

DRAFT

**COUNTY COUNCIL  
OF  
TALBOT COUNTY, MARYLAND**

2012 Legislative Session, Legislative Day No. : \_\_\_\_\_

Bill No.: \_\_\_\_\_

Expiration Date: \_\_\_\_\_

Introduced by: \_\_\_\_\_

**A BILL TO AMEND § 190-105, TALBOT COUNTY CODE “WIRELESS COMMUNICATION TOWERS” TO ADD A DEFINITION OF “TOWER, CONCEALED”; TO REQUIRE THAT CONCEALED TOWERS INCLUDE A CERTIFICATION FROM A MARYLAND LICENSED STRUCTURAL ENGINEER THAT THE TOWER MEETS OR EXCEEDS ALL APPLICABLE STRUCTURAL STANDARDS AND REQUIREMENTS; TO AMEND THE MINIMUM SETBACKS REQUIRED FOR CONCEALED TOWERS; TO PROVIDE THAT LANDSCAPING AND FENCING REQUIREMENTS MAY BE WAIVED BY THE PLANNING COMMISSION; TO ELIMINATE THE REQUIREMENT THAT AN APPLICANT PROVIDE EVIDENCE SUBSTANTIATING THAT CONSTRUCTION OF A NEW WIRELESS COMMUNICATIONS TOWER SHALL NOT BE DETRIMENTAL TO THE USE, PEACEFUL ENJOYMENT, OR ECONOMIC VALUE OF NEIGHBORING PROPERTIES; TO ELIMINATE THE REQUIREMENT THAT AN APPLICANT OBTAIN MAJOR SITE PLAN APPROVAL BEFORE APPLYING FOR A SPECIAL EXCEPTION FROM THE BOARD OF APPEALS; TO PROVIDE THAT ONE PRIVATE AMATEUR (HAM) RADIO TOWER LESS THAN 75 FEET IS PERMITTED AS AN ACCESSORY USE AND ESTABLISHING REQUIRED SETBACKS; AND GENERALLY RELATING TO WIRELESS COMMUNICATIONS TOWERS**

By the Council \_\_\_\_\_

Introduced, read first time, ordered posted, and public hearing scheduled on \_\_\_\_\_ at \_\_\_\_\_ p.m. at the Bradley Meeting Room, Talbot County Court House, South Wing, 11 North Washington Street, Easton, Maryland 21601.

By Order \_\_\_\_\_  
Susan W. Moran, Secretary

A BILL TO AMEND § 190-105, TALBOT COUNTY CODE “WIRELESS COMMUNICATION TOWERS” TO ADD A DEFINITION OF “TOWER, CONCEALED”; TO REQUIRE THAT CONCEALED TOWERS INCLUDE A CERTIFICATION FROM A MARYLAND LICENSED STRUCTURAL ENGINEER THAT THE TOWER MEETS OR EXCEEDS ALL APPLICABLE STRUCTURAL STANDARDS AND REQUIREMENTS; TO AMEND THE MINIMUM SETBACKS REQUIRED FOR CONCEALED TOWERS; TO PROVIDE THAT LANDSCAPING AND FENCING REQUIREMENTS MAY BE WAIVED BY THE PLANNING COMMISSION; TO ELIMINATE THE REQUIREMENT THAT AN APPLICANT PROVIDE EVIDENCE SUBSTANTIATING THAT CONSTRUCTION OF A NEW WIRELESS COMMUNICATIONS TOWER SHALL NOT BE DETRIMENTAL TO THE USE, PEACEFUL ENJOYMENT, OR ECONOMIC VALUE OF NEIGHBORING PROPERTIES; TO ELIMINATE THE REQUIREMENT THAT AN APPLICANT OBTAIN MAJOR SITE PLAN APPROVAL BEFORE APPLYING FOR A SPECIAL EXCEPTION FROM THE BOARD OF APPEALS; TO PROVIDE THAT ONE PRIVATE AMATEUR (HAM) RADIO TOWER LESS THAN 75 FEET IS PERMITTED AS AN ACCESSORY USE AND ESTABLISHING REQUIRED SETBACKS; AND GENERALLY RELATING TO WIRELESS COMMUNICATIONS TOWERS

<b>KEY</b>	
<b>Boldface</b> .....	Heading or defined term
<u>Underlining</u> .....	Added to existing law by original bill
<del>Strikethrough</del> .....	Deleted from existing law by original bill
<u><u>Double underlining</u></u> .....	Added to bill by amendment
<del><u><u>Double strikethrough</u></u></del> .....	Deleted from bill by amendment
* * *	Existing law unaffected

SECTION ONE: BE IT ENACTED BY THE COUNTY COUNCIL OF TALBOT COUNTY, MARYLAND, that § 190-105, Talbot County Code, “Wireless Communication Towers” be amended as set forth below:

**§190-208. Definitions**

\* \* \*

1 TOWER, CONCEALED — A tower that includes a structural shell compatible with existing or  
2 permitted land uses designed to conceal the tower and engineered to withstand all design loads  
3 by a minimum of 110%.

