

ORDINANCE NO. O-5-15

AN ORDINANCE TO AMEND CHAPTER 24 ARTICLE I, ENTITLED, "IN GENERAL," § 24-1, ARTICLE III, ENTITLED, "REGULATIONS APPLICABLE TO PARTICULAR ZONES," ARTICLE IV, ENTITLED "SUPPLEMENTARY ZONE REGULATIONS," § 24-167A, AND ARTICLE V, ENTITLED, "SITE DEVELOPMENT PLANS," § 24-172A(b), ENTITLED "MINOR AMENDMENT REQUESTS"

Text Amendment CTAM-6979-2015

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 I, Article III, Article IV and Article V are amended to read as follows:

Chapter 24

ZONING

ARTICLE I. IN GENERAL

Sec. 24-1. Definitions.

* * * *

Satellite Dish Antenna: any device used or designed for receiving radio or electromagnetic signals from one or more orbitally based satellites and are external to or are attached to the exterior of any building.

Telecommunications facility. Any exterior facility, including an antenna, antenna array or other communications equipment, excluding a satellite television dish antenna or small cell telecommunications facility, established for the purpose of providing wireless voice, data and image transmission within a designated service area and which includes equipment consisting of personal wireless services, as defined in Federal law, including by Federal Communications Commission orders or regulations. A telecommunications facility must not be staffed. A telecommunications facility consists of one or more antennas attached to a support structure and related equipment. ~~Antennas are limited to the following types and dimensions: omni-directional (whip) antennas not exceeding fifteen (15) feet in height and three (3) inches in diameter; directional or panel antennas not exceeding six and one half (6 ½) feet in height and two (2) feet in width. An antenna may be mounted to a building, a building rooftop or a freestanding monopole in accordance with sections 24-167A(D)1 and/or 2.~~

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Equipment may be located within a building, ~~an equipment cabinet or an equipment room within a building.~~ or an exterior equipment cabinet.

Telecommunications facility, co-location: Siting additional telecommunications facilities on an exterior structure or pole with an existing telecommunications facility, using the same base or support structure, without the need to construct a new base structure. Co-location may include siting multiple facilities from the same provider or from more than one provider in the same location.

Telecommunications facility, major modification: An alteration of an existing exterior telecommunications facility for any purpose which substantially changes the physical dimensions of the facility, where (i) the height of the existing facility is increased by more than ten percent (10%) from the current height, or twenty (20) feet, whichever is greater; (ii) the modification will require an additional protrusion of more than twenty (20) feet or width of the existing tower, whichever is greater; (iii) the modification would require the installation of more than the standard number of equipment boxes for the technology involved, not to exceed four cabinets overall; (iv) the modification would entail any excavation or installation outside existing leased or owned property and current easements or outside the current site of the facility; or (v) the modification would defeat or detract from the existing concealment or Stealth elements of the facility . The calculation for such modifications shall be cumulative over time following the initial approval of the telecommunications facility.

Telecommunications facility, minor modification: An alteration of an existing exterior telecommunications facility or co-location of additional facilities with an existing exterior telecommunications facility in any zone that does not meet or exceed the thresholds for a major modification, the calculation for which shall be cumulative over time, following the initial approval of the telecommunications facility.

Telecommunications facility, new. The establishment of a telecommunications facility on a base structure where no such facility presently exists.

Telecommunications facility, small cell. An exterior facility, excluding a satellite dish antenna, established for the purpose of providing wireless voice, data and/or image transmission within a designated service area. A small cell telecommunications facility must not be staffed, and consists of one or more antennas attached to a support structure. Antennas may not be larger than a maximum height of four (4) feet and a maximum width of two (2) feet, six (6) inches.

Telecommunications facility, stealth. Any Telecommunications Facility that is integrated into an architectural feature of a structure or the landscape so that the facility and its purpose to provide wireless services is not visually apparent or prominent.

Telecommunications facility, support structure: A monopole, tower, utility pole, **existing** light pole, building or any other freestanding self-supporting structure or

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replacement of equivalent dimensions which can safely support the installation of a telecommunications facility.

