

PURPOSE

FOR THE PURPOSE of amending the Zoning Ordinance in order to revise existing provisions and establish new provisions relating to construction of communication towers in Leonardtown; to define specific types of communication towers subject to regulation under the Zoning Ordinance; to amend the Zoning Ordinance to make commercial communication tower uses subject to conditional use approval; to apply this amendment retroactively to all proposed towers not currently vested pursuant to the Leonardtown Zoning Ordinance.

ORDINANCE

WHEREAS, under the provisions of Article 66B of the Annotated Code of Maryland, the Town Council of Leonardtown for, Leonardtown Maryland, is empowered to adopt, revise and amend the Leonardtown Zoning Ordinance (the Zoning Ordinance); and

WHEREAS, the current Leonardtown Zoning Ordinance does not fully provide for the orderly planning and development of communication towers in Leonardtown necessary to minimize adverse visual impacts, reduce the potential for damage to properties adjoining communication tower sites, and minimize other negative impacts from the construction and proliferation of tower structures by promoting co-location of future uses and other measures; and

WHEREAS, the promotion of co-location of commercial uses on the four (4) public safety communication towers will serve to minimize the cost to the public for construction and operation of those towers; and

WHEREAS, the minimization of the number of communication towers is a recognized local zoning concern and co-location of equipment on communication towers by all service providers rationally furthers a legitimate town purpose; and

WHEREAS, the Leonardtown Town Council has determined it to be in the public interest of the residents of Leonardtown to establish procedures and to amend the text of the Zoning Ordinance to address procedures the Town Council shall follow in determining the need for and the location of any proposed commercial communication tower, and to ensure that such location will not interfere with the Town/County's emergency communications system; and

WHEREAS, Article I, Section 4, is revised to include a definition for "COMMUNICATION TOWER"; and

WHEREAS, this amendment is to be applied retroactively to all communication towers or proposed communication towers that are not vested under the current Zoning Ordinance in effect the date the Amendment is adopted; and

WHEREAS, Article X-3 is amended to require conditional use approval by the Town Council for commercial communication towers in the Institutional - Office (I-O) district.

WHEREAS, pursuant to Article 66B §4.04, a public hearing was held on April 10, 2000, pursuant to NOTICE published on or about April 5, 2000 and April 7, 2000, in The Enterprise, a newspaper of general circulation;

WHEREAS, after deliberation, study and public hearing, the Leonardtown Town Council has determined that it is in the best interests of the public in order to secure the health, safety and general welfare for present and future residents of Leonardtown and in order to achieve the purposes set forth in Article 66B of the Annotated Code of Maryland as amended, as delineated above, to adopt and approve a Zoning Ordinance amendment regarding communication towers.

NOW THEREFORE, BE IT ORDAINED by the Leonardtown Town Council that:

SECTION 1. The Leonardtown Zoning Ordinance heretofore adopted and currently in effect shall be and the same is hereby amended as follows –

Article I, Section 4, DEFINITIONS, is revised as follows: addition of the definition “COMMUNICATION TOWER” as follows:

“COMMUNICATION TOWER is any structure constructed for the primary purpose of supporting installed antennae, dishes or other devices used for uplink, downlink, relay, broadcast or receipt of radio, television or other communication signals.

COMMERCIAL COMMUNICATIONS TOWER means any tower supporting commercial uses or any non-commercial tower at least 100 feet above ground level.

PUBLIC SAFETY COMMUNICATIONS TOWER means any tower, of any height, designated by the Leonardtown Commissioners, as a host site for County-owned and operated emergency communications equipment, which may also include co-located commercial uses, and which may be a permitted use in any zoning district.

NON-COMMERCIAL COMMUNICATIONS TOWER means such tower does not serve any commercial or public safety uses and does not exceed 100 feet in height above ground level, and which may be a permitted use in any zoning district.”

Article X, Section 9, COMMUNICATION TOWERS, is added in its entirety to read as hereafter set forth:

X-9 COMMUNICATION TOWERS

1. In balancing the interests of town residents, tower contractors, telecommunications providers and telecommunications customers, and for the general health, safety and welfare of the public, these regulations are intended to:
 - a. Provide for the appropriate location and development of communication towers by maximizing the use of any new and existing towers, minimizing the need for new towers, encouraging the use of alternative tower structures or tower sites, and minimizing the number of towers in the Town. (Note: The term “existing towers” includes towers already constructed and in use, as well as towers submitted to the Town/St. Mary’s County Department of Planning and Zoning for review and approval). The Department of Planning and Zoning will continuously maintain a list of existing towers, including owner points of contact, and shall make this list available to all new tower applicants).
 - b. Avoid potential damage to adjacent properties from tower or antennae failure through engineering and careful siting of tower structures and antennae; and
 - c. Minimize the adverse visual impacts of communication towers through careful siting, design, screening and camouflaging.
 - d. To ensure that proposed siting and development of communication towers is done in a reasonable manner, not to the detriment of the zone in which it is located, and is not contrary to the intent of the comprehensive plan.

