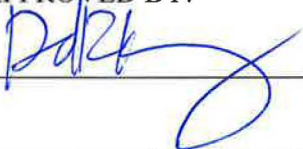


CITY OF MARYSVILLE

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: July 8, 2019

AGENDA ITEM: PA19-014 – Wireless Communication Facilities and Small Cell Wireless Code Minor Amendments	AGENDA SECTION: New Business	
PREPARED BY: Angela Gemmer, Senior Planner	APPROVED BY: 	
ATTACHMENTS: 1. Memo to City Council dated 6/21/19 with email from industry 2. PC Minutes dated 5/14/19 and 6/11/19 3. Adopting Ordinance <ul style="list-style-type: none"> · Exhibit A – PC Recommendation dated 6/11/19 · Exhibit B – Wireless Communication Facilities Amendments 		
	MAYOR	CAO
BUDGET CODE:	AMOUNT:	

DESCRIPTION:

The Marysville City Council recently passed Ordinance 3125 which pertains to wireless communication facilities and small wireless facilities. Small cell wireless facilities are smaller in size and coverage area than traditional macro wireless facilities (e.g. cell towers, lattice towers, etc.), and are deployed to help manage the data needs of smart phones and associated technology. City Council received comments from Verizon as the ordinance was under consideration for adoption. Due to time constraints, City Council adopted the ordinance as proposed, but directed city staff to review industry concerns and propose amendments as appropriate. The attached ordinance contains minor amendments responsive to industry concerns. The specific amendments are more fully described in the attached memo.

The Planning Commission (PC) held a public hearing on June 11, 2019 to review the proposed minor amendments to Marysville Municipal Code Title 22, *Unified Development Code*, pertaining to wireless communication facilities and small cell wireless facilities. The PC received testimony from staff and interested parties at the public hearing following public notice. The PC made a motion to recommend the proposed amendments to City Council for adoption by Ordinance.

RECOMMENDED ACTION: Affirm the Planning Commission’s recommendation and adopt the minor amendments to the wireless communication facilities and small cell wireless amendments by Ordinance.
COUNCIL ACTION:



COMMUNITY DEVELOPMENT DEPARTMENT
80 Columbia Avenue ♦ Marysville, WA 98270
(360) 363-8100 ♦ (360) 651-5099 FAX

MEMORANDUM

DATE: June 21, 2019
TO: City Council
FROM: Angela Gemmer, Senior Planner
RE: Small Cell Wireless Amendments Responsive to Industry Feedback
CC: Chris Holland, Planning Manager
Cheryl Dungan, Senior Planner
Amy Hess, Associate Planner

City Council recently passed Ordinance 3125 which pertains to wireless communication facilities and small cell wireless facilities amendments. City Council received comments from Verizon as they were considering the ordinance for adoption (attached). Due to time constraints, City Council adopted the ordinance as proposed, but committed to have city staff review industry concerns and propose amendments as appropriate. In response to industry concerns, city staff is proposing the attached amendments, which include, but are not limited to:

- Reorganizing the wireless communication facilities permitted uses matrices and adding small wireless facilities to the matrices. A footnote clarifies that the general wireless communication facilities provisions outlined in MMC Section 22C.250.050 through 22C.250.080 do not apply to small wireless deployments;
- Adding language to MMC Section 22C.250.100(1) to indicate that the provisions contained in that section apply to both existing and replacement utility poles outside of Design Districts and underground districts;
- Amending the language regarding antenna mounting to indicate that mounting must be the minimum necessary to meet mounting requirements rather than a prescriptive 20-inch maximum which will not meet industry needs in many situations (see MMC Section 22C.250.130);
- Clarification to the review and appeal process for small wireless facilities (see MMC Section 22C.250.130);
- Extending the permit time limit, and permit extension duration, from 6 months to 1 year as small wireless facilities installers are in high demand and the work may not be able to be completed under the shorter permit time limits; and
- Amending the noise testing provisions in MMC Section 22C.250.260 to treat wireless communication facilities in the same manner as other utilities.

Staff respectfully requests that City Council adopt the proposed wireless communication facilities and small cell wireless facilities amendments by Ordinance.

From: Marino, Kari <kari.c.marino@verizon.com>
Sent: Monday, June 10, 2019 2:33 PM
To: Angela Gemmer <agemmer@marysvillewa.gov>
Subject: Re: [E] FW: June 11, 2019 PC Packet

External Email Warning! Use caution before clicking links or opening attachments.

Hi Angela - unfortunately something has come up and I will not be able to attend tomorrow night. We really appreciate all of the work you have done to update the code based on our comments. Please let me know if you have any questions. I am your contact and will be working with you on the Franchise Agreement in the near future.

Regards,

verizon
Kari Marino

Small Cell Strategy Manager
Pacific Northwest Network Engineering

O 425 603 8240
M 425 941 0300
3245 158th Ave SE
Bellevue, WA 98008

On Thu, Jun 6, 2019 at 5:05 PM Angela Gemmer <agemmer@marysvillewa.gov> wrote:

You're welcome.

From: Marino, Kari <kari.c.marino@verizon.com>
Sent: Thursday, June 6, 2019 4:59 PM
To: Angela Gemmer <agemmer@marysvillewa.gov>
Subject: Re: [E] FW: June 11, 2019 PC Packet

External Email Warning! Use caution before clicking links or opening attachments.

Thank you.

Kari Marino

Small Cell Strategy Manager
Pacific Northwest Network Engineering

O 425 603 8240
M 425 941 03003245 158th Ave SE
Bellevue, WA 98008

On Thu, Jun 6, 2019 at 4:47 PM Angela Gemmer <agemmer@marysvillewa.gov> wrote:

Hi Kari, Kim, and Alan,

The Planning Commission packets for Tuesday, June 11, 2019 are available electronically at the following link: **06.11.19 Planning Commission Packet**. A Public Hearing on the wireless communication facilities minor amendments will be held at that time as described in the attached notice. Written and oral testimony may both be made at the public hearing. Please let me know if you have any questions.