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ARTICLE III. REGULATIONS APPLICABLE TO PARTICULAR ZONES

DIVISION 1A. GENERALLY

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

* * * *

(b) *R-6 Zone*

Use *Zone R-6*

* * * *

Small Cell Telecommunications Facility⁷ P

* * * *

⁷Subject to the requirements of section 24-167A(E).

(c) *Buffer zones.*

Use *Zone RB* *Zone CB*

* * * *

Small Cell Telecommunications Facility⁸ P P

* * * *

⁸Subject to the requirements of section 24-167A(E).

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DIVISION 1. R-A ZONE, LOW DENSITY RESIDENTIAL

* * * *

Sec. 24-24. Uses permitted by right.

* * * *

(8) Small Cell Telecommunications Facilities, subject to the requirements of Section 24-167A(E).

* * * *

DIVISION 4. RP-T ZONE, MEDIUM DENSITY RESIDENTIAL

Sec. 24-43. Permitted uses.

* * * *

(8) Small Cell Telecommunications Facilities, subject to the requirements of Section 24-167A(E).

* * * *

DIVISION 6. R-18 ZONE, MEDIUM DENSITY PLANNED RESIDENTIAL

Sec. 24-66. Permitted uses.

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(9) Small Cell Telecommunications Facilities, subject to the requirements of Section 24-167A(E).

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DIVISION 7. R-H ZONE, HIGH DENSITY RESIDENTIAL

Sec. 24-75. Permitted uses.

* * * *

(11) Small Cell Telecommunications Facilities, subject to the requirements of Section 24-167A(E).

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DIVISION 8. R-O ZONE, PLANNED RESIDENTIAL

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Sec. 24-86. Uses permitted by right.

* * * *

(11) Small Cell Telecommunications Facilities, subject to the requirements of Section 24-167A(E).

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DIVISION 10. C-P ZONE, COMMERCIAL OFFICE PARK

Sec. 24-102. Uses.

* * * *

A. Uses permitted by right.

* * * *

(11) Small Cell Telecommunications Facilities, subject to the requirements of Section 24-167A(E).

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DIVISION 11. C-1 ZONE, LOCAL COMMERCIAL

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Sec. 24-111. Uses permitted by right.

* * * *

(15) Small Cell Telecommunications Facilities, subject to the requirements of Section 24-167A(E).

* * * *

DIVISION 12. C-2 ZONE, GENERAL COMMERCIAL

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Sec. 24-117. Uses permitted by right.

* * * *

(31) Small Cell Telecommunications Facilities, subject to the requirements of Section 24-167A(E).

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DIVISION 13. C-3 ZONE, HIGHWAY COMMERCIAL

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Sec. 24-123. Permitted uses.

* * * *

(6) Small Cell Telecommunications Facilities, subject to the requirements of Section 24-167A(E).

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DIVISION 14. I-1 ZONE, LIGHT INDUSTRIAL

Sec. 24-136. Uses permitted by right.

* * * *

F. TRANSPORTATION, COMMUNICATION AND UTILITIES:

* * * *

(8) Small Cell Telecommunications Facilities, subject to the requirements of Section 24-167A(E).

* * * *

DIVISION 17. E-1 ZONE, URBAN EMPLOYMENT

Sec. 24-151. Permitted uses.

* * * *

(20) Small Cell Telecommunications Facilities, subject to the requirements of Section 24-167A(E).

* * * *

DIVISION 20. H-M ZONE, HOTEL-MOTEL

Sec. 24-160E.2. Uses and special exceptions allowed.

* * * *

(13) Small Cell Telecommunications Facilities, subject to the requirements of Section 24-167A(E).

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DIVISION 21. CBD ZONE, CENTRAL BUSINESS DISTRICT

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

(a) *Permitted uses.* All uses listed as permitted and not as special exceptions in all zoning districts, except:

* * * *

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

(b) *Special exception uses.*

* * * *

6) Stealth Telecommunications Facilities or Telecommunications Facilities located entirely within a structure, subject to the requirements of section 24-167A(D)(2)

* * * *

ARTICLE IV. SUPPLEMENTARY ZONE REGULATIONS

* * * *

Section 24-167A. ~~Satellite television antennas and towers, poles, antennas and/or other structures intended for use in connection with transmission or receipt of radio or television signals, and/or~~ Telecommunications Facilities or Small Cell Telecommunications Facilities.