2. GENERAL REQUIREMENTS

- a. All communication towers, structures and equipment shall meet or exceed current standards and regulations of the FAA and the FCC. Pursuant to Federal Communications Commission Regulations 1.1301-1.1319, as amended from time to time, communication towers shall be subject to the provisions of the National Environmental Policy Act (NEPA).
- b. Approval of proposals for tower construction shall be subject to satisfactory completion of an Aeronautical Study. Applicants shall file a Notice of Proposed Construction or Alteration, FAA Form #7460-1 (as amended from time to time) with the Federal Aviation Administration as required by the FAA or applicable Federal law, and forward copies of the form and any FAA response received, via first class mail, postage pre-paid, to the Commissioners of Leonardtown / Planning and Zoning, P.O. Box 1, Leonardtown, MD 20650, to Department of the Navy, Commanding Officer, Naval Air Station, 22268 Cedar Point Road, Unit NASAD, Patuxent River, MD, 20670-1154, St. Mary’s Co. Department of Planning and Zoning, P.O. Box 653, Leonardtown, MD 20650, and to the County’s Airport Manager, P.O. Box 653, Leonardtown, MD 20650.
- c. To the extent permitted by law, no tower or equipment or antennae attached thereto shall cause localized interference with reception of television and radio broadcasts, nor shall any tower or equipment or antennae attached thereto interfere with existing lines of communication used for public safety purposes.

3. COMMERCIAL COMMUNICATION TOWERS

- a. Shall in all cases require conditional use approval by the Town Council in the I-O zoning districts.
- b. The application submitted by the applicant to the Planning & Zoning Commission and to the Town Council shall satisfactorily address the requirements of conditional use applications as defined by the zoning ordinance for any conditional use whatsoever, as amended from time to time, and shall in addition include the following:
 - (1) A system design plan that shall include, at a minimum, radio frequency parameters, tower height, number and location of antennae on the tower, radio frequency output, effective radiated power and azimuth antenna type;
 - (2) Signal coverage/propagation map of the area to be served by the proposed tower;
 - (3) Signal coverage/propagation map showing coverage area available under existing towers, proposed towers already submitted for review and approval, and antennae/equipment installed on other structures (water towers, buildings, etc.); and
 - (4) Evaluation of the tower's relationship to other antenna sites, existing buildings taller than 50 feet, communication towers and water tanks within a one-mile radius of the proposed tower;
 - (5) A detailed engineering analysis of the proposed new tower, including a summary of the proposed tower's capacity to provide space for future co-location by others;
 - (6) Federal Communication Commission review, evaluation and approval under the National Environmental Policy Act of 1969, applicable Federal Communication Commission Regulations and Standards through the Office of Engineering and Technology as required by Federal law;
 - (7) Identification with specificity the type of tower to be constructed and the proposed materials to be used in the construction of the tower;
 - (8) The design of the proposed tower shall be sealed by a licensed engineer licensed to practice in the State of Maryland;
 - (9) Identification of all noise, odor and other potential nuisance producing facilities, appurtenances and/or outbuildings, or the like, that are associated with the proposed use;
 - (10) Identification of the maximum number of antennae that can be safely placed upon the tower;
 - (11) An elevation drawing, depicting the tower at its proposed height, with all planned antennae/equipment shown; and
 - (12) A visual impact study, including photo-simulations, demonstrating that a proposed tower shall not unreasonably interfere with the view of, or

from, sites of significant public interest such as a public park, a State designated scenic road, a structure on the historic sites survey, a historic district, or water views located within one (1) mile of the proposed tower site. The Planning & Zoning Commission or the Town Council may require the applicant to conduct balloon tests and to submit additional photo-simulations documenting the visual impact the proposed tower may have on surrounding sites.

- c. The applicant for a new commercial communications tower shall demonstrate to the Planning & Zoning Commission/ the Town Council that co-location on existing commercial towers, public safety towers, or other appropriate structures is not feasible. Feasibility shall be demonstrated by an analysis and explanation prepared by the applicant which identifies any reasonable, technically feasible, alternative locations and/or facilities which would provide the proposed communication service and a structural analysis indicating that no existing or proposed tower can be structurally modified to meet the applicant's needs. Replacement of an existing approved tower with a new tower on the same site shall be an alternative addressed in the analysis.

