

COMMISSIONERS OF OXFORD

Ordinance No. 1619

Introduced by: Carole Abruzzese

Date: December 13, 2016

AN ORDINANCE OF THE TOWN OF OXFORD TO AMEND SECTION 32 OF THE OXFORD ZONING ORDINANCE BY ADDING SECTION 32.21 TO REGULATE THE CONSTRUCTION AND PLACEMENT OF SATELLITE ANTENNAS AND TOWERS, POLES, ANTENNAS AND/OR OTHER STRUCTURES INTENDED FOR USE IN CONNECTION WITH TELECOMMUNICATIONS FACILITIES OR SMALL CELL TELECOMMUNICATIONS FACILITIES

Introduced, read first time, ordered posted, and public hearing scheduled on December 13, 2016 at 6:00 p.m. at the Oxford Town Meeting Room, Market Street, Oxford, Maryland 21654.

By Order _____
Town Clerk

I hereby certify that the foregoing Ordinance Number 1619 of the Town of Oxford was duly read, advertised, and enacted in accordance with the applicable provisions of the Charter of the Town of Oxford on this _____ day of _____, 2017.

Attest: _____
Cheryl Lewis, Clerk/Treasurer
Town of Oxford

COMMISSIONERS OF OXFORD

ORDINANCE NUMBER 1619

INTRODUCED BY:

DATE OF INTRODUCTION: December 13, 2016

AN ORDINANCE OF THE TOWN OF OXFORD TO AMEND SECTION 32 OF THE OXFORD ZONING ORDINANCE BY ADDING SECTION 32.21 TO REGULATE THE CONSTRUCTION AND PLACEMENT OF SATELLITE ANTENNAS AND TOWERS, POLES, ANTENNAS AND/OR OTHER STRUCTURES INTENDED FOR USE IN CONNECTION WITH TELECOMMUNICATIONS FACILITIES OR SMALL CELL TELECOMMUNICATIONS FACILITIES

WHEREAS, pursuant to Md. Code Ann. Local Government Article, §§ 5-211 and 5-213, the Town of Oxford has the authority to adopt regulations concerning zoning and building construction; and

WHEREAS, the Commissioners of Oxford have determined that it is desirable and in the public interest to amend the Zoning Ordinance by adding Section 32.21 to regulate the construction and placement of telecommunications facilities or small cell telecommunications facilities.

NOW THEREFORE, BE IT ORDAINED BY THE COMMISSIONERS OF OXFORD AS FOLLOWS:

Section 1: Section 32 of the Oxford Zoning Ordinance is hereby amended to include the following subsection 32.21 as follows:

§ 32.21 – Telecommunications Facilities

A. Definitions. For the purposes of this subsection, the following definitions shall apply:

Co-location. Siting additional telecommunications facilities on an exterior structure or pole with an existing telecommunications facility, using the same support structure, such as poles, buildings, street lights, water tanks, towers, utility poles and the like, without the need to construct a new support structure, and thus constituting a minor telecommunications facility modification. Co-location may include siting multiple facilities from the same provider or facilities from more than one provider in the same location.

Major Telecommunications Facility Modification. The erection of a new support structure, or an alteration of an existing exterior telecommunications facility for any

purpose 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 existing facility is increased by more than four (4) new equipment cabinets; (iii) the new facility will have an additional protrusion of more than twenty (20) feet or width of the existing tower, whichever is greater; (iv) installation of the new facility will require excavation outside existing leased or owned property and current easements. The calculation for such modifications shall be cumulative over time following the initial approval of the telecommunications facility. ~~No such modification shall be permitted if the support structure will exceed the zoning district height as provided in this Ordinance.~~

Minor Telecommunications Facility 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. A minor telecommunications facility shall not include any application for which the construction of a new support structure is involved. ~~No such modification shall be permitted if the modification to the structure will cause the structure to exceed the height limit for the zoning district as provided in this Ordinance.~~

New Telecommunication Facility. The establishment of a telecommunications facility on a tower, building or other support structure where no such facility presently exists.

Small Cell Telecommunications Facility. A facility, excluding satellite television 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. An antenna or wireless antenna base station which provides wireless voice, data and image transmission within a designated service area as part of a small cell telecommunications facility may consist of a low-powered access node with no more than five (5) watts of transmitter output power per antenna channel, and may not be larger than a maximum height of three (3) feet and a maximum width of two (2) feet. A small cell telecommunications antenna may be installed on existing rooftops, structures or support structures where permitted. A small cell telecommunications facility also consists of related equipment which may be located within a building, an equipment cabinet outside a building, an equipment cabinet on a rooftop that is at least fifteen (15) feet high when in a commercial zone or attached to a commercial structure, or twenty (20) feet high when in a residential zone or attached to a residential structure, or an equipment room within a building. Such related equipment shall have a maximum square footage of ten (10) square feet and a maximum height of two (2) feet. ~~A small cell telecommunications facility shall not cause any structure to exceed the height limit for the zoning district as provided in this Ordinance.~~

Stealth Telecommunications Facility. Any telecommunications facility that is integrated as 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.

