



INFORMATIONAL MEMORANDUM

TO: Transportation and Infrastructure Services Committee
FROM: Nora Gierloff, DCD Director
CC: Mayor Ekberg
DATE: September 10, 2021
SUBJECT: Permanent Small Wireless Facilities Update

ISSUE

Tukwila's interim regulations for small wireless facilities will expire on October 12, 2021 and are proposed to be replaced with an update to TMC 18.58 Wireless Communications Facilities.

BACKGROUND

Wireless communication technology has pivoted from large cell towers that were designed to transmit frequencies over long distance to small wireless facilities (4G and 5G networks) that are designed to increase capacity. These installations are significantly smaller than the existing macro installations and are/will be located closer to the end user. This means that small wireless installations will be focused on the rights-of-way and adjacent areas.

The Federal Communications Commission ("FCC") has adopted new regulations regarding local municipalities' authority to regulate the deployment of small wireless communications facilities. In order to account for those changes in Federal law, the City needs to update its municipal code.

Tukwila adopted an interim code to address wireless facilities under Ordinance No. 2652 on April 12, 2021. Those temporary regulations will expire October 12, 2021 and will be repealed upon adoption of the updated regulations. Staff has now drafted a permanent set of regulations and has circulated those regulations for industry review, as well as GMA/SEPA review. While no comments were received from the GMA or SEPA process, industry comments were received and some of the comments have been incorporated into the draft code. A table summary of all comments received has been included as Attachment B.

The Planning Commission held a public hearing on August 26, 2021 and made four additional changes in response to wireless industry representatives' suggestions. These are most clearly shown as highlights on the ordinance in Attachment A.

DISCUSSION

The proposed ordinance includes an overhaul of the existing code in order to incorporate the new FCC requirements. It also includes revisions to the macro facility permitting and design requirements, as well as establishes a permitting process and aesthetic requirements for small wireless facilities. These changes will improve staff efficiency by providing a well-defined framework for staff to review permits and clear expectations for applicants regarding where and how they can locate their facilities.

Our discussion will focus on the macro facility provisions in TMC 18.58.060-070 as well as the small wireless facility provisions in TMC 18.58.100-160. We will discuss how the code will be used, what the requirements mean, and how these requirements will protect the City within the scope of the FCC rules.

There are a few important concepts that the Council should keep in mind that will come into play during these discussions.

- The City has some authority to outline aesthetic standards for the rollout of small wireless facilities, but the **City does not have authority to dictate technology**. Any standard being considered that would regulate the technology should be avoided.
- **Regulations that effectively prohibit the rollout of the technology should not be considered**. The FCC has generally determined that this technology should be allowed, and regulations adopted by a local jurisdiction that effectively prohibit the technology are impermissible.
- The FCC has adopted presumptively reasonable shot clocks within which the City must comply. These **shot clocks are 60 days for an installation on an existing structure and 90 days for new poles**. These shot clocks cover all necessary city approvals, which may include a franchise (these already require two readings before City Council), small wireless permits, public works related permits, and anything else that might be required by the City.
- The City should treat all similarly situated applicants the same. This is called **competitive equity**. Regulations and approvals should not vary depending on who comes in the door.

FINANCIAL IMPACT

There will be no direct financial impacts to the City through adoption of this code update. We expect an ongoing flow of small cell permit applications as carriers update their wireless networks for a modest revenue stream.

RECOMMENDATION

The Council is being asked to approve the ordinance and consider this item at the September 27, 2021 Committee of the Whole meeting and subsequent October 4, 2021 Regular Meeting.

Attachments: Planning Commission Recommended Ordinance Amending TMC 18.06 and 18.58
Table of Public Comments

DRAFT

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, REPEALING ORDINANCE NO. 2652, AS CODIFIED AT TUKWILA MUNICIPAL CODE (TMC) CHAPTER 23.04, "SMALL WIRELESS COMMUNICATION FACILITIES"; REPEALING ORDINANCE NO. 2498, AS CODIFIED IN TMC CHAPTERS 18.06 AND 18.58; REPEALING ORDINANCE NO. 2251 §71 AND §72, AS CODIFIED IN TMC CHAPTER 18.58, "WIRELESS COMMUNICATION FACILITIES"; REPEALING ORDINANCE NO. 2135 §2 (PART), AS CODIFIED IN MULTIPLE SECTIONS OF TMC CHAPTER 18.06, 'DEFINITIONS'; AMENDING ORDINANCE NO. 2251 §68, §69, AND §70, AS CODIFIED IN TMC CHAPTER 18.58; AMENDING ORDINANCE NO. 2135 §1 (PART), AS CODIFIED IN MULTIPLE SECTIONS OF TMC CHAPTER 18.58; AUTHORIZING AND ESTABLISHING PERMITTING REGULATIONS AND AESTHETIC AND DESIGN STANDARDS FOR THE DEPLOYMENT OF SMALL WIRELESS FACILITIES; ADOPTING SUPPORTIVE FINDINGS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, in a constantly evolving industry, telecommunications providers are beginning to utilize a new type of technology commonly known as "small cell" facilities herein ("small wireless facilities") to implement higher bandwidths and increased demands for data; and

WHEREAS, the Federal Communications Commission ("FCC") has issued rules and regulations that limit local government's ability to regulate the deployment of small wireless facilities, but which allow local governments to adopt regulations affecting the aesthetics and design standards for small wireless facilities; and

WHEREAS, the FCC allows the City of Tukwila ("City") to adopt aesthetic standards for deployment of small wireless facilities that will require utilization of a consolidated process emphasizing administrative review in order to comply with federal safe harbors or presumptively reasonable time limits for review; and

WHEREAS, Chapter 23.04 of the Tukwila Municipal Code (“TMC”) was added to TMC Title 23 pursuant to Ordinance No. 2652 and established initial regulations related to wireless facilities; and

WHEREAS, the City has evaluated its existing wireless facilities regulations in Chapter 18.58 of the TMC and determined that changes are needed to address compliance with FCC regulations; and

WHEREAS, the City desires to update the existing TMC Chapter 18.58 with new regulations that: (1) reaffirms the land use and zoning regulations for major wireless facilities; (2) clarifies the application and review process for major wireless facilities; (3) adopts land use and zoning regulations and design standards for small wireless facilities; (4) sets forth the application and approval process for small wireless facilities; and (5) updates regulations related to eligible facilities requests as prescribed by federal rules and regulations; and

WHEREAS, upon timely notice, the City undertook a State Environmental Policy Act (SEPA) review of these wireless communication regulations and issued a SEPA Determination of Non-Significance for this non-project action on August 5, 2021; and

WHEREAS, the Washington State Department of Commerce was provided a Notice of Intent to Adopt the proposed regulations and the City received no comments on the same; and

WHEREAS, the proposed regulations went before the City of Tukwila Planning Commission for review, discussion, and consideration. Upon timely notice, a public hearing was held before the Planning Commission on August 26, 2021, and subsequently the Planning Commission issued a recommendation that the City Council adopt the regulations as presented herein; and

WHEREAS, the City Council held a public hearing on September 27, 2021, to review the Planning Commission recommended draft ordinance; and

WHEREAS, based on careful consideration of the facts and law, including without limitation the public testimony received, the Planning Commission's recommendation dated August 26, 2021, the Staff Report dated September 7, 2021, and records and files with the office of the Department of Community Development, the Tukwila City Council finds that the proposed amendments attached and incorporated herein should be approved as presented;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. Purpose. The purpose of this ordinance is to establish permitting and aesthetic requirements and revisions for wireless communication facilities to be codified in the Tukwila Municipal Code in response to the enactment of new regulations by the FCC.

Section 2. Findings of Fact. The Tukwila City Council hereby adopts and incorporates the recitals set forth above as Findings of Fact justifying the development regulations adopted by this ordinance.

Section 3. Repealer. Ordinance Nos. 2652 and 2498 are hereby repealed.

Section 4. Repealer. Ordinance No. 2251 §71 and §72, as codified in TMC Chapter 18.58, "Wireless Communication Facilities." is hereby repealed.

Section 5. Repealer. Ordinance No. 2135 §2 (part), as codified in the following sections of TMC Chapter 18.06, "Definitions." is hereby repealed.