The intention of the alternatives analysis is to present alternative strategies which would minimize the number, size and adverse environmental and public safety impacts of facilities necessary to provide the needed services to the Town/County. The analysis shall address the potential for co-location at an existing or a new site and the potential to locate facilities as close as possible to the intended service area. It shall also explain the rationale for selection of the proposed site in view of the relative merits of any of the feasible alternatives. Physical constraints may be considered, but will not be determinative. Approval of the project is subject to the Town Council making a finding that the proposed site results in fewer or less severe impacts than any feasible alternative site.

- d. Co-location is not deemed possible if the Town Council finds that:
- (1) Planned equipment would exceed the structural capacity of existing and approved towers or towers proposed to be constructed, considering existing and planned use of those towers, and such towers cannot be structurally modified or reinforced to accommodate planned or equivalent equipment. In the case of existing towers owned by the applicant, the applicant shall have demonstrated to the Planning & Zoning Commission or the Town Council that a new (replacement) tower cannot be constructed on the existing approved site to satisfy its new requirements;
 - (2) Planned equipment will cause interference with other existing or planned equipment for the tower, and the interference cannot be prevented;
 - (3) Existing, approved towers, or towers proposed to be constructed do not have space on which planned equipment can be placed so as to function effectively; or

- (4) Existing, approved towers, or towers proposed to be constructed, will not provide significant signal coverage sought by the applicant.
- e. The tower shall be constructed so as to provide adequate capacity for future co-location of other commercial and/or government operated antennae, unless the applicant demonstrates why such design is not physically feasible. The system design plan shall delineate areas near the base of the tower to be used for the placement of additional equipment buildings for other users.
 - f. No signals, lights or illumination shall be permitted on the tower unless required by the Federal Communications Commission, the Federal Aviation Administration or the Town.
 - g. No commercial advertising or other signage shall be permitted on the tower.
 - h. All obsolete or unused facilities, including buildings, towers, and all other improvements associated with the tower, shall automatically be deemed abandoned upon twenty-four (24) months of continuous cessation of operations and shall be removed at such time without cost to the Town.
 - i. Towers shall be constructed at the minimum height required to obtain significant signal coverage. Towers exceeding a height of 199 feet above existing grade shall require detailed engineering justification, documenting the basis for determining that a taller structure is required. Towers exceeding 199 feet above existing grade may also be justified by demonstrating that the existence of previously approved tower(s) in the vicinity of the proposed site serves to mitigate visual impacts, or that a single (taller) tower will reduce adverse visual impact by replacing multiple existing towers.
 - j. The site shall be of sufficient size (at least 7500 square feet) to protect adjacent properties from harmful effects, and of a size sufficient to meet Health Department standards if water and sanitary facilities are provided. The site plan shall depict the tower site and all adjoining properties; means of ingress/egress; and setback for collapse radius.
 - k. Antennas or towers shall be at least a distance which is equal to one hundred (100) percent of the height of the tower from any residence, historic site, building or other facility not associated with the tower site. If the setback is to be on an adjoining property, a notarized statement of agreement must be obtained from the adjoining property owner. A reduced setback, equal to the designed radius for self-collapsing type towers may be authorized. A signed and sealed plan shall be submitted by a Registered Professional Engineer, registered in the State of Maryland, in order to qualify for the reduced setback. The plan shall indicate the designed radius for collapse of the tower. The reduced setback shall be equivalent to the designed collapse radius or equal to fifty (50) percent of the height of the tower, whichever is greater and approved by the Town Council.
 - l. The tower site shall be buffered from adjoining properties with at least a B buffer per Chart B, attached hereto.

PUBLIC SAFETY COMMUNICATION TOWERS

- a. Minimum site size, setbacks and buffers shall be identical to those required for commercial communication towers;

- b. Shall be considered a permitted use in any zoning district as approved by the Town Council.

5. **NON-COMMERCIAL COMMUNICATION TOWERS**

- a. The normal lot setbacks for each district shall apply.

SECTION 2. BE IT FURTHER ORDAINED, that should any section subsection, paragraph, clause or phrase of this Ordinance be declared invalid for any reason whatsoever, such decision shall not effect the remaining portions of this Ordinance which shall remain in full force and effect.

SECTION 3. BE IT FURTHER ORDAINED, that in the event any portion of this Ordinance is found to be unconstitutional, illegal, null or void, by a court of competent jurisdiction, it is the intent of the Town Council of Leonardtown to sever

only the invalid portion or provision, and that the remainder of the Ordinance shall be enforceable and valid, unless deletion of the invalid portion would defeat the clear purpose of the Ordinance, or unless deletion of the invalid portion would produce a result inconsistent with the purpose and intent of the Leonardtown Town Council in enacting this Ordinance.