Thank you,

Angela

PLANNING COMMISSION



MINUTES

May 14, 2019

7:00 p.m.

City Hall

CALL TO ORDER

Chair Leifer called the May 14, 2019 meeting to order at 7:00 p.m.

Marysville

Chairman: Steve Leifer

Commissioners: Roger Hoen, Kay Smith, Kelly Richards, Tom Thetford, Brandon Whitaker

Staff: Planning Manager Chris Holland, Senior Planner Angela Gemmer

Absent: Jerry Andes (excused)

APPROVAL OF MINUTES

March 26, 2019

Motion made by Commissioner Smith, seconded by Commissioner Whitaker, to approve the March 26, 2019 Meeting Minutes. **Motion** passed with Councilmember Thetford abstaining.

AUDIENCE PARTICIPATION

None

NEW BUSINESS

A. MMC 22C.010.280 Cottage Housing Developments

Senior Planner Gemmer made a presentation on Cottage Housing and proposed amendments to the current code as outlined and described in staff's memo to the Planning Commission dated May 10, 2019.

Commissioner Whitaker asked if cottage housing developments have an HOA. Planning Manager Holland commented that this is a requirement.

Commissioner Hoen asked for more information about the stronger architectural design standards Senior Planner Gemmer had referred to. Senior Planner Gemmer stated it would be modeled after the Mukilteo standards which provide much more clarity and specificity.

Chair Leifer asked if the co-housing group had brought up the stronger architectural standards. Senior Planner Gemmer commented that they did not. Staff had brought it up as a way to ensure the quality of the finished product. The current code is relatively vague. Planning Manager Holland noted that it also provides a toolbox of different elements that will meet the intent of the code which provides more flexibility for developers.

Chair Leifer asked for clarification about some calculations he had done in commercial zones. Planning Manager Holland explained that co-housing and cottage housing would not be allowed in commercial zones anymore. Chair Leifer asked why detached garages are not counted, but attached garages are counted in square footage area. Senior Planner Gemmer wasn't sure, but she thought perhaps it was to discourage the attached garages. Chair Leifer asked about roof heights. Senior Planner Gemmer reviewed the menu of options. Chair Leifer referred to item f, page 4 of 5 of the old code and asked why no two adjacent structures could be built with the same building size. Planning Manager Holland commented that this had been eliminated in the new proposal.

Commissioner Hoen asked about the economic level of the intended residents. Senior Planner Gemmer thought they were trying to appeal to a variety of economic groups. Commissioner Hoen referred to the apartment development behind Costco. Planning Manager Holland stated that this was a low income housing development and has resulted in higher generation of calls to police and fire. Cottage housing would not qualify for the tax incentives which were used in that project.

Dean Smith, 3007 Federal Avenue, Everett, principal developer of the co-housing proposal, referred to an article in *The Globe* and discussed co-housing. He spoke in support of the proposed amendments. They intend to build a development of about 50-60 people on 4.75 acres.

Chair Leifer asked about essential components of a co-housing development. Mr. Smith replied that they include totally self-contained, but small homes; a big common house that is jointly owned with a professional kitchen and large dining room; guest rooms in the community to share; and shared open space such as gardens.

Planning Manager Holland and Senior Planner Gemmer explained that the code would not allow for a separate guest rooms or guest rooms in the community building.

Planning Manager Holland stated that staff will bring this back in June for a public hearing.

B. MMC Chapter 22C.250 Wireless Communication Facilities

Senior Planner Gemmer reviewed proposed changes as outlined in staff's memo to the Planning Commission dated May 10, 2019. She stated that a representative from Verizon was in attendance and available to answer any questions, if needed.

Commissioner Whitaker asked if they anticipate most of the small cells to go on existing poles or new poles. Planning Manager Holland explained it would depend on whether or not there are spots on existing poles that meet all the spacing requirements. It will need to be determined on a case-by-case basis.

Chair Leifer asked if there is a requirement to prove they can't make existing poles work before putting up new poles. Planning Manager Holland explained that there is not.

Motion made by Commissioner Richards, seconded by Commissioner Smith, to set a public hearing for June 11. **Motion** passed unanimously.

CITY COUNCIL AGENDA ITEMS AND MINUTES

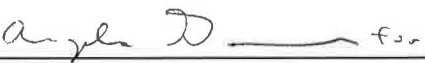
Planning Manager Holland announced that the 1st Street Bypass project contractors will begin work on Monday. There was discussion about details of this project. Planning Manager Holland indicated he would send links with more information to the commissioners. He also gave an update on activity related to the MIC area.

ADJOURNMENT

Motion made by Commissioner Richards, seconded by Commissioner Whitaker, to adjourn the meeting at 8:12 p.m. **Motion** passed unanimously.

NEXT MEETING:

June 11, 2019



Laurie Hugdahl, Recording Secretary

DRAFT

PLANNING
COMMISSION



MINUTES

June 11, 2019

7:00 p.m.

Marysville City Hall

CALL TO ORDER

Chair Leifer called the June 11, 2019 meeting to order at 7:00 p.m.

Present:

Chairman: Steve Leifer

Commissioners: Roger Hoen, Jerry Andes, Kay Smith, Kelly Richards, Tom Thetford, Brandon Whitaker

Staff: Community Development Director Dave Koenig, Senior Planner Angela Gemmer

Absent: None

APPROVAL OF MINUTES

May 14, 2019

Motion made by Commissioner Richards, seconded by Commissioner Thetford, to approve the May 14, 2019 Meeting Minutes as presented. **Motion** passed unanimously (7-0).

