

Ordinance No. 6355

AN ORDINANCE AMENDING TITLE 17 OF THE RAPID CITY MUNICIPAL CODE TO EXEMPT SMALL WIRELESS FACILITIES FROM THE DEFINITION OF MICROCELL WIRELESS COMMUNICATION FACILITIES

WHEREAS, Rapid City has adopted a comprehensive plan and zoning regulations pursuant to the authority granted to it in Chapter 11-4 of the South Dakota Codified Laws; and

WHEREAS, microcell wireless communications facilities are defined in Rapid City Municipal Code 17.04.483; and

WHEREAS, RCMC 17.50.400 of the Rapid City Municipal Code regulates the use of microcell wireless communications facilities under the City's zoning authority; and

WHEREAS, the United States government and the Federal Communications Commission government have adopted special rules and provisions concerning Small Wireless Facilities, defined in 47 C.F.R. § 1.6002(l) as facilities which are mounted on structures of limited height whose antenna are no more than three cubic feet in volume and other associated equipment is no more than 28 cubic feet in volume, pursuant to; and

WHEREAS, the City does not desire to regulate small wireless facilities as defined in 47 C.F.R. § 1.6002(l) through its zoning oversight of microcell wireless communication facilities; and

WHEREAS, the City wishes to permit and allow the placement of small wireless facilities on poles and property within the city's oversight through a separate agreement with a wireless provider; and

WHEREAS, the City therefore wishes to amend these provisions to clarify that the City's regulation of microcell wireless communications facilities does not include small wireless facilities as defined in federal law; and

WHEREAS, the City also wishes to amend Section 17.50.400 to omit the reference to an since-repealed state statute and to delete the provision that only three microcells are permitted on any one pole on private property, in order to encourage collation of microcell facilities; and

WHEREAS, the Common Council of the City of Rapid City has determined that it is in the best interests of its citizens' health, safety and welfare to amend certain sections of Title 17 to make these clarifications to the City zoning code.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City that Section 17.04.483 of the Rapid City Municipal Code be and hereby is amended to read in its entirety as follows:

17.04.483 Microcell cellular communications facilities.

MICROCELL. Wireless communications facilities providing communications coverage to a geographically limited and specifically defined area (e.g., a topographically constrained area due to natural or urban-built environment). Such facilities are integrated with standard wireless technology to provide wireless communication services to the public. Such facilities shall not include Small Wireless Facilities as defined by 47 C.F.R. § 1.6002(l) as amended or replaced.

(Ord. 5098, 2005; Ord. 3734 (part), 2001)

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City that Section 17.50.400 of the Rapid City Municipal Code be and hereby is amended to read in its entirety as follows:

17.50.400 Microcell wireless communications facilities.

A. Facilities on existing buildings:

The installation of microcell wireless communications facilities shall be allowed on the top of existing buildings, as a permitted use in certain zoning districts, if all of the applicable criteria are met. The applicable criteria for microcell wireless facilities on the top of existing buildings are as follows:

1. No new antenna tower is erected, and the microcell facility is located on buildings in compliance with other subsections of this Section.
2. No antenna shall be located within 30 inches of any space occupied by or available to the public.
3. The antenna and equipment shelter associated with a microcell wireless site shall be located as far back from the edge of the roof as possible.
4. The antenna may be mounted on a roof only if the height of the antenna, at the highest point, does not extend higher than twelve (12) feet over the height of the building or structure.
5. Facade-mounted antennas shall be as flush to the wall as technically possible and not project beyond two (2) feet above the façade of the structure or wall on which it is mounted.
6. Facade-mounted antennas, rooftop antennas, and supporting electrical and mechanical equipment and buildings shall be compatible with the architectural style of the surrounding built environment considering exterior materials, roof form, scale, mass, color, texture and character so as to make the antenna and related equipment as unobtrusive as possible.

7. Antennas, structures and equipment shall not exceed an aggregate total of 25% of the building roof area, not counting equipment located in an existing penthouse or building.

8. Any microcell facility and related structures shall be situated in such a way that no interference with fire-fighting apparatus or emergency access or exits shall result.

9. All necessary plans, specifications and structural calculations shall be submitted to the Building Official, and a building permit application shall be approved, prior to the construction of the microcell facility.

10. Microcell facilities and related structures shall not be allowed on single-family dwellings as defined in § 17.04.225, 2-family dwellings as defined in § 17.04.235, or townhouse dwellings as defined in § 17.04.230.

11. No signage shall be allowed on any microcell facility or related structures.

12. Variances to § 17.50.400A may be allowed through the Zoning Board of Adjustment as per § 17.54.020 or through a Planned Development as per § 17.50 of the Rapid City Municipal Code.

B. Facilities on poles:

The installation of microcell wireless communications facilities on utility poles, telephone poles, utility facilities and light poles shall require a conditional use permit ~~or a SDCL 11-6-19 review~~. The applicable criteria are as follows:

1. Antennas shall be located a minimum of 15 feet above ground.

2. No antenna shall exceed 8-1/2 feet in area.

3. If an on ground equipment box associated with the site is used, it shall not exceed 18 square feet in footprint area and 5 feet in height. If an enclosure is mounted on the facilities or pole, it shall not exceed 2 feet by 3 feet by 3 feet. Further, no on-ground equipment boxes may be allowed in a public right-of-way or access easement or front yard setback.

4. If mounted on the top of the facilities or pole, any antenna and any supporting equipment may not exceed more than 10 feet above the top of the facilities or pole.

5. A side-mounted antenna shall have a maximum projection no greater than 24 inches.

6. To the greatest extent possible, antenna and supporting electrical and mechanical equipment should be colored to blend with the supporting structure or any equipment on the supporting structure so as to make the antenna and related equipment as unobtrusive as possible.

7. Any microcell facility and related structures shall be situated in such a way that there shall be no interference with fire-fighting apparatus or emergency access or exits.

~~8. No more than 3 antennas and related accessory equipment shall be located on any single pole or structure.~~

98. All necessary plans, specifications and structural calculations shall be submitted to the Building Official, and a building permit application shall be approved, prior to the construction of the microcell facility.

~~109.~~ Engineered drawings of the pole design, to include wind load and structural integrity, must be submitted prior to obtaining any building permit.

~~110.~~ No antennas shall be allowed on signs or sign structures.

~~1211.~~ No signage shall be allowed on poles, antennas or equipment boxes.

~~1312.~~ Exceptions to § 17.50.400B. may be allowed through the Zoning Board of Adjustment as per § 17.54.020.

C. Small Wireless Facilities.

The requirements in Sections A and B shall not apply to Small Wireless Facilities as defined by 47 C.F.R. § 1.6002(l) as amended or replaced. A wireless provider's placement of Small Wireless Facilities on City property or on City poles or provider's poles within City right of way shall be governed by agreement between the City and the provider. No Small Wireless Facilities shall be placed on City property or on City poles or provider's poles within City right of way unless and until the provider enters into an agreement with the City governing such use of City property for the Small Wireless Facilities and the Small Wireless Facility is permitted by the City pursuant to that agreement.

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer
(SEAL)

First Reading:
Second Reading:
Published:
Effective: