

ORDINANCE NO. 0-03-13

AN ORDINANCE TO AMEND CHAPTER 24 (CITY ZONING ORDINANCE), ARTICLE III, ENTITLED, "REGULATIONS APPLICABLE TO PARTICULAR ZONES," DIVISION 1A, ENTITLED, "GENERALLY," § 24-22(A)(3), DIVISION 1, ENTITLED, "R-A ZONE, LOW DENSITY RESIDENTIAL," § 24-25, DIVISION 19, ENTITLED, "MXD ZONE, MIXED USE DEVELOPMENT," §§ 24-160D.3 AND 24-160D.9, DIVISION 21, ENTITLED, "CBD ZONE, CENTRAL BUSINESS DISTRICT," § 24-160F.2, DIVISION 22, ENTITLED, "CD ZONE, CORRIDOR DEVELOPMENT," §§ 24-160G.2, 24-160G.6, AND 24-160G.8 THROUGH 24-160G.10, ARTICLE V, ENTITLED, "SITE DEVELOPMENT PLANS," § 24-172, ARTICLE VI, ENTITLED, "ADMINISTRATION AND ENFORCEMENT OF CHAPTER," § 24-180, ARTICLE VIII, ENTITLED, AMENDMENT PROCEDURE," §§ 24-198(C)(3) AND 24-196, ARTICLE IX, ENTITLED, "SIGNS," §§ 24-211 AND 24-212, TO MAKE MODIFICATIONS SO AS TO ELIMINATE REDUNDANT PROVISIONS; UPDATE, CORRECT, AND/OR CLARIFY TEXT AND PROCEDURES; AND MODIFY THE REQUIREMENTS FOR ELECTRONIC SIGNS AND THE TIMING FOR POSTING OF PUBLIC HEARING SIGNS

**Text Amendment CTAM-1904-2013**

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg, Maryland, in public meeting assembled, that Chapter 24 of the City Code (City Zoning Ordinance) Article VIII, §24-196 is amended to read as follows:

**ARTICLE III. REGULATIONS APPLICABLE TO PARTICULAR ZONES**

**DIVISION 1A. GENERALLY**

**Sec. 24-22. Permitted and special exception uses.**

(a) Except as provided elsewhere in this chapter, no use shall be allowed except as indicated in the table provided in the text of each zoning district as follows:

(1) \* \* \* \*

(2) \* \* \* \*

(3) Prohibited uses are uses not identified as permitted uses, special exception uses or conditional uses in any specific zoning district in this chapter or specifically identified as a prohibited use in any specific zoning

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

district. Lawful accessory uses and lawful non-conforming uses are not prohibited uses. For uses not specifically listed, a zoning interpretation may be obtained from the city manager or his/her designee as to whether the proposed use or uses are allowed within a particular zoning category.

\* \* \* \*

### DIVISION 1. R-A ZONE, LOW DENSITY RESIDENTIAL

#### Sec. 24-25. Uses permitted as special exceptions.

The following uses are permitted as special exceptions after approval by the board of appeals.

- (1) \* \* \* \*
- (2) \* \* \* \*
- (3) \* \* \* \*
- (4) Child or elderly day care facilities accommodating more than eight (8) individuals; provided, that the approval of such use in any wood frame structure or building shall be conditioned upon the installation and maintenance of an approved fire prevention sprinkler system of a light hazard classification pursuant to the current standards set forth by the Montgomery County, Maryland Fire Code regulations. This use shall be subject to the following standards:
  - a. \* \* \* \*
  - b. \* \* \* \*
  - c. \* \* \* \*
  - d. ~~That the facility is designed as a part of a planned residential community.~~
  - e. That the design of the facilities will be compatible and in character with surrounding, existing and proposed residential uses.

\* \* \* \*

DIVISION 19. MXD ZONE, MIXED USE DEVELOPMENT

\* \* \* \*

**Sec. 24-160.D.3. Uses permitted.**

(a) \* \* \* \*

(b) *Commercial/employment/industrial.* All uses allowed by right in any of the following zone: R-B, C-B, C-1, C-2, C-3, E-1, E-2 and I-3 Zones are permitted uses. The following uses are specifically prohibited:

- Adult-oriented business.
- Automobile paint and body repair shops.
- Body piercing establishments
- Drive-in theaters.
- Fortune telling business.
- Hotel, extended stay.
- Manufacture, compounding, and processing of goods or articles.
- Pawnshops.
- Tattoo parlor.

