



METROPOLITAN COUNCIL

Metro Council Office

**PROPOSED AMENDMENTS
AND SUBSTITUTES FOR
ORDINANCES TO BE FILED
WITH THE METRO CLERK
FOR THE COUNCIL MEETING OF
TUESDAY, NOVEMBER 15, 2016**

AMENDMENT NO. _____

TO

SUBSTITUTE ORDINANCE BL2016-381

Mr. President,

I move to amend Substitute Ordinance No. BL2016-381 as follows:

I. By amending Section 1 by deleting the reference to "sixty (60) calendar days" therein and substituting in lieu thereof: "ninety (90) calendar days."

II. By amending Section 3 by deleting it in its entirety and substituting the following in lieu thereof:

Section 3: Add the following Paragraph 5 to Section 6.28.030(D): "For owners applying for an owner-occupied permit, two documents giving proof of owner occupation shall be provided. Acceptable documentation includes Tennessee Driver's license, other valid State of Tennessee identification card, Davidson County voter registration card, utility bills, paycheck/check stub, work ID or badge, Internal Revenue Service tax reporting W-2 form, or a bank statement, each current and showing the owner's name and address matching that of the property to be utilized for short term rental."

III. By amending Section 6 by deleting sub-section 6.28.030.N.3 in its entirety and substituting in lieu thereof the following:

3. For an STRP that has received no documented complaints to Metro Codes, Police, or Public Works during the most recent permit period, a 30 calendar day grace period for renewal after the expiration of the STRP permit may be allowed by the zoning administrator upon a showing by the owner of a reasonable explanation other than neglect or mistake for the delay.

IV. By further amending Section 6 by deleting sub-section 6.28.030.N.4 in its entirety and substituting in lieu thereof the following:

4. For an STRP with documented complaints to Metro Codes, Police, or Public Works during the most recent permit period, no grace period shall be allowed and all permit renewal applications shall be submitted timely, the permit may be renewed upon the payment of a fifty dollar renewal fee, and the submission of a statement verified by affidavit that includes all of the information required in an application under Part D of this Section 6.28.030.

V. By amending Section 7 by deleting in its entirety subsection 6.28.030.Q.2(b) and substituting the following in lieu thereof:

(b) Type 2 (Not Owner-Occupied): A Type 2 permit is available for units that are in: (i) single-family, duplex, nonconforming three-family homes and nonconforming four-family homes in residential zoning districts; and (ii) not owner-occupied.

VI. By further amending Section 7 by deleting in its entirety subsection 6.28.030.Q.4 and substituting the following in lieu thereof:

4. Only one permit shall be issued per lot for single-family homes, two-family homes, nonconforming three-family homes and nonconforming four-family homes.

VII. By amending Section 8 by adding the words: "or by e-mail" immediately following the word "writing" in section 6.28.030.R(1)

VII. By amending Section 9 by deleting it in its entirety and substituting the following in lieu thereof:

Section 9: Section R(2) of 6.28.030 shall be revised to read as follows: "If the Zoning Administrator determines, based on reasonably reliable information that the Zoning Administrator has obtained including without limitation public records or reports, records of regularly conducted activity, or a direct or online statement against a person's own interest, that three violations of this section or other Code sections referenced in this section have occurred within a 12 month period, the permit to operate a STRP may be revoked."

INTRODUCED BY:

Burkley Allen
Member of Council

AMENDMENT NO. ____

TO

SUBSTITUTE ORDINANCE NO. BL 2016-415

Mr. President:

I move to amend the substitute to Ordinance No. BL2016-415 as follows:

- I. By amending Section 3, Chapter 17.16, Section 17.16.080C to add a new subpart 7. and to renumber the remainder of the bill. The new subpart 7. shall be as follows:
 7. In the event that any applicant asserts that strict compliance with any provision in this section, as applied to a specific proposed telecommunications facility, would effectively prohibit the provision of personal wireless services, the zoning administrator may grant a limited, one-time exemption from strict compliance, subject to the following provisions:
 - a. Required findings. The zoning administrator shall not grant any exemption unless the applicant provides each of the following:
 - i. Evidence that the proposed wireless facility qualifies as a “personal wireless services facility” as defined in 47 U.S.C. § 332(c)(7)(C)(ii);
 - ii. A clearly defined and reasonable technical service objective and a clearly defined potential site search area; and
 - iii. A meaningful comparative analysis that includes the factual reasons why (1) any alternative location(s) or design(s) suggested by the Metropolitan Government or otherwise identified in the administrative record are not technically feasible and (2) the proposed location and design deviation is the least noncompliant location and design necessary to reasonably achieve the applicant's technical service objective.
 - b. Scope of exemption. The zoning administrator shall limit the exemption to the extent to which the applicant demonstrates such exemption is necessary to reasonably achieve its reasonable technical service objectives. The zoning administrator may adopt conditions of approval specific to a permit issued as a limited exemption pursuant to this subsection, as reasonably necessary to promote the purposes in this section and protect the public health, safety, and welfare.

INTRODUCED BY:

Jeremy Elrod
Member of Council

SUBSTITUTE ORDINANCE NO. BL2016-415

An ordinance amending Metropolitan Code of Laws Chapters 17.04, 17.08, 17.16, and 17.40 pertaining to telecommunication facility uses and Section 6.26.350 to insert therein a reference to Chapter 17.16. (Proposal No. 2016Z-019TX-001).

WHEREAS, it is necessary and beneficial for the health, safety and welfare of the community to update the zoning regulations for development of telecommunications facilities in the Metropolitan Nashville and Davidson County area; and,

WHEREAS, it is important to accommodate the growing need and demand for telecommunications services while protecting the character of the Metropolitan Government and its neighborhoods; and,

WHEREAS, there is a need to establish standards for location, aesthetics and compatibility for small cell communication structures and uses, and to update the standards for other kinds of telecommunications facilities; and,

WHEREAS, the Metropolitan Government is committed to encouraging a safe, reliable, efficient, integrated and connected system of Green and Complete Streets that promotes access, mobility and health for all people, regardless of their age, physical ability, or mode of transportation; and

WHEREAS, it is necessary to encourage the location and collocation of equipment on existing structures in order to reduce the need for new towers, thereby, minimizing visual clutter, public safety impacts, and effects upon the natural environment and wildlife as well as to encourage concealed technologies and the use of public lands, buildings, and structures as locations for telecommunications facilities; and,

WHEREAS, there is a need to encourage the availability of affordable, high-speed internet and cellular telephone access for businesses and residents, acknowledging that a growing number of businesses are conducted in whole or in part from homes and/or on-the-go, that increasingly education incorporates on-line learning necessitating good home internet connections for students and faculty, and that government participation and emergency services to the general public are enhanced by fast and reliable cellular and home internet connectivity; and,

WHEREAS it is important to encourage coordination between suppliers and providers of telecommunications services to maximize use of existing facilities and structures; and,

WHEREAS, establishing predictable and balanced regulations within the authority reserved for local land use determination is in the interest of citizens the area of the Metropolitan Government of Nashville and Davidson County; and,

WHEREAS, there have been recent changes to the mandates of the Telecommunications Act of

1996, the Middle Class Tax Relief and Job Creation Act of 2012, and other applicable federal and state laws limiting local discretion to regulate location of personal wireless service facilities (PWSF); and,

WHEREAS, a mechanism for the zoning and permitting of small cell telecommunications uses and an update of existing zoning provisions for other kinds of telecommunications uses is in the best interest of the citizens of Metropolitan Nashville and Davidson County.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That Metropolitan Code of Laws Section 17.04.060, Definitions of general terms, is hereby amended by adding the following definitions:

“Alternative Structure” means a structure that is not primarily constructed for the purpose of holding antennas but on which one or more antennas may be mounted, including but not limited to buildings, water tanks, pole signs, billboards, church steeples, electric power transmission poles/towers, and streetlights.

“Antenna” means any apparatus designed for the transmitting and/or receiving of electromagnetic waves, including telephonic, radio or television communications. Types of elements include omni-directional (whip) antennas, sectionalized or sectorized (panel) antennas, multi or single bay (FM & TV), yagi, or parabolic (dish) antennas, or any other antenna elements approved by the Director of Information Technology Services or his delegate.

“Base Station” means equipment and non-tower supporting structure at a fixed location that enable wireless telecommunications between user equipment and a communications network. Examples include transmission equipment mounted on a rooftop, water tank, silo or other above ground structure other than a tower. The term does not encompass a tower as defined herein or any equipment associated with a tower. "Base Station" includes, but is not limited to:

equipment associated with wireless telecommunications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul;

radio transceivers, antennas, coaxial or fiber optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks);

any structure other than a tower that, at the time the application is filed under this Section, supports or houses equipment described in this definition that has been reviewed and approved under the applicable zoning or siting process, or under another Metro regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

"Base station" does not include any structure that, at the time the application is filed under this Section, does not support or house wireless communication

equipment.

“Breakpoint Technology” means the engineering design of a monopole, or any applicable support structure, wherein a specified point on the monopole is designed to have stresses concentrated so that the point is at least five percent (5%) more susceptible to failure than any other point along the monopole so that in the event of a structural failure of the monopole, the failure will occur at the breakpoint rather than at the base plate, anchor bolts, or any other point on the monopole

“Collocation” means the mounting or installation of transmission equipment on an eligible support structure for the purposes of transmitting and/or receiving radio frequency signals for communications purposes so that installation of a new support structure will not be required, including an eligible facilities request or a qualified collocation request.

“Cellular on Wheels (COW)” means a temporary PWSF placed on property to provide short term, high volume telecommunications services to a specific location and which can be easily removed from the property.

“Distributed Antenna System (DAS)” means a system consisting of: (1) a number of remote communications nodes deployed throughout the desired coverage area, each including at least one antenna for transmission and reception; (2) a high capacity signal transport medium (typically fiber optic cable) connecting each node to a central communications hub site; and (3) radio transceivers located at the hub site (rather than at each individual node as is the case for small cells) to process or control the communications signals transmitted and received through the antennas.

“Eligible Facilities Request” means any request for modification of an existing tower or base station involving collocation of new transmission equipment; removal of transmission equipment; or replacement of transmission equipment that does not Substantially Change the physical dimensions of such tower or base station.

“Eligible support structure” means any tower or base station existing at the time the application is filed with Metro. For purposes of this ordinance, the definition of “eligible support structure” shall include utility structures currently hosting fiber, cable and wire.

“Pedestrian Travelway” means the portion of a sidewalk or multi-use path intended to facilitate the unobstructed through movement of pedestrians and/or bicyclists.

“Personal Wireless Service Facility (PWSF)” means any staffed or unstaffed location for the transmission and/or reception of radio frequency signals or other personal wireless communications, including commercial mobile services, unlicensed wireless services, wireless broadband services, and common carrier wireless exchange access services as defined in the Telecommunications Act of 1996, and usually consisting of an antenna or group of antennas, transmission cables, feed lines, equipment cabinets or shelters, and may include a tower. Facilities may include new, replacement, or existing towers,

replacement towers, collocation on existing towers, base station attached concealed and non-concealed antenna, dual purpose facilities, concealed towers, and non-concealed towers (monopoles, lattice and guyed), so long as those facilities are used in the provision of personal wireless services as that term is defined in the Telecommunications Act.

“Qualified Collocation Request” means collocation of PWSF on a tower or base station that creates a Substantial Change in the facility but is entitled to processing within 90 days under 47 U.S.C. §332(c)(7).