Support Structure(s). Monopoles, towers, utilities poles, light poles, buildings of any other free standing self-supporting supporting structure which can safely support the installation of any new or additional proposed telecommunications facilities.

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 the Federal Telecommunications Act of 1996, which includes Federal Communications Commission licensed commercial wireless telecommunications services, including cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), and paging, as well as unlicensed wireless services and common carrier wireless exchange access services and similar services that currently exist or that may in the future be developed. 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 (6½) 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 § 32.21.C. Equipment may be located within a building, an equipment cabinet, or an equipment room within a building. Where reference is made to a telecommunications facility, unless otherwise specified or indicated by context, such reference will be deemed to include the support structure on which the antenna or other communications equipment is mounted, transmission cables, and any associated equipment shelter.

- B. Building Permits and Fees. No telecommunications facility or other communications equipment, shall be erected, co-located, moved, removed, demolished, added to, or structurally altered without a building permit issued by the Town Office and payment of the applicable fee.
1. The applicable fee for new or major modifications of telecommunications facilities is Two Thousand Five Hundred Dollars (\$2,500) unless another amount is established by resolution as part of a Town fee schedule.
 2. The applicable fee for all minor modifications of existing telecommunications facilities is One Thousand Five Hundred Dollars (\$1,500) unless another amount is established by resolution as part of a Town fee schedule.
 3. In addition to the fees set forth above, the applicant shall be responsible for any other fees incurred by the Town which are necessary to review the application to ensure compliance with the terms of this ordinance, including any surveying, engineering, legal or professional fees necessary

to process the permit, as well as any fees incurred by the Town in connection with the special exception process.

C. **General Submission Requirements.** As part of any building permit application for a telecommunications facility, the applicant shall provide the following information to the Town Office:

1. The applicant shall specify whether the application is subject to any Federal Communications Commission application requirements, and if so identify whether it must be reviewed under regulations implementing § 6409(a) of the Middle-Class Tax Relief and Job Creation Act of 2012, § 332(c)(7) of the Telecommunications Act of 1996, or other applicable federal laws or regulations.
2. Where applicable, the applicant shall submit a safety report demonstrating that the structure can safely accept installation of the additional telecommunications facilities.
3. The applicant shall provide proof that it is a licensed provider and will comply with all federal, state, and town laws and regulations, including those relative to wireless services.
4. The applicant shall provide a location survey prepared by a licensed Maryland surveyor, identifying the precise location of the proposed facility, all other structures located on the property, and the setbacks from the property lines.
5. If the installation is within or crosses a right-of-way, the applicant shall provide a legal description and survey of the right of way, and shall identify any document creating right-of-way, as well the identity of any fee-simple owner of the property.
6. Where the applicant is not the property owner, the applicant shall provide written consent of the property owner, and any applicable leases, options, or prior agreements authorizing the construction or location of the facility.
7. The applicant shall provide any other documentation, studies or information required by the Town Office necessary to process the application.
8. Unless a greater setback is established herein, any equipment, structure or cabinet shall be located in conformity to the applicable setback standards of the zone.
9. All requests for a building permit for a telecommunications facility shall be reviewed and approved by the Planning Commission. Any application

involving the proposed construction of a telecommunications facility in the Oxford Historic District shall be reviewed and approved by the Oxford Historic District Commission. Where the Planning Commission concludes that a proposed installation does not constitute a minor telecommunications facility modification or does not meet other applicable requirements, the Planning Commission may deny the permit or refer it to the Board of Appeals for further review and a final decision.

10. An applicant may appeal denial of a Permit to the Board of Appeals if filed with the Town Clerk-Treasurer, in writing, within thirty (30) days after denial of the decision is mailed, under the processes for appeals under § 11.05.

D. The only telecommunications facilities permitted in the Oxford Historic District shall be stealth telecommunications facilities, in compliance with this subsection.

E. Minor telecommunications facility modifications and small cell telecommunications shall be permitted structures in all districts. The following standards apply to minor telecommunications facilities and small cell telecommunications facilities:

1. An antenna may be installed on streetlight or mast arms mounted on preexisting poles, including utility and street light poles or other preexisting exterior support structures, but the installation of taller poles or new overhead wiring to accommodate the antennae will not be permitted without a special exception approved by the Board of Appeals. Overall, an antenna may be installed at least twenty (20) feet from the ground in a residential zone or on an existing residential support structure or support structure on privately owned land, or fifteen (15) feet from the ground in a commercial zone or on an existing commercial structure or support structure on privately owned land. An antenna may be mounted on the wall of a building facing the rear lot line at a height of at least twenty (20) feet in a residential zone or when mounted on a residential building, or fifteen (15) feet in a commercial zone or when mounted on a commercial building.