\* \* \* \*

**Sec. 24-160.D.9. Application and processing procedures.**

Procedures governing the application for the MXD Zone and approvals necessary to seek building permits shall be subject to the following multistep process:

(a) *Application for the MXD Zone and sketch plan approval.*

(1) An applicant shall file, together with the prescribed application fee, an application for the MXD Zone pursuant to the provisions of section 24-196 of this Code, and in addition, shall submit for the approval as part of the application for separate approval, a sketch plan reflecting at a minimum, the following:

- a. The boundaries of the entire tract of parcel.
- b. The requirements of section 24-169(a), except for items ~~(4)~~, ~~(5)~~, ~~(6)~~ and ~~(7)~~ f (3), (4), (5) and (6)f.

\* \* \* \*

(c) *Final site plan review.* Following approval of a schematic development plan, an applicant shall submit to the city planning commission, an applicant shall submit to the city planning commission a final site plan for

approval, which shall be in accord with the approved schematic development plan and shall include the following:

- (1) \* \* \* \*
- (2) \* \* \* \*
- (3) \* \* \* \*
- (4) \* \* \* \*

~~(5) A proposed covenant, suitable for filing in the land records of Montgomery County, which shall indicate in specific language that the property which is the subject of the application is restricted in its use and/or development standards to the schematic development plan and any accompanying or qualifying text material submitted with such plan, as such plan may be approved or modified by the planning commission at the time of final site plan review. The covenant to be filed in the land records shall also indicate that such restrictions shall be in effect until such time as the property may be rezoned, at which time such restrictions shall be removed.~~

~~(6) A site plan enforcement agreement to be signed by the applicant and the city, requiring the applicant to execute all of the features shown on the site plan and the sequence and timing when said features will be completed. The commission may require that the performance of the terms of the agreement be secured by a bond, letter of credit or other security acceptable to the city. Subsequent to the completion of work, the city manager is authorized to declare as abandoned and forfeited, any cash bond posted pursuant to a requirement of this chapter, and relinquish proceeds thereof to the general treasure of the city, when after giving the applicant or permittee who posted the cash bond thirty (30) days written notice first by registered mail, and if unclaimed by first-class mail, such applicant or permittee fails to request of the city the return of the cash bond. Upon failure to request of the city return of the cash bond, as provided herein, the applicant or permittee, its successors, heirs and assigns relinquish all claim to said cash bond.~~

Approvals, processes, procedures and amendments to site plans shall be in accord with Article V of this Chapter 24 of the Code.

DIVISION 21. CBD ZONE, CENTRAL BUSINESS DISTRICT

**Sec. 24-160F.2. Uses allowed.**

(a) *Permitted uses.* All uses listed as permitted and not solely as special exceptions in all zoning districts, unless otherwise designated in the below subsections (b) and (c) as a prohibited, special exception, or conditional use, except:

~~(1) Automobile and truck repair and services.~~

~~(2) Automobile and truck body repair shops.~~

~~(3) Automobile and truck sales.~~

~~(4) Landscaping and excavation contractor business involving the use of heavy trucks and equipment.~~

~~(5) Pawn shops.~~

~~(6) Tattoo parlors.~~

~~(7) Telecommunications facilities located entirely within an existing structure, subject to the requirements of section 24-167A(C)(1).~~

~~(8) Those uses listed in subsection (b) of this section.~~

~~(b) *Special exception uses*~~

~~(1) Boarding homes.~~

~~(2) Group residential facilities located entirely within an existing structure, subject to the requirements of section 24-167A(C)(1).~~

~~(3) Laboratories, provided such use meets all federal, state and local safety regulations.~~

~~(4) Consignment shops.~~

~~(5) Private educational institutions.~~

(b) *Prohibited uses. The following uses are prohibited in the CBD Zone.*

(1) Automobile, motorcycle, marine, and truck repair and services.