“Small Cell Facility” means a wireless service facility that either meets both of the following qualifications or is within a stealth design that is consistent with the design guidelines:

1. Each antenna is located inside an enclosure of no more than five (5) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an enclosure of no more than five (5) cubic feet, however, the maximum dimensions of the antenna shall not exceed 36” in height and 16” in diameter; and
2. Primary equipment enclosures are no larger than seventeen (17) cubic feet in volume. The following associated equipment may be located outside of the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: Electric meter, concealment, telecommunications demarcation box, underground enclosures, back-up power systems, grounding equipment, power transfer switch, and cut-off switch.

“Small Cell Network” means a collection of interrelated small cell facilities designed to deliver wireless service.

“Substantial Change” means a modification or collocation constitutes a "substantial change" of an eligible support structure if it meets any of the following criteria:

1. A telecommunications facility collocation on an existing structure within a public right of way increases the overall height of the structure, antenna and/or antenna array more than 10% or 10 feet, whichever is greater.
2. A telecommunications facilities collocation for towers not in a public right of way protrudes from the structure more than 10% or 20 feet whichever is greater or the width of the structure at the elevation of the collocation, and for towers within a public right of way, protrudes from the structure more than 6 feet.
3. A telecommunications facility collocation on an existing structure fails to meet current building code requirements (including windloading).
4. A telecommunications facility collocation adds more than 4 additional equipment cabinets or 1 additional equipment shelter.
5. A telecommunications facility collocation requires excavation outside of existing leased or owned parcel or existing easements.
6. A telecommunications facility collocation defeats any existing concealment elements of the structure.
7. A telecommunications facility collocation fails to comply with all conditions associated with the prior approval of the structure except for modification of

parameters as permitted in this section.

“Support Structure” means anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground, including alternative structures, but excluding antennas.

“Telecommunications Facility” means one or more antenna, tower, base station, mechanical and/or electronic equipment, conduit, cable, fiber, wire, and associated structures, enclosures, assemblages, devices and supporting elements that generate, transmit or produce a signal used for communication that is proposed by an entity other than the Metropolitan Government, including but not limited to radio/tv/satellite and broadcast towers, telephone service, including new microwave or cellular towers, PWSF, DAS, small cell facilities and COW’s.

“Tower” means any support structure built for the primary purpose of supporting any antennas and associated facilities for commercial, private, broadcast, microwave, public, public safety, licensed or unlicensed, and/or fixed or wireless services. A tower may be concealed or non-concealed. Non-concealed towers include:

Guyed - A style of tower consisting of a single truss assembly composed of sections with bracing incorporated. The sections are attached to each other, and the assembly is attached to a foundation and supported by a series of wires that are connected to anchors placed in the ground or on a building.

Lattice - A self-supporting tapered style of tower that consists of vertical and horizontal supports with multiple legs and cross bracing, and metal crossed strips or bars to support antennas.

Monopole - A style of freestanding tower consisting of a single shaft usually composed of two (2) or more hollow sections that are in turn attached to a foundation. This type of tower is designed to support itself without the use of guy wires or other stabilization devices. These facilities are mounted to a foundation that rests on or in the ground or on a building's roof. All feed lines shall be installed within the shaft of the structure.

“Transmission Equipment” means equipment that facilitates transmission of communication service (whether commercial, private, broadcast, microwave, public, public safety, licensed or unlicensed, fixed or wireless), including but not limited to radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply.

Section 2. That Metropolitan Code of Laws Section 17.08.030, District Land Use Tables, is hereby amended by deleting Radio/TV/Satellite Tower and Telephone services and adding “Telecommunication Facility” under “Communication Uses” as a use permitted with conditions (PC) under all zoning districts.

Section 3. That Metropolitan Code of Laws Section 17.16.080, Communication uses, is hereby amended by deleting subsections B and C, renumbering subsection D as B and adding a new subsection "C. Telecommunications Facility" to read as follows:

C. Telecommunications Facility

1. Application requirements. An applicant for a telecommunications facility, including co-locating on an eligible support structure or adding transmission equipment to an alternative structure shall provide the codes department and the Historic Zoning Commission, for applications within Historic Overlays and/or public rights of way abutting a Historic Overlay, with the following information at the time of application for the final site plan or building permit (for eligible facilities requests, it is not necessary to meet the requirements of d through g, below):
 - a. A schematic site plan, including schematic landscape plan for any application where landscaping is required, and an elevation view of the type of facility to be placed on the site. The site plan shall depict where the facility is to be located on the site and where additional co-located communication equipment, shelters or vaults will be or can be placed.
 - b. If the application is not for collocation, a statement justifying why collocation is not possible. Such statement shall include:
 - (i) Such structure and technical information and other justifications as are necessary to document the reasons why collocation is not possible; and
 - (ii) The applicant shall provide a list of all eligible support structures and alternative structures considered as alternatives to the proposed location. The applicant shall provide a written explanation why the alternatives considered were impossible due to technical or physical alternatives.
 - c. Identification of any radio frequencies that would be utilized on the telecommunications facility. If any frequency is later changed, notice of the new frequency shall be provided to the Information Technology Services (ITS) Department.
 - d. The applicant shall demonstrate that through location, construction, or stealthing, the proposed facility or network of facilities will have minimum visual impact upon the appearance of adjacent properties and the views and vistas from adjacent residential neighborhoods and pedestrian environment, while retaining viable opportunities for future collocation, provided applications for designs consistent with the design guidelines provided for in subsection 5.f of this section shall be deemed to have met the requirement of this subsection.
 - e. Documentation of the number of other users that can be accommodated within the design parameters of the telecommunications facility as proposed.
 - f. A statement indicating the owner's commitment to allow feasible shared use of the facility within its design capacity for collocation.
 - g. The proposed site plan and design plans meet or exceed all applicable standards, including without limitation those of the Federal Communications Commission (FCC), American National Standards Institute (ANSI), and Institute of Electrical and Electronics Engineers (IEEE) standards for power

density levels and structural integrity, American Concrete Institute (ACI), American Standards Testing and Materials Institute (ASTM), the National Electrical Code, and the American Steel Institute. The telecommunications facility must comply with building codes and other federal, state, and local regulations, Applicant must also comply with Section 106 of the National Historic Preservation Act of 1966.