(A) No ~~Satellite television~~ antennas, as hereinafter defined, shall be erected, constructed, maintained or operated except in conformance with the following regulations:

(1) ~~Satellite television~~ antennas are defined for the purposes of these regulations as any device greater than one (1) meter in diameter used or designed for receiving radio or electromagnetic signals from one or more orbitally based satellites and are external to or are attached to the exterior of any building.

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(2) Within any single-family detached or attached residential use or zone, or residential buffer zone, or and commercial buffer zone, and in connection with any single family detached or attached residential structure within a multifamily residential zone:

(a) Such antenna shall be located only in the rear yard of any lot or upon a building on said lot. If a usable satellite signal cannot be obtained in a rear yard, due to obstruction of the antenna's reception window, then the antenna may be located in any side yard of the property. All installations shall be located to prevent obstruction of the antenna's reception window from potential permitted development on adjoining property;

(b) No portion of the structure shall be located within any minimum required yard setback or closer to any property line, or electric power line, than the height of such structure;

(c) Not more than one satellite antenna shall be installed on any lot less than one acre in size;

(d) All satellite antenna installations shall employ (to the extent possible) materials and colors that blend with the surroundings;

(e) No satellite dish antenna shall exceed four (4) meters;

(f) All nonroof-mounted satellite antenna installations, including wires, supporting structures and accessory equipment, shall be screened by architectural or landscape treatments along the antenna's nonreception window axis and low-level landscape treatment along the reception window axis of the antenna base. Screening shall be of a height and nature so as to provide minimum opacity from the ground level, yet not interfere with signal reception.

(g) A roof-mounted satellite antenna shall not exceed twelve (12) feet in height, measured from the lowest point at which the antenna is attached to the building.

(3) Within any multifamily residential use or zone containing multifamily residential structures, the provisions of subsection (2) above shall apply, except that one satellite antenna may be permitted for each ~~multiunit building.~~

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- (4) Within any commercial, employment or industrial zone:
- (a) Such antenna may be located anywhere upon the lot or buildings thereon, but may not be located within any yard setback area or cross the vertical plane of the property line;
 - (b) All ground-mounted installations shall comply with subsections (2)(d) and (f) of this section;
 - (c) No rooftop satellite antenna installation shall exceed eleven (11) meters in diameter.
 - (d) More than one satellite antenna may be located upon a lot, tract or parcel, subject to the following requirements:
 - (i) The antennas shall be part of an ancillary or accessory use associated with buildings and uses contained within an office or industrial park; and
 - (ii) The antennas shall be located within the same subdivision as the office or industrial park or on land abutting or confronting said subdivision; and
 - (iii) All antennas shall be either individually or collectively fenced for security purposes and screened to minimize visual impact on surrounding properties and from the public street.
- (5) All such antennas shall be located and designed so as to minimize visual impact on surrounding properties and from public streets.
- (6) All antennas and the construction and erection thereof shall conform to applicable city building code and electrical code regulations and requirements. A building permit shall be required for the location, relocation, erection and installation of any satellite television antenna.
- (7) All antennas shall meet all manufacturers' specifications, be of noncombustible and corrosive resistant material, and be erected in a secure, wind-resistant manner. Every antenna shall be adequately grounded for protection against a direct strike of lightning.
- (8) These regulations shall apply to and be enforceable against the owner of any such satellite television antenna, the owner or tenant of any property

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upon which such antenna is located, and any contractor, business or individual installing a satellite antenna.