(2) Automobile, motorcycle, marine, and truck body repair shops.

- (3) Automobile, motorcycle, marine, and truck sales.
- (4) Landscaping and excavation contractor business involving the use of heavy trucks and equipment.
- (5) Pawn shops.
- (6) Tattoo parlors.
- (7) Telecommunications facilities unless located entirely within an existing structure, subject to the requirements of section 24-167A(D)(1).
- (8) Fortune telling business.

(c) Special exception uses. The following uses shall be special exception uses in the CBD Zone subject to approval by the City Board of Appeals notwithstanding the fact that such use may be allowed as a permitted use in any other zones referred to in the above subsection (a):

- (1) Boarding homes
- (2) Group residential facilities operated by a nonprofit or public entity.
- (3) Laboratories, provided such use meets all federal, state and local safety regulations.
- (4) Consignment shops.
- (5) Private educational institutions.

\* \* \* \*

## DIVISION 22. CD ZONE, CORRIDOR DEVELOPMENT

\* \* \* \*

### Sec. 24-160G.2. Uses allowed.

- (a) *Permitted uses.* \* \* \* \*
- (b) *Prohibited uses.* All of the following uses are prohibited in the CD Zone:

(1) Automobile, motorcycle, marine, and truck body repair shops.

(2) \* \* \* \*

- (3) \* \* \* \*
- (4) \* \* \* \*
- (5) \* \* \* \*
- (6) \* \* \* \*
- (7) Fortune telling businesses.

\* \* \* \*

**Sec. 24-160G.6. Procedure for application and approval.**

Procedure governing the application for the CD Zone and approvals necessary to seek building permits shall be subject to the following process:

- (a) \* \* \* \*
- (b) \* \* \* \*
- (c) \* \* \* \*

(d) ~~A site plan enforcement agreement to be signed by the applicant and the city, requiring the applicant to execute all of the features shown on the site plan and the sequence and timing when said features will be completed. The commission may require that performance of the terms of the agreement be secured by a bond, letter of credit or other security acceptable to the city. Subsequent to the completion of work, the city manager is authorized to declare as abandoned and forfeited, any cash bond posted pursuant to a requirement of this chapter, and relinquish proceeds thereof to the general treasury of the city, when after giving the applicant or permittee who posted the cash bond thirty (30) days written notice first by registered mail, and if unclaimed by first class mail, such applicant or permittee fails to request of the city the return of the cash bond. Upon failure to request of the city return of the cash bond, as provided herein, the applicant or permittee, its successors, heirs and assigns relinquish all claim to said cash bond.~~

(e) Amendments to a schematic development plan or concept plan. property within the CD zone shall be governed by the process set forth in section 24-198(c) of the City Code.

\* \* \* \*

**~~Sec. 24-160G.8. Procedures for amendment.~~**

~~Amendments to a schematic development plan or concept plan may be permitted, pursuant to the following requirements:~~

~~(a) The schematic development plan or concept plan may be amended:~~

- ~~(1) At any time before review and recommendation by the planning commission;~~
- ~~(2) At any time after planning commission review and prior to council action by resubmission to the planning commission for further review and recommendation;~~
- ~~(3) At any time following council action granting the approval of a schematic development plan as follows:~~

~~a. *Change in use involved.* By either the filing of a new application or resubmission to the planning commission for further evaluation, public hearing and recommendation to the council. The council shall approve or disapprove the recommendation of the planning commission, without the necessity of a public hearing, no later than forty five (45) days after receipt of the commission's recommendation or may, on its own motion, extend such time limit.~~

~~b. *Changes other than to use.* By either the filing of a new application or resubmission to the planning commission for further evaluation, public hearing and recommendation to the council when the change to the proposed application:~~

- ~~1. Increases the height of building by then (10) feet or more, or~~
- ~~2. Materially changes the orientation or siting of buildings, parking accessory uses, or~~
- ~~3. Increases nonresidential building floor area by more than ten (10) percent or five thousand (5,000) square feet whichever is greater, or~~
- ~~4. Increases by more than ten (10) percent or five (5) units the number of residential dwelling units whichever is greater, or~~
- ~~5. Removes more than five (5) percent of area designated for conservation or other environmental preservation purposes.~~