2. Collocation Requirements. Collocation or location on existing alternative structures is required where possible. Applicants for a new Telecommunications Facility must explore all collocation opportunities and opportunities to locate their antenna on existing alternative structures. Applicant shall utilize eligible support structures first and then alternative structures.
3. Removal of Abandoned Telecommunication Facilities: Any telecommunication facility that is replaced with a new or updated telecommunication facility, including conduit, wire or cable, or any telecommunication facility permitted under this chapter that is not operated as a personal communication system carrier application for a continuous period of twelve months shall be considered abandoned and the owner of such telecommunication facility shall notify the Codes Department of the abandonment and remove same within ninety days. Failure to do so shall be deemed to be a violation of these regulations. The owner of the antenna or tower may appeal the decision of the department of codes administration to the board of zoning appeals, but at such hearing shall be required to show just cause why the antenna or tower should not be considered abandoned and subject to removal.
4. Telecommunication facilities outside of the public right-of-way.
 - a. Landscape Requirements: Along all residential zone districts and districts permitting residential use, screening in the form of Landscape Buffer Yard Standard A shall be applied.
 - (i) The following plants are prohibited from being used in any district, to buffer a telecommunications facility, including a new microwave or cellular tower due to problems with hardiness, maintenance, or nuisance: Kudzu Vine, Purple Loosestrife, Japanese Honeysuckle, Shrub Honeysuckle, Autumn Olive, Common Privet, Tree of Heaven, Lespedeza, Garlic Mustard, Paulownia, Multiflora Rose, Siberian Elm, Silver Poplar, Mimosa, Mulberry and Silver Maple.
 - (ii) The maintenance standards set forth in Section 17.24.080 shall be applicable to all required landscaping.
 - b. New support structures or substantial changes to eligible support structures 150' and greater, shall be designed to accommodate a minimum of three PWSF providers. This number shall be inclusive of any emergency management communication systems.
 - c. A permit for a COW is limited to 30 days, but when circumstances reasonably warrant, the permit may be renewed.

- d. Additional provisions for Substantial Changes to Eligible Support Structures or Placement of New Telecommunications Equipment on Alternative Structures.
 - (i) New telecommunications equipment placements on alternative structures, shall be designed with screening and other stealth elements so as to minimize the visual impact from a pedestrian viewpoint within any abutting public right of way, excluding alleys, even after any eligible facilities request. Once said alternative structure is approved and becomes an eligible support structure, any subsequent modifications must meet established design guidelines. The maximum height of a tower shall be determined by the height standards of Chapter 17.12.
 - (ii) Communication equipment or any new structure that is integrated as an architectural feature of a structure so that the purpose of the facility for providing wireless services is not readily apparent to a casual observer or which is concealed within a building or structure so that it is architecturally indiscernible may be permitted in all zoning districts subject to building permit procedures and standards. Architecturally indiscernible shall mean that the addition or feature containing the antenna is architecturally harmonious in such aspects including but not limited to material, height, bulk, scale and design with the building or structure to which it is to be a part.
- e. Additional provisions for towers.
 - (i) Setbacks. A tower shall be set back from all property lines on which the tower is located by the distance equal to the height of the lowest engineered break point on the proposed structure or the height of the tower.
 - (ii) Lights. No lights shall be permitted on a tower except such lighting that is required by state or federal law.
 - (iii) Height. The maximum height of a tower shall be determined by the standards of Chapter 17.12. Guy wire anchors, if used, shall be set back a minimum of five feet from all property lines.
 - (iv) Final Site Plans: Final site plans for a tower shall be accompanied by a certification from a qualified structural engineer that the tower has sufficient structural integrity and equipment space to accommodate multiple users shall be required at the time of applying for a building permit.
 - (v) Notification. Prior to the issuance of a zoning permit, and immediately after receiving an application for a new tower, the zoning administrator shall notify the district councilmember that an application for a new tower has been submitted. Such notification shall only be required when a tower is proposed within a residential district, a district permitting residential uses (excluding the MUI, MUI-A, ORI, ORI-A, CF, DTC, and SCR districts), or within one thousand feet of the zoning boundary line of a residential district or a district permitting residential uses. Such notification shall also be required when a telecommunications facility is within a Historic Overlay District or right of way abutting a Historic

Overlay District. Within thirty days from the date on which the tower application was filed, the district councilmember may hold a community meeting on the proposed tower. If a meeting is held, the applicant shall attend and provide information about the tower's safety, technical necessity, visual aspects, and alternative tower sites and designs considered.

- (vi) When an application to construct a new tower is received, the Department of Codes Administration shall consult with the district councilmember, and the councilmember may request that the applicant accommodate tornado sirens and their associated equipment to further the public interest, as well as equipment needed for First Net. The councilmember's request shall be submitted in writing to the applicant within fifteen business days from the date the application was submitted to the Department of Codes Administration, and the request shall be accompanied by a written statement from the Mayor's Office of Emergency Management that a siren is needed in the area where the tower is to be located and that the proposed tower site is suitable for a siren. The applicant shall make good faith efforts to comply with this request, provided that if such use materially increases the cost of the tower, requires utilization of land otherwise reserved for additional wireless carriers on the tower, or would otherwise delay the permitting of the proposed tower, the applicant shall not be required to consider such request. Because tornado sirens require additional tower space and have varying design qualities, applicants will be allowed a fifty percent increase in height over the otherwise applicable height limitation and will not be required to utilize camouflaged designs, but shall comply with all applicable landscaping standards set forth in this section. This subsection applies to tornado sirens only and is not applicable for other public safety tower uses.