(B) Towers, poles, antennas or other structures intended for use in connection with transmission or receipt of radio or television signals or both, other than Satellite television antennas; provided, that they are not used in connection with the operation of a commercial radio or television broadcasting station, are permitted subject to the requirements set forth in this subsection (B). Such structures may be freestanding or fastened to a building. No portion of any such structure shall be erected within any minimum required yard or closer to any property line in a residential zone, or to any electric power line serving a lot other than the lot on which such structure is located, than the height of such structure. The height of any such structure shall be measured from the lowest point at which such structure touches the ground; provided, that if such structure is attached to a building and does not touch the ground, its height shall be measured from the lowest point at which such structure is attached to the building. This paragraph shall not be construed to prevent the construction of such a structure on the roof of any building; provided, that the height of such structure does not exceed ~~twelve (12)~~twenty (20) feet. Such structures shall not be used for Co-located Telecommunications Facilities or Small Cell Telecommunications Facilities. Any tower, pole, antenna or other structure referred to in the first sentence of this paragraph which was lawfully erected prior to November 7, 1974, shall, notwithstanding anything to the contrary herein, continue to be deemed lawful. The following subsections applicable to satellite television antennas shall also apply to towers, poles, antennas or similar structures generally: Section 24-167A(A)(2)(d) and (f), and section 24-167A(A)(3), (4), (5), (6), (7), and (8).

(C) The city council, ~~acting as a board of appeals,~~ is authorized to hear and decide ~~special exceptions conditional use permits~~ for towers, poles, antennas, buildings or other structures intended for use in connection with the operation of a commercial radio or television broadcasting station in the C-2 Zone, ~~after conformance with the filing, notification and hearing requirements normally applicable to special exceptions,~~ as set forth in section 24-18810 and may approve this use upon the following affirmative findings:

- (1) The proposed structure will not endanger the health and safety of residents, employees or travelers, including, but not limited to, the likelihood of the failure of such structures.
- (2) The proposed structure will not substantially impair the use of, or prove detrimental to, neighboring properties, considering, among other relevant factors, the following:

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- (a) The topography and elevation of the property on which such structure is proposed to be located and the appearance and visibility of such structure from neighboring and surrounding properties and from public rights-of-way;
 - (b) The location of surrounding residences, buildings, structures and public rights-of-way and their use;
 - (c) The character of the surrounding neighborhood and the master plan recommendations for the ultimate use of surrounding properties;
 - (d) The likelihood or interference with existing radio, television, telephone or microwave reception or service.
- (3) The proposed structure will cause no objectionable noise, fumes, odors, glare, physical activity or effect that would impair the peaceful enjoyment of neighboring properties;
 - (4) The proposed buildings, structures and use will be in harmony with the general character of the neighborhood;
 - (5) The proposed structure will be served by adequate public services and facilities, including police and fire protection, water and sanitary sewer, storm drainage, public roads and other public improvements.

(D) Telecommunications Ffacilities.

- 1. Standards when allowed as permitted use. The following standards apply in those zones in which New Telecommunications Ffacilities or Major Modifications of Telecommunications Facilities are allowed as a permitted use.

- (a) An antenna and a related unmanned equipment building or cabinets may be installed on a rooftop of a building and on privately owned land which is at least thirty (30) feet in height. An antenna may be mounted on the wall of a building ~~facing the rear lot line~~ at a height of at least thirty (30) feet. ~~An antenna may not be mounted on the rear wall of a building on a through lot.~~ A telecommunications facility antenna must not be mounted on the facade of any building designed or used as a one family residential dwelling. An unmanned equipment building or cabinet may be located on the roof of a building provided it and all other roof structures do not occupy more than twenty-five (25) percent of the roof area. Unmanned equipment buildings

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or cabinets that increase the roof coverage of all roof structures to occupy more than twenty-five (25) percent of the roof area may be approved by the board of appeals as a special exception in accordance with subsection 2 of this section.

- (b) Telecommunications antennas may be attached to a free standing monopole on privately owned land. A free-standing monopole including antenna structure for a telecommunications facility is permitted up to one hundred ~~ninety-nine (199)~~ seventy nine (179) feet in height with a setback of one foot for every foot of height from all adjoining residentially zoned properties, and a setback of one-half (½) foot for every foot of height from adjoining non-residential properties. A monopole mounted on a rooftop of a building is not permitted, unless it is designed as a stealth telecommunications facility.