~~The council shall approve or disapprove the recommendation of the planning commission, without the necessity of a public hearing, no later than forty five (45) days after receipt of the commission's recommendation or may, on its own motion, extend such time limit.~~

**Sec. 24-160G.98. Existing buildings and uses.**

\* \* \* \*

**Sec. 24-160G.10.9. Special regulations and requirements.**

\* \* \* \*

**ARTICLE V. SITE DEVELOPMENT PLANS**

\* \* \* \*

**Sec. 24-172. Compliance with and changes in plan.**

(a) Compliance requirements. Land which is the subject of an approved site development plan shall be developed and used only in accordance with the approved plan or in accordance with amendments to said plan approved in accord with the provisions of this chapter. The approvals of site development plans or amendments thereto may contain such conditions as are necessary to ensure compliance with the requirements of this chapter or which are in the public interest. Use and development of land which is the subject of the site development plan or the construction of a building or structure thereon in a manner not in compliance with that plan is prohibited and shall constitute a violation of this chapter.

~~(b) Requests for amendment of site development plans. A request for amendment shall be accompanied by so much of the information required by section 24-169 as is necessary to properly detail and permit action upon the request for amendment. At the time the application for amendment is filed, the applicant shall pay the prescribed fee for processing the request. Minor amendment requests shall be those requests specified in subsection (c) of this section and shall be acted upon by the planning director or his/her designee. The applicant for a minor amendment shall provide, by mail or personal delivery, written notice in a form approved by the city planning department to owners of abutting and confronting properties of the amendment request within two (2) business days of filing the request, and shall certify the same to the planning department. All amendment requests, except for minor amendments, shall be subject to public hearing and decision by the city planning commission.~~

~~(c) — Minor amendment requests.~~

- ~~(1) — Requests for minor amendment shall be filed with and acted upon by the planning director or his/her designee. Requests for minor amendment include:
  - ~~(a) — Resiting or relocation of buildings or structures including, but not limited to, garages and accessory structures on not more than three (3) contiguous lots, including moving or rotation of a building or structure's footprint, provided such moving or rotation does not shift a building or structure's footprint more than ten (10) feet in any direction.~~
  - ~~(b) — Resiting of a lot with a house type previously approved by the city planning commission.~~
  - ~~(c) — Approval of retaining walls/fences and other enclosures.~~
  - ~~(d) — Minor revisions to building elevation and site plan details which do not add onto buildings or expand footprints of previously approved buildings (other than item (b) above).~~
  - ~~(e) — Minor signage changes or additions.~~
  - ~~(f) — Minor landscaping or pedestrian and sidewalk access revisions.~~
  - ~~(g) — Addition of easements and parking areas or correction of easement and parking area locations.~~
  - ~~(h) — Revisions to forest conservation plan.~~
  - ~~(i) — Revisions or amendments delegated by the city planning commission.~~~~
- ~~(2) — Public hearings of the planning commission are not required for a minor amendment, provided, however, the planning director or his/her designee shall, upon request, meet with the applicant and interested parties or consider written comments on the amendment.~~
- ~~(3) — A minor amendment may only be granted if:
  - ~~(a) — The amendment does not violate the development standards of the property's zoning or increase the lawful nonconformity of any lot or building; and~~~~

- ~~(b) The amendment is in general harmony with the architectural and site design characteristics of the approved site development plan; and~~
- ~~(c) The amendment will not substantially impair the intent, purpose or integrity of the neighborhood or the planning documents for the applicable area.~~
- ~~(4) The decision of the planning director (or designee) may be appealed to the city planning commission if filed with the planning department, in writing, within fifteen (15) days after the decision is mailed by the planning director. The planning commission, in its discretion, may hold a public hearing on the decision of the planning director, or order written statements and oral argument in lieu of a public hearing. The planning commission may approve, approve with modification, or disapprove the requested amendment(s) and shall state the reasons for its action.~~