5. Telecommunication facilities within public rights-of-way.

- a. Support structures and above-ground transmission equipment are prohibited within the pedestrian travelway, but may be located within a grass strip/green zone or frontage zone. For substantial changes to eligible support structures or for new telecommunications use of an alternative structure, the eligible support structure or alternative structure shall be relocated outside of the pedestrian travelway and all above-ground utilities consolidated with the permit application. For eligible support structures that already have wireless telecommunications facilities on them, the structure need not be relocated unless it exceeds the zoning height limitation set in subsection 17.16.080.C.5.d., unless such structure is owned by the Metropolitan Government.
- b. No new telecommunication facility support structure may be erected in the public right-of-way within 500' of an existing telecommunication support structure. The term "new telecommunications facility support structure" as used in this

subsection shall not include a relocation and/or replacement of a pole pursuant to section 17.16.080.C.5.a.

- c. New telecommunication facilities or relocated telecommunication facilities pursuant to subsection 17.16.080.C.5.a. shall place all transmission equipment, excluding antennas and remote radio units, underground to the extent possible consistent with departmental regulations. To the extent transmission equipment cannot be placed underground, business justification, excluding cost, for this must be provided.
 - d. New telecommunication facility support structures may not be erected to a height greater than the height surrounding utility poles or street lights, whichever is greater. If no utility poles are present, the total height shall be built to a maximum height of 35', including antennas, lightning rods or other extensions. All new proposed structures, or a stealth telecommunications support structure replacing an existing support structure or alternative structure, within the ROW shall be designed for a minimum of two PWSF providers.
 - e. A permit for a COW is limited to 5 days, but when circumstances reasonably warrant, the permit may be renewed.
 - f. Telecommunication facilities shall be constructed consistent with the design requirements of the Planning Department, and, where applicable, the Historic Zoning Commission. The design guidelines will provide greater detail, description and examples of acceptable telecommunications facilities, including visual descriptions. The requirements in this section shall be in addition to those required by Chapter 6.26 of the Metropolitan Code.
6. Recommendations and other actions from departments of the metropolitan government. Prior to the consideration of a variance for or issuance of a permit for a telecommunication facility, the following departments of the metropolitan government shall submit recommendations or approvals to the Zoning Administrator that describe compliance with all applicable design guidelines or other regulations:
- a. Metropolitan Development and Housing Agency (MDHA) shall provide a recommendation within a redevelopment district and/or public rights of way abutting a redevelopment district,
 - b. Metro Historic Zoning Commission shall provide a preservation permit within a historic overlay,
 - c. Planning Commission shall provide a recommendation for property within the downtown code, a planned unit development, urban design overlay, institutional overlay, specific plan, contextual overlay, or neighborhood landmark district,
 - d. The Department of Information Technology Services shall provide a recommendation on all permits, with regard to the issue of interference with Metropolitan Government facilities.

Section 4. That Metropolitan Code of Laws Section 17.16.180, Communication uses, is hereby amended by deleting subsections A and B.

Section 5. That Metropolitan Code of Laws Section 17.40.520, Applicability, is hereby amended by deleting and replacing with the following:

An application for a zoning permit must be filed with the zoning administrator prior to any person or entity commencing any construction or alteration of a structure, initiating a change in the use of the property or for a telecommunication facility, including collocation. No building permit shall be issued except upon presentation of a valid zoning permit. However, an application for a telecommunications facility building permit for routine maintenance or for like-for-like replacements of equipment, consistent with departmental regulations, shall be submitted within 10 days of such work being performed and include verification that the work performed was for routine maintenance or for like-for-like replacements of equipment, consistent with departmental regulations. If an applicant contends that they are exempt from this permitting requirement by virtue of TCA Section 13.24.305 due to the fact that they are placing an antenna or related equipment for an existing wireless telecommunications support structure, they shall submit documentation evidencing their eligibility for such exemption.

Section 6. That Metropolitan Code of Laws Section 17.40.750, Fees established by the zoning administrator, is hereby amended by renumbering the existing paragraph as subsection A and adding the following Subsection B:

B. Telecommunications Facility.

1. In addition to the fee schedule in subsection A. of this section, Metro may require, in its sole discretion, a supplemental review by the Director of the Information Technology Services (ITS) Department or his designee, including an approved consultant, for any application for a telecommunication facility where new placement of telecommunications equipment on an alternative structure or new vertical support structures are sought or the complexity of the analysis requires technical expertise, and/or shall require the same for any request for a variance to Section 17.16.080.C., and all the costs of such review, in an amount not to exceed \$3,500, shall be borne by the applicant.
2. Based on the results of the supplemental review, the Zoning Administrator may require changes to or supplementation of the applicant's submittal(s).
3. The supplemental review may address any or all of the following:
 - a. The accuracy and completeness of the application and any accompanying documentation, including the impossibility of co-locating.
 - b. The applicability of analysis techniques and methodologies.
 - c. The validity of conclusions reached.
 - d. Whether the proposed telecommunications facility complies with the applicable approval criteria and standards of the Zoning Code and other applicable law.

Section 7. That Metropolitan Code of Laws Section 17.40.340, Limits to jurisdiction, is hereby amended by adding the following subsection C:

- C. The board shall not grant variances within the following sections, tables, zoning districts, or overlay districts without first considering a supplemental review by the Planning Commission and the Director of the Information Technology Services (ITS) Department or his designee, including an approved consultant.

Sections/Tables

Section 17.16.080.C (Telecommunication facility)

Section 8. That Section 6.26.350 of the Metropolitan Code of Laws is hereby amended by deleting the period following the word “applicable” and inserting the following at the end of that section:

, including but not limited to the provisions of the Zoning Code codified in Title 17 hereof, especially Chapter 17.16 and Section .080 thereof.

Section 9. That this Ordinance shall take effect five (5) days from and after its passage and such change be published in a newspaper of general circulation, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

Sponsored by:

Freddie O’Connell
Member of Council

AMENDMENT NO. ____
TO
ORDINANCE NO. BL2016-452

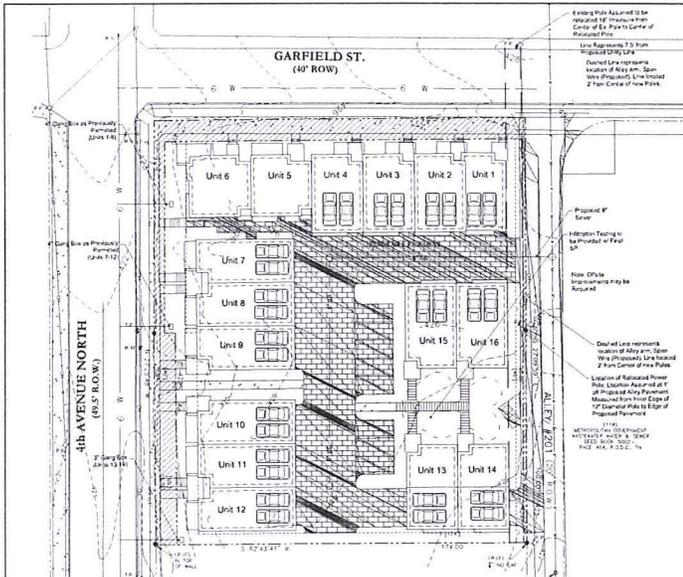
Mr. President –

I move to amend Ordinance No. BL2016-452 as follows:

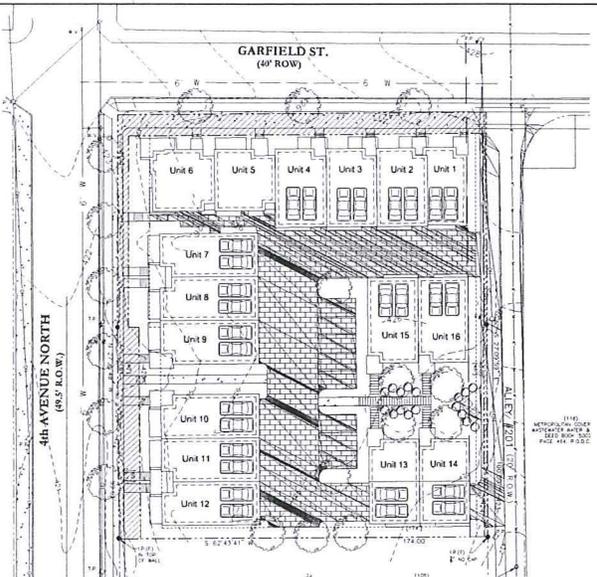
I. By amending Section 1 by substituting the plan referenced therein with the attached plan.

INTRODUCED BY:

Freddie O'Connell
Member of Council



Proposed Utilities (1"=20')



Proposed Landscape (1"=20')

PRE/POST CALCULATIONS

PRE-DEVELOPMENT
 TOTAL SITE AREA = 0.8 ACRES
 PRE-DEVELOPED IMPERVIOUS = 0.19 AC @ 19%
 PRE-DEVELOPED GRASS = 0.61 AC @ 19%
 COMPOSITE CDA = 33.3

POST-DEVELOPMENT
 TOTAL SITE AREA = 0.8 ACRES
 POST-DEVELOPED IMPERVIOUS = 0.38 AC @ 19%
 POST-DEVELOPED GRASS = 0.42 AC @ 19%
 COMPOSITE CDA = 31.8

PRELIMINARY CALCULATIONS ABOVE SHOW THAT THIS PROJECT WILL EXCEED THE AMOUNT OF RUNOFF GENERATED BY THIS SITE. HOWEVER, THE DEVELOPMENT SHALL BE SUBJECT TO WATER QUALITY REQUIREMENTS IMPOSED TO COMPLY WITH THE UIC MANUAL.

STORMWATER NOTES

- 1) THE SOIL TYPES FOR THIS SITE ARE MAHONEY URBAN LAND COVER, 2 TO 7 PERCENT SCORING WHICH FALLS WITHIN THE "B" HYDROLOGICAL SOIL GROUP.
- 2) THIS SITE IS RESPONSIBLE FOR WATER QUALITY AND WATER QUANTITY FINAL OF SHALL DEFECT COMPLIANCE WITH VOLUME 5 OF THE STORM WATER MANAGEMENT (SWM) MANUAL.
- 3) STORM WATER SYSTEM ON THIS PLAN IS SHOWN SCHEMATICALLY. FINAL DESIGN WILL BE PROVIDED DURING THE FINAL SP PROCESS AND WILL MEET THE REQUIREMENTS OF THE STORMWATER MANAGEMENT MANUAL.

UTILITY NOTES

- 1) WATER AND SEWER SERVICE TO BE PROVIDED BY METRO WATER SERVICES.
- 2) WATER AND SEWER SERVICES ARE SCHEMATICALLY SHOWN. FINAL WATER AND SEWER SERVICE LOCATIONS WILL BE PROVIDED DURING FINAL SP PROCESS.

TREE DENSITY NOTES

METRO TREE DENSITY REQUIREMENTS WILL BE ADDRESSED IN FINAL CONSTRUCTION DOCUMENTS. AT THE PRELIMINARY PHASE OF THIS PROJECT NO TREE INFORMATION IS AVAILABLE.