- (c) Antennas are limited to the following types and dimensions: omnidimensional (whip) antennas not exceeding fifteen (15) feet in height and three (3) inches in diameter; directional or panel antennas not exceeding eight (8) feet in height and two (2) feet in width. Antennas not meeting these criteria may be permitted by special exception when approved by the Board of Appeals under Section 24-167A(D)(2).

- (d) An unmanned equipment building or cabinet included as part of a telecommunications facility on privately owned land must not exceed five hundred sixty (560) square feet and twelve (12) feet in height. Any such equipment building or cabinet must be so located as to conform to the applicable set back standards of the zone in which the property is classified.

- (e) Public property.
 - (i) A private telecommunications facility may be located on public property or attached to an existing structure owned or operated by the City of Gaithersburg or within city right-of-way and shall be a permitted use in all zones. The use of any property owned or operated by the city shall be at the discretion of the city council and shall not be subject to the same conditions and requirements as are applicable to such facilities on privately owned property. The city council may but is not required to hold a public hearing prior to its

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decision to allow the use of property owned or under the control of the city.

- (ii) A private telecommunications facility may be located on public property of or attached to an existing structure owned or operated by a county, state, federal or other non-city governmental agency or on the property of an independent fire department or rescue squad subject to the same conditions and requirements as are applicable to such facilities on privately owned property.

- (f) All such antennas shall be located and designed so as to minimize visual impact on surrounding properties and from public streets.

- (g) No signs are permitted in connection with any telecommunications facility, except as required by law.

- (h) No lights are permitted on any monopole or antenna, except as required by law. ~~unless required by the federal communications commission, the federal aviation administration, or the city.~~

- (i) All monopoles erected as part of a telecommunications facility must maintain at least three (3) telecommunications carriers provided, however, that a monopole or other support structure designed or engineered to accommodate less than three (3) telecommunications carriers may be permitted by special exception when approved by the board of appeals.

- (j) No more than one monopole is permitted on a lot or parcel of land and, no two (2) monopoles may be located within one thousand (1,000) feet of each other in any zone in which such facilities are permitted uses. In any such zone, more than one monopole may be permitted on a lot or parcel and two (2) or more monopoles may be located within one thousand (1,000) feet of each other by special exception approved by the board of appeals. A special exception to permit either the location of more than one monopole on a lot or parcel or two (2) or more monopoles within one thousand (1,000) feet of each other may only be approved by the board of appeals if the applicant establishes that existing telecommunications facilities serving the same service area have no additional capacity to include the applicant's antenna or that co-location on an existing monopole is technically impractical and that engineering criteria establish the need for the requested facility. In addition, any such application must comply with all of the other standards

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and requirements applicable to special exceptions for telecommunications facilities.

- (k) Every free standing monopole or support structure and any unmanned equipment building or cabinet associated with a telecommunications facility must be removed at the cost of owner of the facility when the telecommunications facility is no longer in use by any telecommunication carrier.

2. Standards and requirements applicable to special exceptions for New or Major Modifications to Telecommunications Facilities.

(a) An application for a special exception for a new or major modification to a telecommunications facility may be approved by the board of appeals if the board finds that:

- (1) Complies with all of the standards contained in section 24-167A(D)1.
- (2) The location selected is necessary for the public convenience and service.
- (3) The location selected is not in an area in which there is an over concentration of freestanding monopoles, towers or similar structures.
- (4) The location selected for a monopole is more than three hundred (300) feet from either the nearest boundary of a historic district or more than three hundred (300) feet from the nearest boundary of the environmental setting of a historic resource that is not within a historic district.
- (5) The location selected for a monopole is suitable for the co-location of at least three (3) telecommunication antennas and related unmanned cabinets or equipment buildings and the facility is designed to accommodate at least three (3) antennas. The holder of a special exception may not refuse to permit the co-location of two (2) additional antennas and related equipment buildings or cabinets unless co-location is technically impractical because of engineering and because it will interfere with existing service. The refusal to allow such co-location without just cause may result in revocation of the special exception.

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- (6) In the event a telecommunications facility is proposed to be located on a rooftop or structure, the board of appeals must find that the building is at least thirty (30) feet in height ~~in on~~ any multifamily residential ~~zone~~ or non-residential ~~zone building~~; and fifty (50) feet in height in ~~any one family residential zone~~. Rooftop telecommunications facilities may not be located on a one family residence.
- (7) In the event a telecommunications antenna is proposed to be located on the facade of a building, the board of appeals must find that it is to be located at a height at least thirty (30) feet on a multifamily residential or non-residential building ~~located in a multifamily residential zone or non-residential zone and at a height greater than fifty (50) feet in any one family residential zone~~. A telecommunications antenna must not be mounted on the facade of a one family residence.
- (8) In any residential zone the board of appeals must find that the equipment building or cabinet does not exceed five hundred sixty (560) square feet and twelve (12) feet in height, and is faced with brick or other suitable material on all sides and that the facades are compatible with the other building or buildings located on the lot or parcel. Equipment buildings and cabinets must be landscaped to provide a screen of at least three (3) feet. The board may require that monopoles: 1) be camouflaged; 2) be placed within a part of an existing structure; or 3) be constructed in such a way that the monopole appears to be part of an existing structure.
- (9) The board must further find that any equipment building or cabinet is located in conformity to the applicable set back standards of the zone.
- (10) The board must find that the addition of an equipment building or cabinet proposed to be located on the roof of a building, in combination with all other roof structures does not create the appearance of an additional story and does not increase the roof coverage by more than an additional ten (10) percent. The board must also find that the structure is not visually intrusive.
- (11) The board must also find that a free-standing monopole or other support structure is proposed to hold no less than three (3) telecommunications carriers. The board may approve a monopole or other support structure with fewer than three (3) telecommunications carriers if the applicant

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establishes that: (a) existing telecommunications facilities serving the same service area have no additional capacity to include the applicant's antenna; or (b) the applicant establishes that co-location on an existing monopole is technically impractical and that engineering criteria establish the need for the requested facility; and the approval of the application will not result in an over concentration of similar facilities in the surrounding area.

- (12) The board of appeals may, upon request of the applicant, waive the dimensional restrictions of an antenna, equipment cabinet or support structure provided the board makes the additional finding that the increased size is integrated into the structure and limits the visual impact to the maximum extent possible ~~not visually intrusive~~.

(b) Area requirements.

- (1) The minimum parcel or lot area is sufficient to accommodate the location requirements for the monopole or other support structure as hereinafter set forth in subsection (c).
- (2) In no event may the minimum parcel or lot area be less than the lot area required for the zone in which the monopole or support structure is located.
- (3) For the purpose of this section, the location requirement is measured from the base of the monopole or other support structure to the perimeter property line.
- (4) The board of appeals may, upon request of the applicant, reduce the location requirement to not less than the building setback for the applicable zone, provided the board makes the additional finding that the reduced location requirement results in a less visually obtrusive location for the monopole or other support structure. In making that additional finding, the board shall consider the height of the structure, topography, existing vegetation, planned landscaping, the impact on adjoining and nearby residential properties, if any, and the visibility of the monopole or other support structure from adjacent streets.

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(c) Location requirements for structures. A monopole or other support structure must be located as follows:

- (1) In residential zones, a distance of one foot from the property line for every foot of height of the monopole or other support structure.
- (2) In non-residential zones, monopoles and other support structures must be located at a distance of one-half (½) foot from the property line of adjacent non-residentially zoned property for every foot of height of the monopole or other support structure. Such structures must be located a distance of one foot from the property line of adjacent residentially zoned property for every foot of height of such structure.

(d) Signage. No signs are permitted in connection with the establishment of a telecommunications facility, except as required by law.

(e) Lights. No lights or other illumination devices are permitted on a monopole or other support structure, except as required by law ~~unless required by the federal communications commission, the federal aviation administration or the board.~~

(f) Removal of telecommunications facilities. Every free-standing monopole or support structure and any unmanned equipment building or cabinet associated with a telecommunications facility must be removed at the cost of owner of the facility when the telecommunications facility is no longer in use by any telecommunication carrier.