SECTION 4. This Ordinance shall have retroactive effect, effective the date of adoption.

Approval Date: 5/8/00

ATTEST:

LEONARDTOWN COMMISSIONERS

Robert O. Guyther
Robert O. Guyther,
Town Administrator

J. Harry Norris III
J. HARRY NORRIS III, Mayor

Ruth W. Proffitt
RUTH W. PROFFITT, Vice President

Michael Bridges
MICHAEL BRIDGES, Commissioner

Charles R. Faunce
CHARLES R. FAUNCE, Commissioner

Walter R. Gillette
WALTER R. GILLETTE, Commissioner

Walter Wise
WALTER WISE, Commissioner

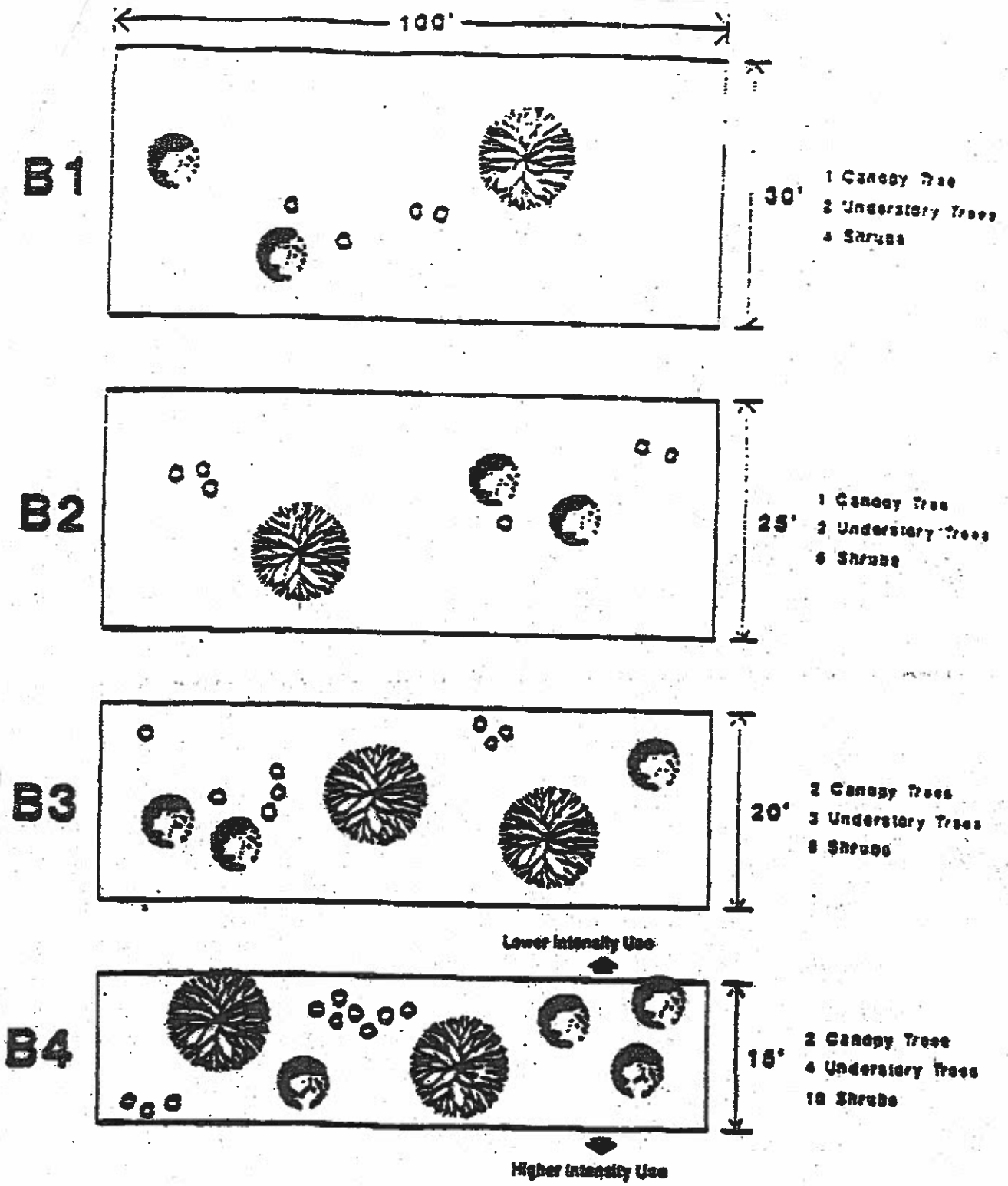


CHART B: BUFFERYARD STANDARDS