\* \* \*

4 §190-113. Structure height

5 Structures shall comply with the following height limits.

6 Table V-1. Structure height

Type of structure	Maximum height	Additional requirements
A. Dwellings and agricultural structures. Includes ornamental towers and other design features.	40 feet	
B. Principal commercial, industrial or institutional structures.	40 feet, except 35 feet in Gateway Overlay Dist.	
C. Chimneys, church belfries or spires, conveyers, and private amateur (ham) radio and television antennas.	75 feet	<u>Minimum base zoning setback plus one additional foot in setback for each foot in height over 40 feet.</u>
D. Fire towers, silos, hospitals and public monuments.	100 feet	<u>Minimum base zoning setback plus one additional foot in setback for each foot in height over 40 feet.</u>
E. Grain elevators.	200 feet	<u>Minimum base zoning setback plus one additional foot in setback for each foot in height over 40 feet.</u>
F. Antenna towers for essential communications; for radio and television broadcasting facilities and other non-essential communication; and for wireless communication (see Article III).	200 feet	<u>Minimum required setback shall be 10 feet greater than the height of the tower, except that, for concealed towers the minimum setback shall be base zoning setback plus one additional foot in setback for each foot in structure height over 40 feet.</u>
G. * * *		

\* \* \*

7 **§190-105. Wireless Communication Towers**

8 A. Exemptions

9 Private amateur (ham) radio towers less than 75 feet are exempt from the requirements of  
10 this section. See section 190-86 for specific land use regulations.

11 B. General requirements

12 The following requirements are applicable to all wireless communications towers  
13 regardless of height or date of construction:

14 \* \* \*

15 (3) The ground base of any wireless communications tower structure shall be  
16 set back from any property line, road, or public recreation area a distance that is  
17 the height of the tower plus 10 feet, except for concealed towers, which shall  
18 comply with setback requirements set forth in Table V-1. Notwithstanding any  
19 other section of this chapter this limitation shall not be subject to modification by  
20 either a special exception or variance. Any icefall or debris from tower structural  
21 failure shall be contained in the immediate tower area. Any accessory structures  
22 shall comply with the minimum building setback requirements of the applicable  
23 zoning district. These setback requirements may be reduced through a variance  
24 application as provided for in Article IX.

25 \* \* \*

26 (7) The wireless communications tower shall be designed to minimize adverse  
27 visual and environmental impact (e.g., paint, camouflage, screening, stealth  
28 technology, concealed towers, color, use of existing structures and natural  
29 landscape, etc.). All equipment shelters shall be maintained in neutral shades  
30 consistent with the natural landscape.

31 \* \* \*

32 (9) The wireless communications tower shall be either a self-supporting  
33 monopole or self-supporting lattice structure, except concealed towers, which  
34 include an alternate or supplemental structural design accompanied by  
35 certification from a Maryland licensed structural engineer that the proposed tower  
36 meets or exceeds all applicable structural standards and requirements.

37 (10) The applicant shall submit a ~~licensed professional~~ landscaping plan  
38 prepared by a licensed professional with the site plan application which identifies  
39 existing vegetation and specifications, including species, size, and location, of all  
40 proposed plant materials to be utilized for buffering and screening of the wireless  
41 communications tower structure and equipment structures. A secure fence or  
42 enclosure, a minimum of eight feet in height, shall enclose the entire base of the  
43 wireless communications facility. All required plantings shall be kept in a live,  
44 healthy condition. Any plants not in a live, healthy condition shall be replaced by

the ~~applicant owner~~ to the satisfaction of the Planning Director. Landscaping and fencing requirements may be waived through a waiver petition approved by the Planning Commission in accordance with §190-186.

\* \* \*

C. General application requirements.

All applications shall provide the following information:

\* \* \*

(3) A copy of FCC license application or license number, date of issuance, and type of license (cellular, PCS, etc.) if applicable.

(4) A master report plan of applicant’s current proposed communication network ~~for Talbot County~~, including an illustrative wireless communications map detailing existing and proposed wireless coverage, antenna sites and collocation sites.

\* \* \*

(8) The wireless communications tower design ~~(self-supporting lattice or monopole).~~

\* \* \*

F. Specific tower requirements (towers from 75 feet to less than 100 feet high)

The following requirements are applicable to all wireless communications towers from 75 feet to less than 100 feet high.

\* \* \*

(8) Prior to ~~submittal~~ acceptance of the application in accordance with §190-170B(2), the applicant shall:

(a) Notify all adjoining property owners by mail of the wireless communications tower proposal, including neighbors, across water bodies that are within 1,000 feet of the property containing the tower site.