Due to the extensive and prolonged review by regulatory agencies of applications for licenses to operate commercial radio or television broadcasting stations, the establishment of such use may be initiated for up to five (5) years from the date of the decision of the city council, or from the date of a final decision of any appeal filed therefrom. Appeals may be filed to any decision of the city council under this subsection (C) of section 24-167A in the same manner as provided generally from appeals to decisions of the board of appeals under section 24-193 of this Code.

3. Minor Modifications of Existing Telecommunications Facilities, whether permitted by right or by special exception, in any zone may be granted by staff in compliance with Section 24-172A(b).

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(E) Small Cell Telecommunications Facilities. The following standards apply in those zones where Small Cell Telecommunications Facilities are a permitted use.

- (1) A small cell antenna may be installed on a support structure on privately held land under the following conditions:
- a. At a height of at least 20 feet on an existing multi-family residential building in any zone
 - b. At a height of at least 15 feet on an existing non-residential or mixed use structure in any zone.
- (2) Unstaffed equipment that is accessory to antennas may be located on a support structure, within a building, within an equipment cabinet outside a building, or on a rooftop.
- a. Ground equipment shall have a maximum footprint of 20 square feet with a maximum height of four (4) feet and must be so located and installed a minimum of three (3) feet from any property line.
 - b. Rooftop equipment may be installed on privately owned land under the following conditions:
 - i. At a height of at least 20 feet on an existing multi-family residential building in any zone.
 - ii. At a height of at least 15 feet on an existing non-residential or mixed use structure in any zone.
 - iii. Equipment cabinets shall have a maximum footprint of thirty six (36) square feet with a maximum height of five (5) feet, in combination with all other roof structures may not occupy more than twenty-five (25) percent of the roof area, and must be screened in accordance with the building code.
 - c. Equipment may be installed on a support structure on privately owned land under the following conditions:
 - i. At a height of at least 20 feet on an existing multi-family residential building in any zone.

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- ii. At a height of at least 15 feet on an existing non-residential or mixed use structure in any zone.
 - iii. Equipment cabinets shall have a maximum size of 20 cubic feet with a maximum height of four (4) feet.
 - d. In residential zones small cell facilities shall be integrated into the architecture of the structure on which it is placed.
- (3) An installation of a small cell facility that does not increase the size or height of the support structures, excluding antennas, by more than twenty (20) percent is permitted provided the expansion does not create a public health or safety concern.
- (4) A small cell facility that increases the size or height of the support structure by more than twenty (20) percent is approvable by the Planning Commission under the following conditions:
- a. The applicant shall provide, by mail or personal delivery, written notice in a form approved by the city planning department to owners of property abutting and confronting the property that is the subject of the request within two business days of filing the request and shall certify the same to the planning department.
 - b. The applicant shall demonstrate that the expansion of the support structure is ~~not visually intrusive with~~ integrated into the surrounding area and limits the visual impact to the maximum extend possible.
 - c. The expansion of the support structure does not create a public health or safety concern.
- (5) A small cell facility must not be installed on or within thirty (30) feet of a single-family detached or attached dwelling unit or any accessory structures to these units.
- (6) The applicant shall provide proof that it is a licensed provider or public utility and will comply with all applicable federal, state and City laws and regulations, including those regarding wireless communications services.
- (7) The applicant shall provide certification of property owner approval.