AUDIENCE PARTICIPATION

None

PUBLIC HEARINGS

A. MMC 22C.010.280, Cottage Housing

Senior Planner Gemmer introduced the hearing and discussed the proposed code amendments.

Commissioner Andes asked about the parking standards and asked why the upper square foot limit wasn't 800 (instead of 750) because that would be consistent with the maximum square footage allowed on the ground floor. Senior Planner Gemmer indicated that this could be aligned if desired by the Planning Commission, but that this was an existing code provision.

The public hearing was opened at 7:07 p.m. and comments were solicited.

Public Testimony:

Deborah Adams, 5210 54th Avenue Everett, stated she is an Everett resident who hopes to move to Marysville. She thanked the Planning Commission for considering the code amendments and spoke in support of the cottage housing amendments.

Jennie Lindberg, 3007 Federal Avenue, Everett, thanked the Planning Commission for considering this code amendment. They have found the City of Marysville to be responsive, cooperative, and forward thinking, especially Angela Gemmer.

Sage Billings, 9009 West Mall Drive #2311, Everett, stated she also lives in Everett, but would love to someday live in Marysville at the proposed co-housing development.

Mary Rawlins, 1626 46th Street SE, Everett, spoke in support of the proposed amendments. She thanked the City for considering the proposal. She is looking forward to the opportunity to live in a co-housing situation with the applicants.

Seeing no further comments, the public testimony portion of the public hearing was closed at 7:14 p.m.

Commissioner Hoen stated he has an ongoing concern about construction not creating true neighborhoods and the impacts that is having on the community. He is impressed with the testimony from the applicants about this group's cohesiveness already.

Commissioner Richards asked for clarification about the parking requirements. Senior Planner Gemmer reviewed these.

Motion made by Commissioner Richards, seconded by Commissioner Thetford, to forward this to City Council with a recommendation to approve. **Motion** passed unanimously (7-0).

The hearing was closed at 7:19 p.m.

B. MMC Chapter 22C.250, Wireless Communication Facilities (small wireless)

Senior Planner Gemmer reviewed this item.

Commissioner Whitaker asked how this would work in areas that have HOA owned lighting. Senior Planner Gemmer explained that the wireless communications company

would need to get permission from the HOA before the City would entertain issuing permits for HOA owned facilities.

The public hearing was opened at 7:25 p.m. and comments were solicited. Seeing none, the public testimony portion of the public hearing was closed at 7:25 p.m.

Motion made by Commissioner Richards, seconded by Commissioner Whitaker, to forward this to City Council with a recommendation for approval. **Motion** passed unanimously (7-0).

The public hearing was closed at 7:26 p.m.

CITY COUNCIL AGENDA ITEMS AND MINUTES

Director Koenig had the following comments:

- The City Council approved the Shoreline Master Program by Resolution. This will now go to the Department of Ecology and come back to City Council in ordinance form. The City Council did not make any changes from what was recommended by the Planning Commission.
- He gave an update on the Manufacturing Industrial Plan which was approved by the Planning Commission and the City Council and is currently going through the process of approval by the Puget Sound Regional Council.
- He gave an update on development in the City.
- He announced that he will be retiring in June.

ADJOURNMENT

Motion made by Commissioner Richards, seconded by Commissioner Thetford, to adjourn the meeting at 7:45 p.m. **Motion** passed unanimously.

NEXT MEETING:

June 25, 2019

Laurie Hugdahl, Recording Secretary

CITY OF MARYSVILLE
Marysville, Washington
ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON, UPDATING
THE CITY'S DEVELOPMENT REGULATIONS, AMENDING CHAPTER 22C.250,
WIRELESS COMMUNICATION FACILITIES, AND SECTION 22A.010.160 OF
THE MARYSVILLE MUNICIPAL CODE.**

WHEREAS, the State Growth Management Act, Chapter 36.70A RCW mandates that cities periodically review and amend development regulations, including zoning ordinances and official controls; and

WHEREAS, RCW 36.70A.106 requires the processing of amendments to the City's development regulations in the same manner as the original adoption of the City's comprehensive plan and development regulations; and

WHEREAS, the State Growth Management Act requires notice and broad public participation when adopting or amending the City's comprehensive plan and development regulations; and

WHEREAS, the City, in reviewing and amending its development regulations has complied with the notice, public participation, and processing requirements established by the Growth Management Act, as more fully described below; and

WHEREAS, the City Council of the City of Marysville finds that from time to time it is necessary and appropriate to review and revise provisions of the City's municipal code and development code (MMC Title 22); and

WHEREAS, the Marysville Municipal Code, Chapter 22C.250, Wireless Communication Facilities, regulates the installation of wireless communication facilities in the various zones of the City but currently focuses on macro facilities; and

WHEREAS, the City Council acknowledges that the growing use of smart phones and other personal wireless devices creates a substantial need for wireless data transmission and that the city requires regulation of small wireless facilities; and

WHEREAS, the Federal Communications Commission (FCC) recently adopted a Regulatory Ruling, Order and Regulation ("FCC Order") governing small wireless facilities, which imposes limitations on the processing of all permits associated with the deployment of small wireless facilities and requires the City to adopt aesthetic standard for such deployments; and

WHEREAS, federal law and regulation establishes both substantive and procedural limitations, including time limitations for review, upon local government application and development requirements applicable to proposals for modification to an existing antenna support structure or an existing base station without substantially changing the height or profile of the structures, which are referred to as "eligible facility requests"; and

WHEREAS, the City Council finds that it is required to adopt and implement local development and zoning regulations and review procedures that are consistent with federal laws and regulations on wireless communication facilities, including small wireless facilities and eligible facility requests; and