TREE DENSITY UNITS
 0.8 AC @ 33 AC = 0.47 AC x 14 = 6.58 TDU₁₄ REQ'D
 18 PROPOSED 7" CALIBER TREES = 9.0 TDU₁₄ FULFILL
 (NOTE: DOES NOT INCLUDE EX. TREES TO BE PRESERVED)
 *TDU EXCEEDED



Based Upon TN State Coordinates

TOTAL EXISTING AREA = 0.8 ACRES ±
 = 34,758.87 S.F. ±



SCALE 1" = 20'

Proposed Specific Plan



METHODS

Preparation Date: JUN 2014

4th & Garfield SP
 Revised Preliminary Specific Plan
 (B248010000000 & B248010000000)
 Nashville, Davidson County, Tennessee



Dale & Associates
 Consulting Civil Engineering
 Land Planning & Zoning
 Surveying

312 Clark Street
 Nashville, Tennessee 37203
 615.259.9333

C3.0
 Sheet 3 of 3

AMENDMENT NO. _____

TO

ORDINANCE NO. BL2016-461

Mr. President –

I move to amend Ordinance No. BL2016-461 as follows:

I. By amending Section 1 by deleting subsection 2.24.310(C) it in its entirety and substituting therefore the following:

(C) Subject to other applicable law, as used in this section "agency" means board, commission, committee, department, office, or any other unit of the Metropolitan Government.

INTRODUCED BY:

Jim Shulman
Member of Council

Substitute Ordinance No. 2016-493

An ordinance amending Chapters 17.04, 17.20 and 17.40 of the Metropolitan Code pertaining to sidewalks (Proposal No. 2016Z-024TX-001)

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. Section 17.20.120 (Provision of sidewalks) is hereby amended by deleting the section in its entirety and replacing with the following:

Sidewalks are required to facilitate safe and convenient pedestrian movements for the residents, employees and/or patrons, and to reduce dependency on the automobile, thus reducing traffic congestion on the community's streets and protecting air quality. This article shall not decrease the allowable floor area ratio.

- A. The provisions of this section shall apply to the redevelopment of multi-family or nonresidential property when the property is located within the Urban Services District, is on a street in the Major and Collector Street plan, and/or is within a quarter mile of a center designated in the general plan.
- B. The provisions of this section shall apply to the construction of a one or two-family structure(s) when the property is within the Urban Zoning Overlay, is on a street in the Major and Collector Street plan in the Urban Services District and/or is within a quarter mile of a center designated in the general plan.
- C. On-Site Sidewalk Installation For Multi-Family and Nonresidential Development. A continuous, all-weather internal sidewalk network, constructed to a minimum width of five feet shall connect all pedestrian building entryways to parking areas and all public rights of way. Sidewalks shall be designed and constructed to be distinguishable from driving surfaces.
- D. Public Sidewalk Installation. The provisions of this subsection are applicable only to the property frontage, with street right-of-way abutting the property for which a building permit is applied.
 1. Construction of new sidewalks is required under the following conditions:
 - a. Existing sidewalk repair or replacement.
 - b. To extend the existing sidewalk or sidewalk proposed by an adjacent development.
 - c. Existing sidewalk present on the same block face.
 - d. Within the Urban Zoning Overlay.

- e. Along a street in the Major and Collector Street Plan.
2. Sidewalk Design Standards.
 - a. Sidewalks shall comply with the Major and Collector Street Plan or, for a street not in the Major and Collector Street Plan, the adopted standards of the Metropolitan Government.
 - b. However, upon recommendation from the Planning Commission, the director of the Public Works Department may approve an alternative material, design, or method of construction from that required by this section if the director of the Public Works Department determines that the alternative is safe, durable, and equivalent to the requirements set out in this section. Materials, designs, or methods of construction approved under this subsection must be used and installed in accordance with the terms of approval.
 - c. Obstructions are prohibited within the required pedestrian travelway, but may be located within a grass strip/green zone or frontage zone. Prior to the issuance of use and occupancy permits, existing obstructions shall be relocated outside of the required pedestrian travelway.
- E. Contribution to the pedestrian network as an alternative to sidewalk installation.
1. When a public sidewalk is required by subsection A or B, but construction is not required by subsection D of this section, the building permit applicant may make a financial contribution to the Metropolitan Government in lieu of construction. The value of the contribution shall be the average linear foot sidewalk project cost, determined on an annual basis by the Department of Public Works' review of sidewalk projects contracted for or constructed by the Metropolitan Government, or the average of three bids for the construction of the sidewalk completed by licensed contractors, whichever is less.
 2. Any such contributions received by the Metropolitan Government shall be assigned and designated for implementation of the Strategic Plan for Sidewalks and Bikeways, as approved by the Planning Commission. The applicant's payment shall be allocated within twenty-four months of receipt of the payment within the same pedestrian benefit zone as the property to be developed; otherwise, the payment shall be refunded to the building permit applicant.
 3. Contribution to the pedestrian network as an alternative to sidewalk installation required under this section shall be received by the Department of Public Works and written confirmation of the contribution sent to the Department of Codes Administration prior to the issuance of a building permit.

- F. Dedication of Right-of-Way and Easements Required. Dedication of right-of-way and/or public pedestrian easement is required under the following conditions:
1. When construction of a public sidewalk is required by this section, right-of-way or public pedestrian easements needed to build the sidewalk to the current standards of the Metropolitan Government shall be dedicated.
 2. When a building permit applicant makes a financial contribution to the Metropolitan Government in-lieu of sidewalk construction, right-of-way or public pedestrian easements needed to permit future installation of a public sidewalk built to the current standards of the Metropolitan Government shall be dedicated.
- G. Improvements required or elected on public rights-of-way and/or public pedestrian easements under subsection D of this section shall be reviewed for compliance by the Department of Public Works. No building permit shall be issued by the Department of Codes Administration until the Department of Public Works has released the building permit. Prior to the Department of Codes Administration authorizing final use and occupancy, the Department of Public Works shall inspect and approve the sidewalk improvements in the public rights-of-way and/or public pedestrian easements.

Section 2. Section 17.20.125 (Right to appeal and seek variances) is hereby amended by deleting the section in its entirety and replacing with the following:

The provisions of Section 17.20.120 may be varied or interpretations appealed in conformance with Chapter 17.40, Administration and Procedures. The Board of Zoning Appeals may require a contribution to the pedestrian network, consistent with subsection E of this section, an alternative sidewalk design or other mitigation for the loss of the public improvement as a condition to a variance.