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- (8) Small cell facilities must be installed as Stealth Telecommunications Facilities on properties (i) within a Historic District or (ii) that have been designated by the City as a Historic Resource, and the Historic District Commission must review such an application in accordance with Section 24-227.4.
- (9) The Planning Commission may, upon request of the applicant, grant an adjustment to the dimensional restrictions of an antenna or equipment cabinet provided the applicant demonstrates that the increased size of the facility is integrated into the structure and limits the visual impact to the maximum extent possible ~~not visually intrusive~~.
- (10) Public property.
- a. A private small cell telecommunications facility may be located on public property or attached to an existing structure owned or operated by the City of Gaithersburg and shall be a permitted use in all zones. The use of any property owned or operated by the city shall be at the discretion of the city council and shall not be subject to the same conditions and requirements as are applicable to such facilities on privately owned property. The city council may but is not required to hold a public hearing prior to its decision to allow the use of property owned or under the control of the city.
 - b. A private small cell telecommunications facility may be located on public property or attached to an existing structure owned or operated by a county, state, federal or other non-city governmental agency or on the property of an independent fire department or rescue squad subject to the same conditions and requirements as are applicable to such facilities on privately owned property.
 - c. In addition to any other requirements imposed by the City Manager under Chapter 19 of the City Code, a private small cell telecommunications facility may be located in city right-of-way or attached to an existing structure in city right-of-way subject at least to the following conditions:
 - i. At a height of at least 15 feet if located on a support structure.
 - ii. To the extent possible, all cables connecting antennas to related equipment shall be contained inside the pole or support structure

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or shall be flush mounted and covered with a metal, plastic or similar material cap matching the color of the pole or structure on which it is installed.

- iii. All related equipment shall have a maximum height of four (4) feet and a total maximum footprint of twenty five (25) cubic feet on a support structure or ground and 36 cubic feet on a rooftop or within a building.
- iv. The applicant shall provide proof that it is a licenses provider or public utility and will comply with all applicable federal, state and City laws and regulations, including those regarding wireless communications services.

- (11) All such small cell telecommunications facilities, including visible cables shall be located and designed so as to minimize visual impact on surrounding properties and from public streets to the extent possible.
- (12) No signs are permitted in connection with any small cell telecommunications facilities, except as required by law.
- (13) No lights are permitted on any monopole or antenna, except as required by law.
- (14) All small cell telecommunications facilities must be removed at the cost of the owner when the facility has not been operated for a continuous period of six (6) months. Such a facility must be removed within ninety (90) days after receiving a removal notice from the City.

* * * *

ARTICLE V. SITE DEVELOPMENT PLANS

* * * *

Sec. 24-172A(b). *Minor amendment requests.*

- (1) Requests for minor amendment shall be filed with the planning director or designee. Minor amendment requests shall be those requests specified in this subsection and shall be acted upon by the planning director or his/her designee.

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(2) 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 property abutting and confronting the property that is the subject of the amendment request within two (2) business days of filing the request, and shall certify the same to the planning department.

(3) Requests for minor amendment include:

* * * *

(m) Minor Modifications to Existing Telecommunications Facilities.

(4) Public reviews of the planning commission are not required for a minor amendment, provided, however, the planning director or designee shall, upon request, meet with the applicant and interested parties or consider written comments on the amendment.

(5) 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.

(6)

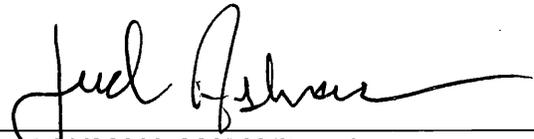
For all minor amendment requests except minor modifications to existing telecommunications facilities permitted by special exception, tThe decision of the planning director (or designee)

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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 review on the decision of the planning director, or order written statements and oral argument in lieu of a public review. The planning commission may approve, approve with modification, or disapprove the requested amendment(s) and shall state the reasons for its action in writing.

- (7) For minor modifications to existing telecommunications facilities permitted by special exception, the decision of the planning director (or designee) may be appealed to the board of appeals, in accordance with Section 24-187(a). The board of appeals, in its discretion, may consider denials of minor modifications to existing telecommunications facilities as an amendment to special exception.

ADOPTED, by the City Council of the City of Gaithersburg, this 20th day of July, 2015.



JUD ASHMAN, MAYOR and
President of the Council

DELIVERED, to the Mayor of the City of Gaithersburg, this 20th day of July, 2015. APPROVED, by the Mayor of the City of Gaithersburg, this 20th day of July, 2015.



JUD ASHMAN, MAYOR

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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 20th day of July, 2015 and the same was APPROVED, by the Mayor and City Council of the City of Gaithersburg, on this 20th day of July, 2015. This Ordinance will become effective on the 10th day of August, 2015.



Tony Tomasello, City Manager

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