WHEREAS, the City Council deems it to be in the public interest to establish time limits and ensure speedy review and processing of wireless communication facility permit applications, with

such time limits commonly referred to as "shot clocks," as required by federal laws and regulations such as 47 U.S.C. § 1455(a), 47 CFR § 1.40001, and 47 CFR § 1.6003; and

WHEREAS, general design standards are necessary to maintain the aesthetic environment of the City's streetscape and accommodate evolving technology; and

WHEREAS, general design standards are necessary to maintain the aesthetic environment of the City's streetscape and accommodate evolving technology; and

WHEREAS, the City Council recently adopted Ordinance 3125 (effective April 18, 2019) pertaining to Wireless Communication Facilities; and

WHEREAS, after adoption, minor amendments to Ordinance 3125 were determined to be necessary; and

WHEREAS, during public meetings on May 14, 2019 and June 11, 2019, the Planning Commission discussed proposed minor amendments to MMC Chapter 22C.250, Wireless Communication Facilities; and

WHEREAS, the City of Marysville has submitted the proposed development regulation revisions to the Washington State Department of Commerce on May 17, 2019, as required by RCW 36.70A.106; and

WHEREAS, on March 8, 2019, the City issued a State Environmental Policy Act (SEPA) Determination of Non-Significance (DNS) which addresses the environmental impacts of the City-initiated code amendments, a non-project action proposal;

WHEREAS, after providing notice to the public as required by law, on June 11, 2019, the Marysville Planning Commission held a Public Hearing on the proposed amendments to the City's development regulations; and

WHEREAS, on June 11, 2019 the Planning Commission made a Recommendation to the City Council recommending the adoption of the proposed amendments to MMC Chapter 22C.250, Wireless Communication Facilities; and

WHEREAS, at a public meeting on July 8, 2019 the Marysville City Council reviewed and considered the Planning Commission's Recommendation and proposed amendments to the development regulations; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MARYSVILLE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Approval of Planning Commission's Recommendation and Adoption of Findings and Conclusions. The Planning Commission's June 11, 2019 Recommendation regarding the proposed development regulation amendments, including the Findings and Conclusions contained therein, as set forth in the attached **Exhibit A**, is hereby adopted and incorporated herein by this reference.

Section 2. Required Findings. In accordance with MMC 22G.010.520, the following findings are made regarding the development regulation amendments which comprise this ordinance:

- (1) The amendments are consistent with the purposes of the comprehensive plan; and
- (2) The amendments are consistent with the purpose of Title 22 MMC; and
- (3) There have been significant changes in the circumstances to warrant a change; and

(4) The benefit or cost to the public health, safety, and welfare is sufficient to warrant the action.

Section 3. MMC Chapter 22C.250, Wireless Communication Facilities, of the Marysville Municipal Code is hereby amended as set forth in **Exhibit B** attached hereto.

Section 4. Section 22A.010.160, Amendments, of the Marysville Municipal Code is hereby amended as follows by adding reference to this adopted ordinance in order to track amendments to the City’s Unified Development Code:

“22A.010.160 Amendments.

The following amendments have been made to the UDC subsequent to its adoption:

<u>Ordinance</u>	<u>Title (description)</u>	<u>Effective Date</u>
_____	Wireless Communication Facilities Minor Amendments _____,	2019”

Section 5. Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase, or word of this ordinance.

Section 6. Upon approval by the city attorney, the city clerk or the code reviser are authorized to make necessary corrections to this ordinance, including scrivener’s errors or clerical mistakes; references to other local, state, or federal laws, rules, or regulations; or numbering or referencing of ordinances or their sections and subsections.

Section 7. Effective Date. This ordinance shall become effective five days after the date of its publication by summary.

PASSED by the City Council and APPROVED by the Mayor this _____ day of _____, 2019.

CITY OF MARYSVILLE

By: _____
JON NEHRING, MAYOR

Attest:

By: _____
TINA BROCK, DEPUTY CITY CLERK

Approved as to form:

By: _____
JON WALKER, CITY ATTORNEY

Date of Publication: _____

Effective Date: _____
(5 days after publication)

EXHIBIT A



COMMUNITY DEVELOPMENT DEPARTMENT
80 Columbia Avenue • Marysville, WA 98270
(360) 363-8100 • (360) 651-5099 FAX

PC Recommendation: Wireless Communication Facilities & Small Cell Minor Amendments

The Planning Commission (PC) of the City of Marysville, having held a public hearing on June 11, 2019 in review of NON-PROJECT action amendments of the Marysville Municipal Code, proposing minor amendments to Chapter 22C.250, *Wireless Communication Facilities*, to address industry concerns pertaining to certain aspects of the recently adopted Ordinance 3125. Having considered the exhibits and testimony presented, PC does hereby enter the following findings, conclusions and recommendation for consideration by the Marysville City Council:

FINDINGS:

1. The Community Development Department held a public meeting to introduce the NON-PROJECT action Wireless Communication Facilities and Small Cell Wireless Minor Code Amendments to the community on May 14, 2019.
2. The proposal was submitted to the State of Washington Department of Commerce for 14-day expedited review on June 3, 2019, in accordance with RCW 36.70A.106.
3. A State Environmental Policy Act (SEPA) Determination of Non-Significance (DNS) was issued on March 8, 2019; no appeals were filed.
4. The PC held public work sessions to review the NON-PROJECT action amendments proposing adoption of the NON-PROJECT action Wireless Communication Facilities and Small Cell Wireless Minor Amendments as described above, on May 14 and June 11, 2019.
5. The PC held a duly-advertised public hearing on June 11, 2019 and received testimony from city staff and the public.
6. At the public hearing, the PC reviewed and considered the Wireless Communication Facilities and Small Cell Wireless Minor Code Amendments.