2. An antenna must not be installed on or within sixty (60) feet of a single-family or two-family dwelling unit and must not be installed on the façade of any residence.

3. Cable connecting the antennae to the equipment box shall be contained inside the pole or support structure 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, properly secured and maintained by the applicant.

4. Related unstaffed equipment cabinets may be located within a building, an equipment cabinet outside a building, an equipment cabinet on a rooftop, or an equipment room within a building.
 - a. Such related equipment shall have a maximum square footage of ten (10) square feet with a maximum height of two (2) feet, and must be so located and installed in accordance with the applicable setback and other requirements of the zone in which the property is classified.
 - b. A related unstaffed equipment cabinet may be installed on a rooftop of a building on privately owned land which is at least fifteen (15) feet in height, provided it and all other roof structures do not occupy more than twenty-five (25) percent of the roof area.
5. All small cell telecommunications facilities shall be located and designed so as to minimize visual impact on surrounding properties and from public streets.
6. No more than one building, pole or other support structure containing a small cell telecommunications facility or co-located facility is permitted on a lot or parcel of land, or for parcels larger than a half-acre, per half-acre of land. A special exception to permit the location of more than one building, pole or other structure containing small cell telecommunications facilities on a lot or parcel or half-acre may only be approved by the Board of Appeals if the applicant establishes that existing small cell telecommunications facilities serving the same service area have no additional capacity to include the applicant's facility. Any such application must comply with all of the other standards and requirements for small cell telecommunications facilities.
- E. New telecommunications facilities involving the erection of a monopole or tower, are only permitted in the Town of Oxford by special exception in the Commercial Industrial Park (CIP) District *or Essential Government Services (ESC) Districts. Any tower or monopole constructed shall not exceed One Hundred (100) feet in height.*
- F. Major telecommunications facility modifications are permitted in the Town of Oxford by special exception in all zoning districts, except the R-1 District, the R-1C District, the R-2 District, the R-3 District, and the Oxford Historic District, regardless of the underlying zone.
- G. For any telecommunication facility permitted by special exception, the applicant must demonstrate and the Board of Appeals must find the following:
 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:
 - 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; and
 - b. The location of surrounding residences, buildings, structures and public rights-of-way and their use.
3. The character of the surrounding neighborhood and the Comprehensive Plan's recommendations for the ultimate use of surrounding properties.
4. The likelihood or interference with existing radio, television, telephone, wireless or microwave reception or service.
5. The proposed structure will cause no objectionable noise, fumes, odors, glare, physical activity or effect that would impair the peaceful enjoyment of neighboring properties.
6. The proposed buildings, structures and use will be in harmony with the general character of the neighborhood.
7. 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.
8. The location selected is necessary for the public convenience and service.
9. The location selected is not in an area in which there is an over-concentration of freestanding monopoles, towers or seminal structures.
10. The location selected for a monopole is more than three hundred (300) feet from the nearest boundary of the Historic District.
11. A monopole or other support structure 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.

12. 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.
13. No more than one (1) 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 (1) 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 engineering criteria establish the need for the requested facility. In addition, any such application must comply with all of the other standards and requirements applicable to special exceptions for telecommunications facilities.

H. General Provisions Applicable to all Telecommunications Facilities.

1. No signs are permitted in connection with any telecommunications facilities.
2. No lights are permitted on any telecommunications facility unless required by the federal communications commission, the federal aviation administration, or the Town.
3. Every telecommunications facility must be removed at the cost of owner when it is no longer in use or when it has not been operated for a continuous period of six (6) months. Such facility must be removed within ninety (90) days after receiving a removal notice from the Town.

I. Town Owned Property. The provisions of this Section 32.21 shall not apply to facilities constructed on property owned by the Town of Oxford, with the consent and approval of the Oxford Commissioners. The Town Commissioners may but are not required to hold a public hearing prior to its decision to allow the use of property owned or under the control of the Town.

- J. Where the applicant proposes to locate a telecommunications facility within a public right-of-way, the Town shall have the authority to enter into a franchise agreement in accordance with the applicable provisions of the Town Charter.

Section 2. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Commissioners of Oxford hereby declare that they would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 3: This ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect twenty (20) days from and after the date of its final passage and adoption.

ENACTED this _____ day of _____, 2017.

COMMISSIONERS OF OXFORD:

Gordon Graves, President

Carole Abruzzese, Commissioner

Gordon Fronk, Commissioner

I hereby certify that the foregoing Ordinance Number 1619 of the Town of Oxford was duly read, advertised, and enacted with the applicable provisions of the Charter of the Town of Oxford on this _____ day of _____, 2017.

ATTEST:

Cheryl Lewis
Clerk-Treasurer

Additions are shown in ***bold and italics***

Deletions are shown as ~~strike through~~

Ordinance NO. 1619 REV. 12.30.16

Zoning Ordinance Amendment, Section 32.21 – Telecommunications facilities

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