**ARTICLE VI. ADMINISTRATION AND ENFORCEMENT OF CHAPTER**

\* \* \* \*

**Sec. 24-180. Requests for interpretation of chapter.**

~~Upon the application of a property owner for an interpretation of a particular section of this chapter relative to land use, the city manager shall request of the planning commission a certified zoning interpretation confirming the permitted use or uses within a particular zoning category established on the zoning map of the city. For uses not specifically listed, a zoning interpretation may be obtained from the city manager or his/her designee as to whether the proposed use or uses are allowed within a particular zoning category.~~

\* \* \* \*

**ARTICLE VIII. AMENDMENT PROCEDURE**

\* \* \* \*

**Sec. 24-196. Map amendments.**

- (a) \* \* \* \*
- (b) \* \* \* \*
- (c) \* \* \* \*

(d) \* \* \* \*

(e) *Posting of notice.* ~~Within five (5) days after the filing of a map amendment application, t~~ The applicant shall erect one or more signs to be supplied to him by the city manager giving notice of the number assigned to such application and the classifications proposed. Such sign or signs shall be erected by the applicant on the property which is the subject of the application in accordance with the specifications of this subsection. The sign(s) shall be erected as soon as the public hearing date is set, but in all cases the sign(s) shall be posted a minimum of fourteen (14) calendar days prior to the date of the public hearing. Ordinarily, such sign or signs shall be located on property which is the subject of the application. In the event the applicant is not the owner of the property and the owner refuses to permit a sign to be placed on the property, or in the event a sign on the property cannot be readily seen by the public, the city manager may direct that the sign or signs be placed on property other than the subject property in such locations as will give fair notice of the pendency of the application. All signs shall be posted in accordance with the following rules:

\* \* \* \*

**Sec. 24-198. Optional method of application for local map amendments**

\* \* \* \*

~~(c) The schematic development plan may be amended:~~

~~(1) At any time before review and recommendation by the planning commission;~~

~~(2) At any time after planning commission review and prior to council action by resubmission to the planning commission for further review and recommendation;~~

~~(3) Subsequent to council action to approve as follows:~~

~~c. *Change in use involved.* By either the filing of a new application or resubmission to the planning commission for further evaluation, public hearing and recommendation to the council. The council shall approve or disapprove the recommendation of the planning commission, without the necessity of a public hearing, no later than forty five (45) days after receipt of the commission's recommendation or may, on its own motion, extend such time limit.~~

~~d. No change in use involved. By submission to the planning commission for evaluation and approval in accordance with Article V of this chapter.~~

~~e. Changes other than to use. By either the filing of a new application or resubmission to the planning commission for further evaluation, public hearing and recommendation to the council when the change is to proposed new development or modification to existing development which:~~

~~(i) Increases the height of building or signage by ten (10) feet or more, or~~

~~(ii) Materially changes the orientation or siting of buildings, parking accessory uses, or~~

~~(iii) Increases nonresidential building floor area by more than ten (10) percent or five thousand (5,000) square feet whichever is greater, or~~

~~(iv) Increases by more than ten (10) percent or five (5) units the number of residential dwelling units whichever is greater, or~~

~~(v) Removes more than five (5) percent of area designated for conservation or other environmental preservation purposes.~~

~~The council shall hold only a courtesy review of the application, presented by the city planning staff, prior to action by the planning commission. The council shall either:~~

~~(1) Find that the application has a minor effect and thereby direct the planning commission to make a final decision on the amendment in accordance with the procedure set forth above in subsection 24-198(c)(3)b.; or~~

~~(2) Direct that the amendment be referred to the planning commission for further evaluation, public hearing and recommendation. The council shall thereafter approve or disapprove the recommendation of the planning commission without the necessity of public hearing, no later than forty five (45) days after receipt of the commission's recommendation or may on its own motion, extend such time limit.~~

(c) Amendments to concept plans, sketch plans, and schematic development plans:

- (1) The concept plan, sketch plan or schematic development plan must be amended when:
  - a. Change in use involved.
  - b. Changes other than to use:
    - (i) Increases the height of building or signage by then (10) feet or more, or
    - (ii) Materially changes the orientation or siting of buildings, parking accessory uses, or
    - (iii) Increases nonresidential building floor area by more than ten (10) percent or five thousand (5,000) square feet whichever is greater, or
    - (iv) Increases by more than ten percent or five (5) units the number of residential dwelling units whichever is greater, or
    - (v) Removes more than five (5) percent of area designated for conservation or other environmental preservation purposes.
  - c. No change in use involved. When sections (a) and (b) are not applicable to the proposed amendment, the schematic development plan may be amended by submission to the planning commission for evaluation and approval in accordance with Article V of this chapter.
- (2) For amendments involving change in use or changes other than to use, plans may be amended at any time as follows:
  - a. At any time before review and recommendation by the planning commission.
  - b. At any time after planning commission review and prior to council action by resubmission to the planning commission for further review and recommendation.
  - c. Subsequent to council action to approve as follows:
    - (i) Filing of a new application in accordance with Sec. 24-160D.9.
    - (ii) Resubmission of the previous application to the mayor and city council for a courtesy review of the application, presented by the city planning staff, prior to action by the planning commission. The council shall either:

1. Find that the application has a minor effect and thereby direct the planning commission to make a final decision on the amendment in accordance with the procedure set forth above in subsection 24-198(c)(1).
2. Direct that the amendment be referred to the planning commission for further evaluation, public hearing and recommendation. The council shall thereafter approve or disapprove the recommendation of the planning commission without the necessity of public hearing, no later than fort-five (45) days after receipt of the commission's recommendation or may on its own motion, extend such time limit.

\* \* \* \*

## ARTICLE IX. SIGNS

\* \* \* \*

### **Sec. 24-211. Signs permitted in all zones.**

Subject to the other conditions of article IX and as noted in this section, the following signs shall be permitted in any zone:

\* \* \* \*

(g) *Permanent identification signs:*

- |     |   |   |   |   |
|-----|---|---|---|---|
| (1) | * | * | * | * |
| (2) | * | * | * | * |
| (3) | * | * | * | * |

- (4) All permanent identification signs shall be compatible in appearance and design with the surrounding landscape or buildings to which they may be affixed, and shall only be lighted from an exterior light source which has a disconnect switch in close proximity to the sign. Residential community signs shall only be lighted from an exterior light source. Channel letters and internally lit box signs are permitted for places of assembly, worship and schools as follows: the background is opaque where only the letters or logos are illuminated. Illuminated white backgrounds are prohibited. The color white may be used for the letters and logos.

- (5) Places of worship, schools, public parks and public buildings with approval of the planning commission shall be permitted to have electronic message boards, subject to the following regulations:
- a. An electronic message display board must not have any distracting appearance of motion, flashing, blinking, or shimmering, and must not constitute a safety hazard by distraction of drivers. The display shall remain static for a minimum of six (6) seconds with instantaneous change of the display; i.e., no "fading" in/out of the message.
  - b. No more than one sign with one electronic message display board is permitted per lot of record.
  - c. An electronic message display board may not be located so that its message is visible from any controlled-access highway or ramp.
  - d. Individual letter height shall not be less than five (5) inches.
  - e. The brightness of the sign shall be limited to a maximum luminance of 5,000 nits (candelas per square meter) during daylight and 500 nits (candelas per square meter) between dusk and dawn.
  - f. All electronic message signs shall have automatic brightness control keyed to ambient light levels so that at no time shall a sign exceed a brightness level of three tenths (0.3) foot candles above ambient light, as measure using a foot candle (Lux) meter. Where this section and subsection e. conflict, the more restrictive of the two regulations shall be enforced.
  - g. Sign displays shall go dark if there is a malfunction.
  - h. When located within 100 feet of any single family attached or detached use on a lot in a residential zone, the electronic message board should be oriented so that no portion of the message board face is visible from an existing or permitted residential structure on that lot. Landscape screening or fencing may be used to block the view of the sign from the residential structure;

**Sec. 24-212. Commercial and industrial signs.**

The following regulations shall apply in the C-1, C-2, C-3, C-B, C-P, E-1, E-2, HM, R-O, I-1, I-3, I-4, CD, and MXD Zones. Guidelines adopted for the CD, [and] CBD

Zones, and Mixed Use Town Centers in the MXD Zone, each as may be amended by resolution, are incorporated into this Article IX and are binding pursuant to Chapter 24, Article IX of the City Code. If a conflict exists between those guidelines and the provisions of Chapter 24, Article IX, the guidelines shall control.

\* \* \* \*

- (i) *Electronic signs:* Electronic signs as defined in Sec. 24-209 must be approved by the planning commission, except where otherwise permitted by right within this article. In addition to all the other requirements in Sec. 24-212, the following requirements shall apply:
- a. An electronic message display board must not have any distracting appearance of motion, flashing, blinking, or shimmering, and must not constitute a safety hazard by distraction of drivers. The display shall remain static for a minimum of six (6) seconds with instantaneous change of the display; i.e., no "fading" in/out of the message.
  - b. No more than one sign with one electronic message display board is permitted per lot of record.
  - c. An electronic message display board may not be located so that its message is visible from any controlled-access highway or ramp.
  - d. Individual letter height shall not be less than five (5) inches.
  - e. The brightness of the sign shall be limited to a maximum luminance of 5,000 nits (candelas per square meter) during daylight and 500 nits (candelas per square meter) between dusk and dawn.
  - f. All electronic message signs shall have automatic brightness control keyed to ambient light levels so that at no time shall a sign exceed a brightness level of three tenths (0.3) foot candles above ambient light, as measure using a foot candle (Lux) meter. Where this section and subsection e. conflict, the more restrictive of the two regulations shall be enforced.
  - g. Sign displays shall go dark if there is a malfunction.
  - h. When located within 100 feet of any single family attached or detached use on a lot in a residential zone, the electronic message board should be oriented so that no portion of the message board face is visible from an existing or permitted residential structure on that lot. Landscape screening or

fencing may be used to block the view of the sign from the residential structure;

\* \* \* \*

(r) *Service station signs:*

(1) \* \* \* \*

(2) \* \* \* \*

(3) One monument sign depicting the brand of gasoline and the state pricing signage is permitted.

(i) All such signs erected or structurally altered after the effective date of this article shall be no higher than eight (8) feet and no wider than ten (10) feet.

(ii) Each monument sign erected or structurally altered after the effective date of this article shall be no greater than eighty (80) square feet in size, including the state-required pricing signage.

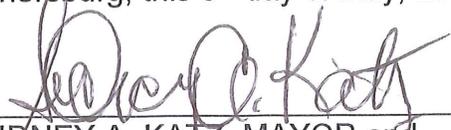
(iii) All such signs erected prior to the effective date of this ordinance which are greater than eight (8) feet in height are permitted to remain unless modified in any way that requires the issuance of a permit, in which case they shall be required to conform to this ordinance.

(iv) Only one additional monument sign may be permitted, if the station is located on a through lot as define in Sec. 24-1.

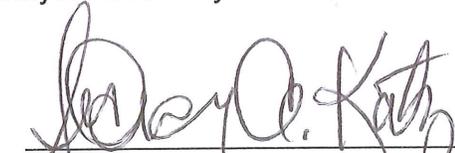
(v) The numerical portion of such signs may consist of changeable electronic/LED messaging without planning commission approval. Such signs must be operated in conformance with Sec. 24-212(i), excluding subsection b.

\* \* \* \*

ADOPTED, by the City Council of the City of Gaithersburg, this 6<sup>th</sup> day of May, 2013.

  
\_\_\_\_\_  
SIDNEY A. KATZ, MAYOR and  
President of the Council

DELIVERED, to the Mayor and City Council of the City of Gaithersburg, this 6<sup>th</sup> day of May, 2013. APPROVED, by the Mayor and City Council of the City of Gaithersburg, this 6<sup>th</sup> day of May, 2013.

  
\_\_\_\_\_  
SIDNEY A. KATZ, MAYOR

THIS IS TO CERTIFY, that the foregoing Ordinance was adopted by the City Council of the City of Gaithersburg, in public meeting assembled, on this 6<sup>th</sup> day of May, 2013 and the same was APPROVED, by the Mayor and City Council of the City of Gaithersburg, on this 6<sup>th</sup> day of May, 2013. This Ordinance will become effective on the 28<sup>th</sup> day of May, 2013.

  
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Tony Tomasello, City Manager