CONCLUSION:

At the public hearing, held on June 11, 2019, the PC recommended **APPROVING** the Wireless Communication Facilities and Small Cell Wireless Minor Code Amendments.

RECOMMENDATION:

Forwarded to City Council as a Recommendation of **APPROVAL** of the NON-PROJECT action known as Wireless Communication Facilities and Small Cell Wireless Minor Code Amendments, an amendment to Marysville Municipal Code Chapter 22C.250, *Wireless Communication Facilities*, this **June 11, 2019**.

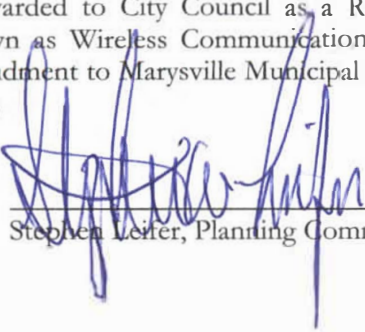
By: 
Stephen Leifer, Planning Commission Chair

EXHIBIT B

22C.250.040 Wireless Communication Facilities – Permit required.

The following table summarizes the types of proposal and required land use approvals. All proposals are subject to the siting hierarchy requirements of this chapter.

Concealed Attached WCF	WCF Consolidation	Concealed Co-Location	Flush-or Nonflush-Mounted Antenna on Existing Antenna Support Structure	New Concealed Antenna Support Structure	Combined on Existing WCF	Amateur Radio Antennas
P1, 3 C	C	P1 C	P1 C	C	P1 C	P2

Amateur Radio Antennas	Combined on Existing WCF	Concealed Attached WCF	Concealed Co-Location	Flush- or Nonflush-Mounted Antenna on Existing Antenna Support Structure	New Concealed Antenna Support Structure	Small Wireless Facility	WCF Consolidation
P2	P1 C	P1, 3 C	P1 C	P1 C	C	P4	C

P – Permitted Use. The use is allowed subject to the requirements of this code.

C – Conditional Use Permit. The use is allowed subject to the conditional use review procedures and requirements of this code.

Notes:

1. If the proposal does not extend the height of a structure outside the public right-of-way by more than 40 feet, the structure is in compliance with the maximum allowed WCF height for the zone, and it is demonstrated that the proposal is consistent with any previous relevant approval conditions.
2. Amateur radio antennas are permitted subject to MMC [22C.250.120](#).
3. Concealed attached WCFs proposed within the public right-of-way are subject to MMC [22C.250.070](#)(3).
4. Small wireless facilities are permitted within public right-of-way in all zones subject to the standards outlined in this chapter. Small wireless facilities are not subject to MMC Sections 22C.250.050 through 22C.250.080.

22C.250.100 Small Wireless Deployment.

Small wireless deployment includes small wireless facilities and small wireless networks. The following provisions establish design and concealment standards for small wireless deployments, provided, however, that any small wireless or small wireless network component that is not exempt under law or ordinance from critical areas, SEPA, or shoreline review shall comply with the applicable requirements set forth in MMC Chapters 22E.010, *Critical Areas Management*, 22E.030, *State Environmental Policy Act (SEPA)*, and 22E.050, *Shoreline Management Master Program*.

(1) Existing and replacement utility poles and structures in areas other than the Design District and underground districts. Utility Poles and Structures in Areas Other Than the Design District and Underground Districts. Eligible small wireless facilities permitted under the provisions of a franchise approval shall be considered to have satisfied the design and

concealment standards when installed on utility poles and structures within the public right-of-way.

(2) Small wireless deployments on existing utility poles not approved pursuant to a franchise. Small wireless deployments on existing utility poles that have not been approved as an exhibit to the franchise or as a minor deviation thereto shall comply with the provisions of MMC 22C.250.130 and must seek approval pursuant to a permit issued as provided in this chapter.

(3) Replacement utility pole - street lighting. With the express permission of the City, a replacement utility pole or a new utility pole may ~~take the be permitted in the~~ form of a new streetlight standard except where prohibited by MMC Section 22C.250.130(5). The design of the street light standard shall be in accordance with adopted City construction standards when located outside of the Design District or underground district. Replacement utility poles/street light standards located within the Design District shall conform to the adopted streetscape design standard for the Design District. Wherever technologically feasible, all equipment and cabling shall be internal to the replacement street lighting standard.

(4) Undergrounded areas. In areas where utilities have been undergrounded, a service provider or infrastructure company desiring to locate any above-ground infrastructure in support of a small wireless deployment shall submit a concealment element plan in accordance with the provisions of MMC 22C.250.130(6).

22C.250.130 Small Wireless Deployments – Design and concealment standards.

Small wireless facility deployments shall conform to the following design standards:

(1) Small wireless facilities attached to existing or replacement non-wooden light poles and other non-wooden poles in the right-of-way or non-wooden poles outside of the right-of-way shall conform to the following design criteria:

(a) Antennas and the associated equipment enclosures (including disconnect switches and other appurtenant devices) shall be fully concealed within the pole, unless such concealment is otherwise technically infeasible, or is incompatible with the pole design, then the antennas and associated equipment enclosures must be camouflaged to appear as an integral part of the pole or flush mounted to the pole, meaning no more than six (6) inches off of the pole, and must be the minimum size necessary for the intended purpose, not to exceed the volumetric dimensions of small wireless facilities. If the equipment enclosure is permitted on the exterior of the pole, the applicant is required to place the equipment enclosure behind any banners or road signs that may be on the pole, provided that such location does not interfere with the operation of the banners or signs.