(b) Erect a sign on the proposed site notifying the public of the applicant’s intent to construct a wireless communications tower. Said sign design and size shall be approved by the Planning Director.

(c) Provide public notice in the local newspaper of the applicant’s request for the new proposed wireless communications tower, identifying location, type, height, etc. at the applicant’s expense. The newspaper notice shall include a map showing the proposed tower location, and be approved by the Planning Director.

~~(9) The applicant shall provide evidence substantiating that construction of a new wireless communications tower shall not be detrimental to the use,~~

80 | ~~peaceful enjoyment, or economic value of neighboring properties.~~  
81 | ~~[Paragraphs 10,11,12, and 13 to be renumbered accordingly]~~

\* \* \*

82 | G. Specific tower requirements (towers 100 feet high or higher).The following  
83 | requirements are applicable to all wireless communications towers 100 feet high or  
84 | higher:

85 | \* \* \*

86 | ~~(6) — The applicant must obtain major site plan approval prior to applying for a~~  
87 | ~~special exception from the Board of Appeals. [Paragraphs 7, 8, 9, and 10 to be~~  
88 | ~~renumbered accordingly]~~

89 | \* \* \*

90 | ~~(11) — The applicant shall provide evidence substantiating that construction of a~~  
91 | ~~new wireless communications tower shall not be detrimental to the use, peaceful~~  
92 | ~~enjoyment, or economic value of neighboring properties. [Paragraphs 12, 13, 14,~~  
93 | ~~15, 16, 17, 18, and 19 to be renumbered accordingly]~~

94 | (12) Prior to ~~submittal~~ acceptance of the application in accordance with §190-  
95 | 170B(2), the applicant shall:

96 | (a) Notify all adjoining property owners by mail of the wireless communications  
97 | tower proposal, including neighbors, across water bodies that are within 1,000  
98 | feet of the property containing the tower site.

99 | (a) Erect a sign on the proposed site notifying the public of the applicant’s intent  
100 | to construct a wireless communications tower. Said sign design and size shall  
101 | be approved by the Planning Director.

102 | (b) Provide public notice in the local newspaper of the applicant’s request for the  
103 | new proposed wireless communications tower, identifying location, type,  
104 | height, etc. at the applicant’s expense. The newspaper notice shall include a  
105 | map showing the proposed tower location, and be approved by the Planning  
106 | Director.

\* \* \*

107 | **§ 190-86 Satellite Dishes and Private Amateur (ham) Radio Towers**

108 | The following table lists requirements for different types of satellite dishes and private amateur  
109 | (ham) radio towers less than 75 feet, permitted as an accessory use.

110 | **Table II-2. Satellite Dishes and Private Amateur (ham) Radio Towers**

111

Type	Maximum number per lot, plus standards if any
Residential-type UHF/VHF, radio, and compact satellite dishes, measuring less than 30 inches in diameter.	Three
Dishes 30 inches or greater in diameter.	<p>One, located on the principal building or on the ground.</p> <p>If located on a building, the dish must be located on the roof and be set back from the edge of the roof a distance equal to at least its height above the roof.</p> <p>Dishes may not be placed in a front yard.</p> <p>Screening is required when a ground mounted dish is visible from a public right-of-way or surrounding property when viewed from ground level.</p>
<u>Private amateur (ham) radio tower less than 75 feet high.</u>	<u>One. Minimum required setback shall be minimum base zoning setback plus one additional foot in setback for each foot in height over 40 feet.</u>

\* \* \*

SECTION TWO: BE IT FURTHER ENACTED, that this ordinance shall take effect sixty (60) days from the date of its passage.

SECTION THREE: AND BE IT FURTHER ENACTED, that if any provision of this Ordinance or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Ordinance which can be given effect without the invalid provision or application, and for this purpose the provisions of this Ordinance are declared severable.

SECTION FOUR: AND BE IT FURTHER ENACTED, that, because the title is not a substantive part of the Bill, if this Bill is adopted as amended any such amendment authorizes revision of the Bill's title if required to conform the title to the text of the Bill as amended and finally enacted. Following enactment, the Bill's title, including any required revisions, and a summary of the Bill as finally enacted, including any amendments, shall be published once in a newspaper of general circulation in the County in compliance with Charter § 213 (c).

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DRAFT

**PUBLIC HEARING**

Having been posted and Notice of time, date, and place of hearing, and Title of Bill No. \_\_\_\_\_ having been published, a public hearing was held on \_\_\_\_\_.

**BY THE COUNCIL**

Read the third time.

ENACTED \_\_\_\_\_

By Order \_\_\_\_\_  
Susan W. Moran, Secretary

- Pack -
- Hollis -
- Bartlett -
- Price -
- Duncan -