TMC Section 18.06.039, "Ancillary Wireless Communication Facilities"

~~18.06.039 Ancillary Wireless Communication Facilities~~

~~"Ancillary Wireless Communication Facilities" means any facilities, component, part, equipment, mounting hardware, feed lines, or appurtenance associated with, attached to, or a part of a tower, antenna, ancillary structures, or equipment enclosures, facilities equipment compound, and located within, above, or below the facilities equipment compound.~~

TMC Section 18.06.040, "Ancillary Wireless Communication Facility"

~~18.06.040 Ancillary Wireless Communication Facility~~

~~"Ancillary Wireless Communication Facility" means any form of development associated with a wireless communications facility, including but not limited to foundations, concrete slabs on grade, guy anchors, and transmission cable supports; however, specifically excluding equipment enclosures.~~

TMC Section 18.06.041, "Antenna(s)"

~~18.06.041 Antenna(s)~~

~~"Antenna(s)" means any exterior system of electromagnetically tuned wires, poles, rods, reflecting disks, or similar devices used to transmit or receive electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals, or other communication signals between terrestrial and/or orbital based points, including without limitation: directional antennas (also known as "panel" antennas) which transmit and receive radio frequency signals in a specific directional pattern of less than 360 degrees; omnidirectional antennas (also known as "whip" antennas) which transmit and receive radio frequency signals in a 360-degree radial pattern, but do not include antennas utilized specifically for television reception; and parabolic antennas (also known as "dish" antennas) which are bowl-shaped devices for the reception and/or transmission of radio frequency communication signals in a specific directional pattern.~~

TMC Section 18.06.042, "Antenna(s) Array"

~~18.06.042 Antenna(s) Array~~

~~"Antenna(s) Array" means one or more antennas and their associated ancillary facilities,~~

~~which share a common attachment device, such as a mounting frame or mounting support.~~

TMC Section 18.06.043, "Antennas(s), Flush Mounted"

~~18.06.043 Antennas(s), Flush Mounted~~

~~"Antennas, Flush Mounted" are antennas or antenna array attached directly to the face of the tower or building, such that no portion of the antenna extends above the height of the tower or building.~~

TMC Section 18.06.659, "Public Safety Communications Equipment"

~~18.06.659 Public Safety Communications Equipment~~

~~"Public safety communications equipment" means any radio or other communication equipment that is owned and exclusively used by public entities for emergency communication or communication between fire, police, and other rescue personnel.~~

TMC Section 18.06.773, "Significant Gap in Service, Wireless Communications"

~~18.06.773 Significant Gap in Service, Wireless Communications~~

~~"Significant Gap in Service, Wireless Communications" means a gap in coverage, capacity, frequency, or technology such that a substantial number of applicant's remote user subscribers are unable to establish or maintain reliable wireless service from the applicant's wireless network. A "dead spot" (defined as less than significant areas within a service area where the field strength is lower than the minimum level for reliable service) does not constitute a significant gap in service.~~

TMC Section 18.06.823, "Tower, Electrical Transmission"

~~18.06.823 Tower, Electrical Transmission~~

~~"Tower, Electrical Transmission" means any facility owned by Seattle City Light or Puget Sound Energy or any other electric utility that supports electrical lines which carry a voltage of at least 115kV.~~

TMC Section 18.06.824, "Tower, Guy"

~~18.06.824 Tower, Guy~~

~~"Tower, Guy" means a tower that is supported with cable and ground anchors to secure and steady the tower.~~

TMC Section 18.06.825, "Tower, Lattice"

~~18.06.825 Tower, Lattice~~

~~"Tower, Lattice" means a tapered style of tower that consists of vertical and horizontal supports with multiple legs and crossbracing and metal crossed strips or bars to support antennas or similar antenna devices.~~

TMC Section 18.06.826, "Tower, Monopole"

~~18.06.826 Tower, Monopole~~

~~"Tower, Monopole" means a freestanding tower that is composed of a single shaft, usually composed of two 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.~~

TMC Section 18.06.827, "Tower, Wireless Communication Facility"

~~18.06.827 Tower, Wireless Communication Facility~~

~~"Tower, Wireless Communication Facility" means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including selfsupporting lattice towers, guy towers or monopoles. The term includes, without limitation, radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, and alternative tower structures.~~

TMC Section 18.06.828, "Tower Mounted Facilities"

~~18.06.828 Tower Mounted Facilities~~

~~"Tower Mounted Facilities" means a wireless communication facility that is mounted to a tower.~~

TMC Section 18.06.902, "Utility Pole"

~~18.06.902 Utility Pole~~

~~"Utility pole" is any facility owned by Seattle City Light or Puget Sound Energy or any other electric utility that supports electrical lines which carry a voltage of less than 115kV, or any Qwest facility which carries telephone lines.~~

TMC Section 18.06.936, "Wireless Communication Facility"