(b) The furthest point of any antenna or equipment enclosure may from the face of a pole shall be the minimum distance needed to comply with the requirements of the pole owner, electrical codes, and antenna tilt not extend more than twenty (20) inches from the face of the pole.

(c) All conduit, cables, wires and fiber must be routed internally in the light pole. Full concealment of all conduit, cables, wires and fiber is required within mounting brackets, shrouds, canisters, or sleeves if attaching to exterior antennas or equipment.

(d) An antenna on top of an existing pole may not extend more than six (6) feet above the height of the existing pole and the diameter may not exceed sixteen (16) inches, measured at the top of the pole, unless the applicant can demonstrate that more space is needed. The antennas shall be integrated into the pole design so that it appears as a continuation of the original pole, including being colored or painted to match the pole, and shall be shrouded or screened to blend with the pole, except for canister antennas which shall not require separate shrouding or screening. All cabling and mounting hardware/brackets from the bottom of the antenna to the top of the pole shall be fully concealed and integrated with the pole.

(e) Any replacement pole shall substantially conform to the design of the pole it is replacing or the neighboring pole design standards utilized within the contiguous right-of-way.

(f) The height of any replacement pole may not extend more than ten (10) feet above the height of the existing pole or the minimum additional height necessary; provided that the height of the replacement pole cannot be extended further by additional antenna height.

(g) The diameter of a replacement pole shall comply with the City's setback and sidewalk clearance requirements and shall, to the extent technically feasible, not be more than a 25% increase of the existing non-wooden pole measured at the base of the pole, unless additional diameter is needed in order to conceal equipment within the base of the pole, and shall comply with the requirements in subsection 5(d) below.

(h) The use of the pole for the siting of a small wireless facility shall be considered secondary to the primary function of the pole. If the primary function of a pole serving as the host site for a small wireless facility becomes unnecessary, the pole shall not be retained for the sole purpose of accommodating the small wireless facility and the small wireless facility and all associated equipment shall be removed.

(2) Wooden pole design standards. Small wireless facilities located on wooden poles shall conform to the following design criteria:

(a) The wooden pole at the proposed location may be replaced with a taller pole for the purpose of accommodating a small wireless facility; provided, that the replacement pole shall not exceed a height that is a maximum of ten (10) feet taller than the existing pole, unless a further height increase is required and confirmed in writing by the pole owner and that such height extension is the minimum extension possible to provide sufficient separation and/or clearance from electrical and wireline facilities.

(b) A pole extender may be used instead of replacing an existing pole but may not increase the height of the existing pole by more than ten (10) feet, unless a further height increase is required and confirmed in writing by the pole owner and that such height increase is the minimum extension possible to provide sufficient separation and/or clearance from electrical and wireline facilities. A "pole extender" as used herein is an object affixed between the pole and the antenna for the purpose of increasing the height of the antenna above the pole. The pole extender shall be painted to approximately match the color of the pole and shall substantially match the diameter of the pole measured at the top of the pole.

(c) Replacement wooden poles must either match the approximate color and materials of the replaced pole or shall be the standard new wooden pole used by the pole owner in the City.

(d) Antennas, equipment enclosures, and all ancillary equipment, boxes, and conduit shall be colored or painted to match the approximate color of the surface of the wooden pole on which they are attached.

(e) Antennas shall not be mounted more than twelve (12) inches from the surface of the wooden pole.

(f) Antennas should be placed in an effort to minimize visual clutter and obtrusiveness. Multiple antennas are permitted on a wooden pole provided that each antenna enclosure shall not be more than three (3) cubic feet in volume.

(g) A canister antenna may be mounted on top of an existing wooden pole, which may not exceed the height requirements described in subsection 2(a) above. A canister antenna mounted on the top of a wooden pole shall not exceed sixteen (16) inches, measured at the top of the pole, and shall be colored or painted to match the pole. The canister antenna must be placed to look as if it is an extension of the pole. In the alternative, the applicant may propose a side mounted canister antenna, so long as the inside edge of the antenna is no more than twelve (12) inches from the surface of the wooden pole. All cables shall be concealed either within the canister antenna or within a sleeve between the antenna and the wooden pole.

(h) ~~The furthest point of any antenna or equipment enclosure may not extend more than twenty (20) inches from the face of a pole shall be the minimum distance needed to comply with the requirements of the pole owner, electrical codes, and antenna tilt not extend more than twenty (20) inches from the face of the pole.~~

(i) An omni-directional antenna may be mounted on the top of an existing wooden pole, provided such antenna is no more than four (4) feet in height and is mounted directly on the top of a pole or attached to a sleeve made to look like the exterior of the pole as close to the top of the pole as technically feasible. All cables shall be concealed within the sleeve between the bottom of the antenna and the mounting bracket.

(j) All related equipment mounted on wooden poles, including but not limited to ancillary equipment, radios, cables, associated shrouding, microwaves, and conduit, shall not be mounted more than six (6) inches from the surface of the pole, unless a further distance is technically required and is confirmed in writing by the pole owner.

(k) Equipment for small wireless facilities must be attached to the wooden pole, unless otherwise permitted to be ground mounted pursuant to subsection (5)(a). The equipment must be placed in the smallest enclosure possible for the intended purpose. The equipment enclosure and all other wireless equipment associated with the utility pole, including wireless equipment associated with the antenna and any pre-existing associated equipment on the pole, may not exceed twenty-eight (28) cubic feet. Multiple equipment enclosures may be acceptable if designed to more closely integrate with the pole design and does not cumulatively exceed twenty-eight (28) cubic feet. The applicant is encouraged to place the equipment enclosure behind any banners or road signs that may be on the pole, provided that such location does not interfere with the operation of the banners or signs.

(l) An applicant who desires to enclose both its antennas and equipment within one unified enclosure may do so, provided that such enclosure is the minimum size necessary for its intended purpose and the enclosure and all other wireless equipment associated with the pole, including wireless equipment associated with the antenna and any pre-existing associated equipment on the pole does not exceed twenty-eight (28) cubic feet. The unified enclosure may not be placed more than six (6) inches from the surface of the pole, unless a further distance is required and confirmed in writing by the pole owner. To the extent possible, the unified enclosure shall be placed so as to appear as an integrated part of the pole or behind banners or signs, provided that such location does not interfere with the operation of the banners or signs.

(m) The visual effect of the small wireless facility on all other aspects of the appearance of the wooden pole shall be minimized to the greatest extent possible.

(n) The use of the wooden pole for the siting of a small wireless facility shall be considered secondary to the primary function of the pole. If the primary function of a pole serving as the host site for a small wireless facility becomes unnecessary, the pole shall not be retained for the sole purpose of accommodating the small wireless facility and the small wireless facility and all associated equipment shall be removed.

(o) The diameter of a replacement pole shall comply with the City's setback and sidewalk clearance requirements and shall not be more than a 25% increase of the existing utility pole measured at the base of the pole.

(p) All cables and wires shall be routed through conduit along the outside of the pole. The outside conduit shall be colored or painted to match the pole. The number of conduit shall be minimized to the number technically necessary to accommodate the small wireless.

(3) Small wireless facilities attached to existing buildings, shall conform to the following design criteria:

(a) Small wireless facilities may be mounted to the sides of a building if the antennas do not interrupt the building's architectural theme.

(b) The interruption of architectural lines or horizontal or vertical reveals is discouraged.

(c) New architectural features such as columns, pilasters, corbels, or other ornamentation that conceal antennas may be used if it complements the architecture of the existing building.

(d) Small wireless facilities shall utilize the smallest mounting brackets necessary in order to provide the smallest offset from the building.

(e) Skirts or shrouds shall be utilized on the sides and bottoms of antennas in order to conceal mounting hardware, create a cleaner appearance, and minimize the visual impact of the antennas. Exposed cabling/wiring is prohibited.

(f) Small wireless facilities shall be painted and textured to match the adjacent building surfaces.

(4) Small wireless facilities mounted on cables strung between existing utility poles shall conform to the following standards.

(a) Each strand mounted facility shall not exceed three (3) cubic feet in volume;

(b) Only one strand mounted facility is permitted per cable between any two existing poles;

(c) The strand mounted devices shall be placed as close as possible to the nearest utility pole, in no event more than five (5) feet from the pole unless a greater instance technically necessary or is required by the pole owner for safety clearance;

(d) No strand mounted device shall be located in or above the portion of the roadway open to vehicular traffic;

(e) Ground mounted equipment to accommodate a shared mounted facility is not permitted except when placed in pre-existing equipment cabinets; and

(f) Pole mounted equipment shall comply with the requirements of subsections (1) and (3) above.

(g) Such strand mounted devices must be installed to cause the least visual impact and without excess exterior cabling or wires (other than the original strand).

(h) Strand mounted facilities are prohibited on non-wooden poles.

(5) General requirements.

(a) Ground mounted equipment in the rights-of-way is prohibited, unless such facilities are placed under ground or the applicant can demonstrate that pole mounted or undergrounded equipment is technically infeasible. If ground mounted equipment is necessary, then the applicant shall submit a concealment element plan. Generators located in the rights-of-way are prohibited.

(b) No equipment shall be operated so as to produce noise in violation of Chapter 6.76 MMC.

(c) Small wireless facilities are not permitted on City-owned light poles or traffic signal poles unless denial of the siting could be a prohibition or effective prohibition of the applicant's ability to provide telecommunications service in violation of 47 USC § 253 and 47 USC § 332.

(d) Replacement poles and new poles shall comply with the Americans with Disabilities Act (ADA), City construction and sidewalk clearance standards, city ordinance, and state and federal laws and regulations in order to provide a clear and safe passage within the rights-of-way. Further, the location of any replacement or new pole must: be physically possible, comply with applicable traffic warrants, not interfere with utility or safety fixtures (e.g., fire hydrants, traffic control devices), and not adversely affect the public welfare, health or safety.

(e) Replacement poles shall be located as near as possible to the existing pole with the requirement to remove the abandoned pole.

(f) No signage, message or identification other than the manufacturer's identification or identification required by governing law is allowed to be portrayed on any antenna or equipment enclosure. Any permitted signage shall be located on the equipment enclosures and be of the minimum amount possible to achieve the intended purpose (no

larger than 4x6 inches); provided that, signs are permitted as concealment element techniques where appropriate.

(g) Antennas and related equipment shall not be illuminated except for security reasons, required by a federal or state authority, or unless approved as part of a concealment element plan.

(h) Side arm mounts for antennas or equipment must be the minimum extension necessary and for wooden poles may be no more than twelve (12) inches off the pole and for non-wooden poles no more than six (6) inches off the pole.

(i) The preferred location of a small wireless facility on a pole is the location with the least visible impact.

(j) Antennas, equipment enclosures, and ancillary equipment, conduit and cable, shall not dominate the structure or pole upon which they are attached.

(k) Except for locations in the right-of-way, small wireless facilities are not permitted on any property containing a residential use in the residential zones.

(l) The City may consider the cumulative visual effects of small wireless facilities mounted on poles within the rights-of-way when assessing proposed siting locations so as to not adversely affect the visual character of the City. This provision shall not be applied to limit the number of permits issued when no alternative sites are reasonably available nor to impose a technological requirement on the applicant.

(m) These design standards are intended to be used solely for the purpose of concealment and siting. Nothing herein shall be interpreted or applied in a manner which dictates the use of a particular technology. When strict application of these requirements would unreasonably impair the function of the technology chosen by the applicant, alternative forms of concealment or deployment may be permitted which provide similar or greater protections from negative visual impacts to the streetscape.

(6) New poles in the rights-of-way for small wireless facilities and all installations in the Design Districts.

(a) New poles within the rights-of-way are permitted only if the applicant can establish that:

(i) The proposed small wireless facility cannot be located on an existing utility pole or light pole, on an electrical transmission tower, or on a site outside of the public rights-of-way such as a public park, public property, building, transmission tower, or in or on a non-residential use in a residential zone whether by roof or panel-mount or separate structure;

(ii) The proposed small wireless facility receives approval for a concealment element design, as described in subsection (c) below;

(iii) The proposed small wireless facility also complies with the Shoreline Management Act, Growth Management Act, and SEPA, if applicable; and

(iv) No new poles shall be located in a critical area or associated buffer required by the City's Critical Areas Ordinance (Chapter 22E.010 MMC), except when determined to be exempt pursuant to said ordinance.

(b) An application for a new pole is subject to an administrative land use review and approval.

(c) The concealment element design shall include the design of the screening, fencing, or other concealment technology for a tower, pole, or equipment structure and for all related transmission equipment or facilities associated with the proposed small wireless facility, including but not limited to fiber and power connections.

(i) The concealment element design should seek to minimize the visual obtrusiveness of the small wireless facility. The proposed pole or structure should have similar designs to existing neighboring poles in the rights-of-way, including similar height to the extent technically feasible. If the proposed small wireless facility is placed on a replacement pole in the Design Districts, then the replacement pole shall be of the same general design as the pole it is replacing, unless the Public Works and Community Development Directors

otherwise approve a variation due to aesthetic or safety concerns. Any concealment element design for a small wireless facility on a decorative pole should attempt to mimic the design of such pole and integrate the small wireless facility into the design of the decorative pole. Other concealment methods include, but are not limited to, integrating the installation with architectural features or building design components, utilization of coverings or concealment devices of similar material, color, and texture as the surface against which the installation will be seen or on which it will be installed, landscape design, or other camouflage strategies appropriate for the type of installation. Applicants are required to utilize designs in which all conduit and wirelines are installed internally in the structure. Further, applicant designs should, to the extent technically possible, comply with the generally applicable design standards adopted herein.

(ii) If the Director has already approved a concealment element design either for the applicant or another small wireless facility along the same public right-of-way or for the same pole type, then the applicant shall utilize a substantially similar concealment element design, unless it can show that such concealment element design is not physically or technologically feasible or that such deployment would undermine the generally applicable design standards.

(d) Even if an alternative location is established pursuant to subsection (1)(a) and (1)(b), the Director may determine that a new pole in the right-of-way is in fact a superior alternative based on the impact to the City, the concealment element design, the City’s Comprehensive Plan, and the added benefits to the community.

(e) Prior to the issuance of a permit to construct a new pole or ground mounted equipment in the right-of-way, the applicant must obtain a site-specific agreement from the City to locate such new pole or ground mounted equipment. This requirement also applies to replacement poles where the overall height of the replacement pole and the proposed small wireless facility is more than sixty (60) feet.

(f) These design standards are intended to be used solely for the purpose of concealment and siting. Nothing herein shall be interpreted or applied in a manner which dictates the use of a particular technology. When strict application of these requirements would unreasonably impair the function of the technology chosen by the applicant, alternative forms of concealment or deployment may be permitted which provide similar or greater protections of the street scape.

Examples of Unacceptable and Acceptable Small Wireless Facilities



22C.250.150 Small Wireless – Permit Requirements

(1) The grantee of any permit shall comply with all of the requirements within the small wireless permit.

(2) Small wireless facilities shall apply for and be issued a right-of-way use permit to install such small wireless facilities in accordance with the standard requirements of the City for use of the right-of-way.

(3) ~~Post-Construction As-Built Record Drawings.~~ Within thirty (30) days after construction of the small wireless facility, the grantee shall provide the City with ~~as-built~~ record drawings of the small wireless facilities demonstrating compliance with the permit and site photographs.

(4) Permit Time Limit. Construction of the small wireless facility must be completed within ~~one (1) year six (6) months~~ after the approval date by the City. The grantee may request one (1) extension to be limited to three (3) months, if the applicant cannot construct the small wireless facility within the original ~~one (1) year six (6) month~~ period.

(5) Site Safety and Maintenance. The grantee must maintain the small wireless facilities in safe and working condition. The grantee shall be responsible for the removal of any graffiti or other vandalism and shall keep the site neat and orderly, including but not limited to following any maintenance or modifications on the site.

22C.250.260 Testing of WCFs required – Noise emissions.

(1) Each licensed carrier shall submit manufacturer's specification sheets of the equipment to be deployed to demonstrate compliance with State and City noise regulations. The carrier shall conduct tests, if necessary, to demonstrate compliance with all applicable local regulations regarding the noise emissions of the WCF. All such tests shall be performed by or under the supervision of a qualified acoustical consultant competent to perform such tests and interpret the data gathered.

(2) Where determined necessary by the community development director, ~~A~~all licensed carriers shall submit a report, certified by a qualified acoustical consultant, setting forth the observed noise levels at the property line of the property upon which the WCF is located. The report shall account for background noise and other noise sources and demonstrate the noise levels emitted by the WCF, including any air conditioning or ventilation equipment contained therein.

(3) Compliance reports shall be required when necessary to address existing or ongoing noise concern~~on a biennial basis.~~

(4) The city may retain a technical expert in environmental noise measurement to verify the noise measurements and certification. The cost of such a technical expert shall be borne by the licensed carrier.

(5) This section shall not apply to any WCF that does not contain air conditioning equipment.