

ORDINANCE NO. 3831

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND, ENTITLED "AN ORDINANCE TO AMEND SECTION 8.06(7) OF THE CITY OF CUMBERLAND ZONING ORDINANCE PERTAINING TO STANDARDS APPLICABLE TO COMMUNICATIONS TOWERS FOR THE PURPOSE OF ALLOWING FOR REQUESTS FOR MODIFICATIONS OF THE SETBACK REQUIREMENTS TO BE PRESENTED TO THE ZONING BOARD OF APPEALS AS CONDITIONAL USES, SUBJECT TO THE REQUIREMENT THAT THE SETBACK BE NO LESS THAN THE TOWER'S FALL ZONE."

**WHEREAS**, Title 4, Subtitle 2 of the Land Use Article of the Annotated Code of Maryland grants the Mayor and City Council the power to enact a zoning ordinance, to amend it from time to time, and to provide for its administration and enforcement.

**WHEREAS**, the Mayor and City Council deem it necessary to amend the City of Cumberland Zoning Ordinance from time to time for the purpose of promoting the health, safety, morals, and/or general welfare of the City.

**WHEREAS**, in reviewing the standards for specific uses applicable to communications towers in Section 8.06(7) of the Zoning Ordinance, City staff observed that the standards do not include provisions that take into account modern designs and advances in engineering applicable to the fall zones of such structures, i.e., where they are likely to fall in the event they collapse or fail.

**WHEREAS**, the existing standards require that communications towers be set back from adjacent property lines no less than one (1) foot for every foot of height of the tower regardless of whether the tower is designed to fall intact, bend in half, collapse in on itself or otherwise. These standards are overly burdensome as applied to towers that are designed to have smaller fall zones.

**WHEREAS**, the City of Cumberland Municipal Planning and Zoning Commission held a public hearing on the subject matter of this ordinance on the 26<sup>th</sup> day of March, 2018, and determined that it should recommend that the Mayor and City Council pass an ordinance adopting the amendments to the City of Cumberland Zoning Ordinance which were proposed by staff.

**WHEREAS**, notice of the time and place of the hearing was published in the Cumberland Times-News, a newspaper of general circulation in the City of Cumberland, once each week for two successive weeks (on March 12, 2018 and March 19, 2018), the

first such notice having been published at least 14 days prior to the hearing, as required by Section 15.04.02 of the Zoning Ordinance.

**WHEREAS**, the Mayor and City Council held a public hearing regarding the subject matter of this Ordinance on April 17, 2018, having published notice of the time and place of the hearing together with a summary this Ordinance in the Cumberland Times-News, a newspaper of general circulation in the City of Cumberland, once each week for two successive weeks (on April 2, 2018 and April 9, 2018), the first such notice having been published at least 14 days prior to the hearing, as required by Section 4-203(b) of the Land Use Article of the Annotated Code of Maryland.

**WHEREAS**, consistent with the recommendation of the Municipal Planning and Zoning Commission, the Mayor and City Council have determined that they should approve the proposed amendments to the Zoning Ordinance.

**NOW, THEREFORE:**

**SECTION 1: BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND**, that the standards applicable to communications towers set forth in Section 8.06(7) of the City of Cumberland Zoning Ordinance are hereby amended as follows<sup>1</sup>:

(7) Communications Towers

- (a) The tower shall have a setback of one foot from all adjacent property lines for every foot of height of the tower.
- (b) The tower shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards and wind loading requirements of the Uniform Building Code and the Electronics Industry Association.
- (c) The tower shall be protected to discourage climbing of the tower by unauthorized persons.
- (d) Towers greater than fifty (50) feet in height shall be located at least two hundred (200) feet from existing dwellings.

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<sup>1</sup> Bold print text denotes language added to the Zoning Ordinance.

- (e) **Requests for modifications of the setbacks requirements set forth herein shall be treated as conditional uses. The Zoning Board of Appeals may not provide for a setback which is less than the fall zone of the tower, as set forth in its engineering specifications.**

**SECTION 2: AND BE IT FURTHER ORDAINED,** that this Ordinance shall take effect ten (10) days from the date of its passage.

Passed this 1<sup>st</sup> day of May, 2018.

  
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Brian K. Grim, Mayor

ATTEST:

  
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Marjorie A. Woodring, City Clerk

1<sup>st</sup> reading: April 3, 2018

Public Hearing: April 17, 2018

2<sup>nd</sup> reading: May 1, 2018

3<sup>rd</sup> reading: May 1, 2018

Passed: 5-0