AND IS NECESSARY FOR
9 THE COMPANY'S SERVICE NETWORK.

10 2. VISUAL IMPACT ANALYSIS. A VISUAL IMPACT ANALYSIS SHALL BE
11 PROVIDED SHOWING THE MAXIMUM SILHOUETTE, VIEWSHED ANALYSIS, COLOR
12 AND FINISH PALETTE AND PROPOSED SCREENING. THE ANALYSIS SHALL INCLUDE
13 PHOTO SIMULATIONS AND OTHER INFORMATION AS NECESSARY TO DETERMINE
14 VISUAL IMPACT OF THE FACILITY. A MAP DEPICTING WHERE THE PHOTOS WERE
15 TAKEN SHALL BE INCLUDED.

16 3. IN RC ZONE SCENIC RESOURCES AND SCENIC VIEWSHEDS, IN ADDITION
17 TO THE ABOVE-REFERENCED ITEMS, THE APPLICATION SHALL INCLUDE ALL ITEMS
18 AS SET FORTH IN THE COMPREHENSIVE DEVELOPMENT POLICIES MANUAL FOR
19 SCENIC VIEWS.

20 426.9. Additional conditions for towers permitted by exception.

21 Towers permitted by special exception shall meet the requirements of this section.

22 D. FOR FACILITIES PROPOSED IN RC ZONE HISTORIC DISTRICTS, SCENIC

1 RESOURCES, OR SCENIC VIEWSHEDS, THE PROPOSED CELL TOWER/ANTENNA
2 SHALL MEET THE FOLLOWING ADDITIONAL REQUIREMENTS:

3 1. ALL CAMOUFLAGED FACILITIES SHALL BLEND INTO THE SURROUNDING
4 AREA IN A MANNER CONSISTENT WITH THE COMMUNITY CHARACTER AND
5 EXISTING DEVELOPMENT. THE FACILITY SHALL ALSO BE APPROPRIATE FOR THE
6 SPECIFIC SITE (I.E., IT SHOULD NOT “STAND OUT” FROM ITS SURROUNDING
7 ENVIRONMENT, SUCH AS A FAUX TREE STANDING ALONE).

8 2. A FACILITY IS NOT ALLOWED ON A BUILDING OR STRUCTURE, OR IN ANY
9 DISTRICT, THAT IS LISTED OR ELIGIBLE FOR LISTING ON ANY FEDERAL, STATE OR
10 LOCAL HISTORIC REGISTER SITE UNLESS IT IS DETERMINED BY THE BALTIMORE
11 COUNTY LANDMARKS COMMISSION, THAT THE FACILITY WILL NOT HAVE AN
12 ADVERSE EFFECT ON THE APPEARANCE OF THE BUILDING OR STRUCTURE OR ITS
13 ELIGIBILITY FOR HISTORIC DESIGNATION.

14 3. IF A FACILITY SITE IS ALONG A DESIGNATED SCENIC ROUTE, AS
15 CONTAINED IN THE BALTIMORE COUNTY MASTER PLAN, THE FACILITY SHALL BE
16 DESIGNED AND LOCATED IN SUCH A MANNER AS TO AVOID ADVERSE VISUAL
17 IMPACTS.

18 4. FACADE-MOUNTED ANTENNAS SHALL BE ARCHITECTURALLY
19 INTEGRATED INTO THE BUILDING DESIGN AND OTHERWISE MADE AS
20 UNOBTRUSIVE AS POSSIBLE. IF POSSIBLE, ANTENNAS SHOULD BE LOCATED
21 ENTIRELY WITHIN AN EXISTING OR NEWLY CREATED ARCHITECTURAL FEATURE
22 SO AS TO BE COMPLETELY SCREENED FROM VIEW. FACADE-MOUNTED ANTENNAS

1 MAY NOT EXTEND MORE THAN 24 INCHES OUT FROM THE BUILDING FACE.

2 5. A FACILITY SHALL BE DESIGNED TO MINIMIZE THE VISUAL IMPACT TO THE
3 GREATEST EXTENT FEASIBLE BY MEANS OF PLACEMENT, SCREENING,
4 LANDSCAPING WITH NATIVE SPECIES, AND CAMOUFLAGED TO BE COMPATIBLE
5 WITH EXISTING ARCHITECTURAL ELEMENTS, BUILDING MATERIALS AND OTHER
6 SITE CHARACTERISTICS. THE APPLICANT SHALL USE THE LEAST VISIBLE
7 ANTENNAS TO ACCOMPLISH THE COVERAGE OBJECTIVES.

8 6. COLORS AND MATERIALS FOR FACILITIES SHALL BE NON-REFLECTIVE AND
9 CHOSEN TO MINIMIZE VISIBILITY. FACILITIES, INCLUDING SUPPORT EQUIPMENT
10 AND BUILDINGS, SHALL BE PAINTED OR TEXTURED USING COLORS TO MATCH OR
11 BLEND WITH THE PRIMARY BACKGROUND.

12 7. SITE LIGHTING SHALL BE KEPT TO A MINIMUM IN EVERY INSTANCE, AND
13 SHALL BE SHIELDED TO DIRECT THE LIGHT DOWNWARD, NOT VISIBLE FROM ANY
14 OFF-SITE RESIDENCE, SHALL BE CONTROLLED BY A MANUAL SWITCH OR TIMED
15 SWITCH OF NO GREATER THAN ONE HOUR'S DURATION, AND MAY NOT BE USED
16 EXCEPT WHEN NIGHTTIME MAINTENANCE IS REQUIRED.

17 8. A FACILITY MAY NOT BE SITED ON A PROMINENT RIDGELINE OR HILLTOP,
18 OR PROJECT ABOVE THE PROMINENT RIDGELINE OR HILLTOP, BUT MAY BE
19 LOCATED WITHIN A STAND OF TREES BELOW THE RIDGELINE OR HILLTOP.

20 SECTION 3. AND BE IT FURTHER ENACTED, that this Act shall take effect forty-five
21 days after its enactment.