Section 3. Section 17.40.340 (Limits to jurisdiction) is hereby amended by deleting subsection B in its entirety and replacing with the following subsection B:

B. The board shall not grant variances within the following sections, tables, zoning districts, or overlay districts without first considering a recommendation from the Planning Commission.

Sections/Tables

Section 17.20.120 (Provision of sidewalks)

Section 17.28.103 (Underground utilities)

Zoning Districts

SP District

Overlay Districts

PUD

UDO

Institutional

Section 4. Section 17.04.060 (Definitions of General Terms) is hereby amended by adding the following definition:

“Pedestrian benefit zones” means the eleven zones in which fees in lieu of sidewalk construction may be collected, and where such fees shall be spent for the safety and convenience of pedestrians. Pedestrian benefit zones are as follows:

Zone 1-A: Bounded by I-40 and I-65 on the southeast; Cumberland River on north/northwest; county line on west. (West, edge)

Zone 1-B: Bounded by Cumberland River and I-65 on the south; I-24 on the east and north; county line on the west. (Northwest, edge)

Zone 1-C: Bounded by I-24 on the west; I-65 on the southeast and east; county line on the north. (North, edge)

Zone 2-A: Bounded by I-65 on the northwest; I-24 on the west; Cumberland River on the south and east; county line on the northeast. (Northeast, edge)

Zone 2-B: Bounded by Cumberland River on the north/northwest; I-40 on the south/southwest; county line on the east. (East, edge)

Zone 3: Bounded by the downtown loop. (Downtown)

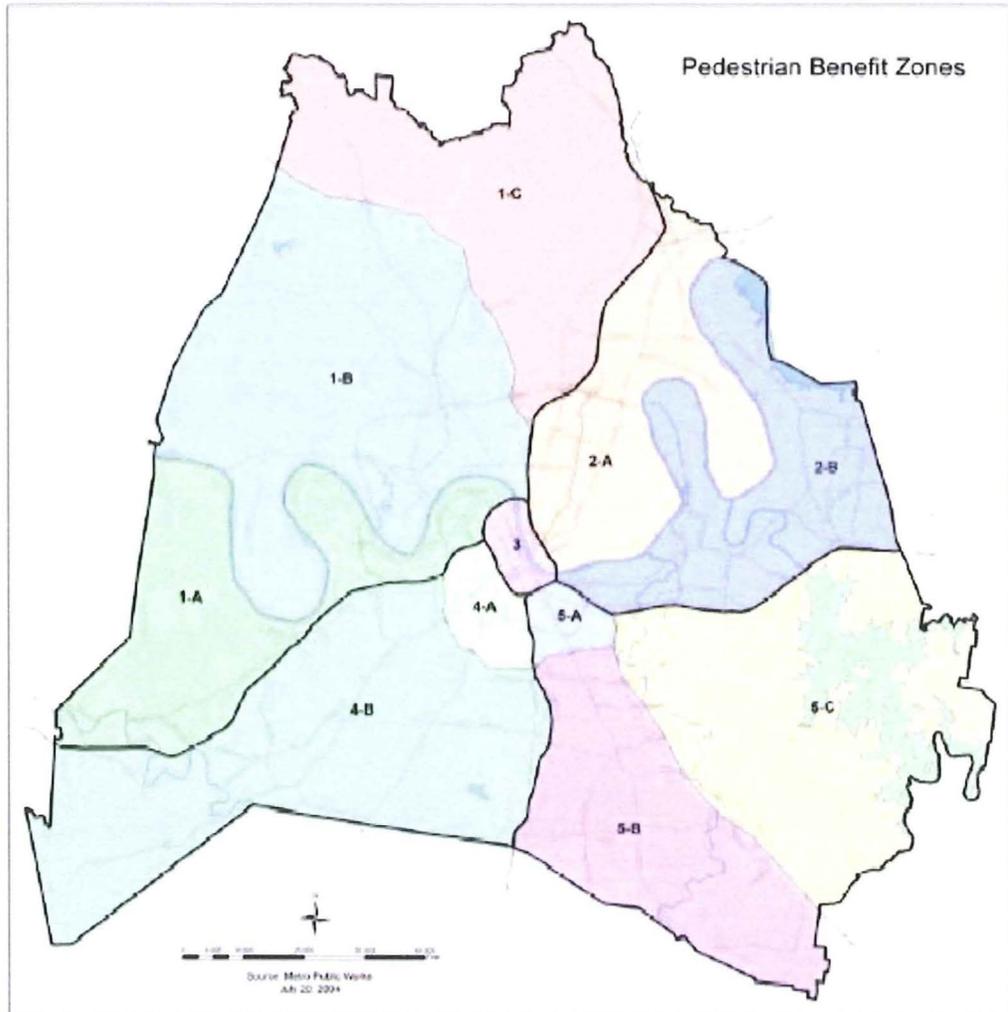
Zone 4-A: Bounded by I-65 on the east/northeast; I-440 on the south and southwest; I-40 on the north and northeast. (Southwest, inner)

Zone 4-B: Bounded by I-65 on the east; I-440 on the north/northeast; I-40 on the northwest; county line on the south. (Southwest, edge)

Zone 5-A: Bounded by I-440 on the south; I-24 on the northeast and east; I-40 on the north/northwest; and I-65 on the west. (South, inner)

Zone 5-B: Bounded by I-24 on the east/northeast; I-65 on the west; I-440 on the north; and county line on the south. (South, edge)

Zone 5-C: Bounded by I-40 on the north; I-24 on the west and southwest; county line on the east. (Southeast, edge)



Section 5. Be it further enacted, that this ordinance take effect immediately after its passage and such change be published in a newspaper of general circulation, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

INTRODUCED BY:

Angie Henderson
Member of Council

Freddie O'Connell
Member of Council

Russ Pulley
Member of Council

Bob Mendes
Member of Council At-Large

Brett Withers
Member of Council

Karen Y. Johnson
Member of Council

Jacobia Dowell
Member of Council