~~18.06.936 Wireless Communication Facility~~

~~"Wireless Communication Facility" means any tower, antenna, ancillary structure or facility, or related equipment or component thereof, which is used for the transmission of radio frequency signals through electromagnetic energy for the purpose of providing phone, internet, video, information services, specialized mobile radio, enhanced specialized mobile radio, paging, wireless digital data transmission, broadband, unlicensed spectrum services utilizing part 15 devices, and other similar services that currently exist or that may in the future be developed.~~

TMC Section 18.06.937, "Wireless Communication Facility, Building Mounted"

~~18.06.937 Wireless Communication Facility, Building Mounted~~

~~"Wireless Communication Facility, Building Mounted" means a wireless communication facility that is attached to an existing commercial, industrial, residential, or institutional building.~~

TMC Section 18.06.938, "Wireless Communication Facility, Concealed Facility"

~~18.06.938 Wireless Communication Facility, Concealed Facility~~

~~"Wireless Communication Facility, Concealed Facility" means a wireless communication facility that is not readily identifiable as such, and is designed to be aesthetically and architecturally compatible with the existing building(s) on a site; or a wireless communications facility disguised, hidden or integrated with an existing structure that is not a monopole or tower; or a wireless communication facility that is placed within an existing or proposed structure or tower or mounted within trees, so as to be significantly screened from view or camouflaged to appear as a non-antenna structure or tower (i.e., tree, flagpole with flag, church steeple, etc.).~~

TMC Section 18.06.939, "Wireless Communication Facility Equipment Enclosure"

~~18.06.939 Wireless Communication Facility Equipment Enclosure~~

~~"Wireless Communication Facility Equipment Enclosure" means any structure, including without limitation cabinets, shelters, pedestals and other devices or structures, that is used exclusively to contain radio or other equipment necessary for the transmission and/or reception of wireless communication signals including, without limitation, air conditioning units and generators.~~

TMC Section 18.06.940, "Wireless Communication Facility Equipment Compound"

~~18.06.940 Wireless Communication Facility Equipment Compound~~

~~"Wireless Communication Facility Equipment Compound" means an outdoor fenced area occupied by all the towers, antennas, ancillary structure(s), ancillary facilities and equipment enclosures, but excluding parking and access ways.~~

TMC Section 18.06.941, "Wireless Communication Facility, Feed Lines or Coaxial Cables"

~~18.06.941 Wireless Communication Facility, Feed Lines or Coaxial Cables~~

~~"Wireless Communication Facility, Feed Lines or Coaxial Cables" means cables used as the interconnection media between the transmission/ receiving base station and the antenna.~~

TMC Section 18.06.943, "Wireless Telecommunication Carrier"

~~18.06.943 Wireless Telecommunication Carrier~~

~~"Wireless Telecommunication Carrier" means any person or entity that directly or indirectly owns, controls, operates or manages any plant, equipment, structures or property within the City for the purpose of offering wireless telecommunication service within the City.~~

Section 6. Ordinance No. 2135 §1 (part), as codified at TMC Section 18.58.010, "Purpose," is hereby amended to read as follows:

18.58.010 Purpose

A. The purpose of this Chapter, in addition to implementing the general purposes of the Comprehensive Plan and development regulations, is to regulate the permitting, placement, construction, and modification of wireless communication facilities, in order to protect the health, safety and welfare of the public, while not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the City. The purpose of this Chapter will be achieved through adherence to the following objectives:

1. Establish clear and nondiscriminatory local regulations concerning wireless telecommunications providers and services that are consistent with Federal and State laws and regulations pertaining to telecommunications providers;

2. Protect residential areas and land uses from potential adverse impacts that wireless communication facilities might create, including but not limited to impacts on aesthetics, environmentally sensitive areas, historically significant locations, and flight corridors, ~~and health and safety of persons and property;~~

3. ~~Encourage providers of wireless communication facilities to locate them, to the extent possible, in areas where the adverse impact on the community is minimal~~ Minimize potential adverse visual, aesthetic, and safety impacts of wireless communication facilities;

4. ~~Encourage the location of wireless communication facilities in nonresidential areas and allow wireless communication facilities in residential areas only when necessary, to meet functional requirements of the telecommunications industry;~~

5. ~~Minimize the total number of wireless communication facilities in residential areas;~~

4. Establish objective standards for the placement of wireless communications facilities;

5. Ensure that such standards allow competition and do not unreasonably discriminate among providers of functionally equivalent services;

6. Encourage the location or attachment of multiple facilities within or on existing structures to help minimize the total number and impact of such facilities throughout the community;

6.7. Require cooperation between competitors and, as a primary option, joint use of new and existing towers, tower sites and suitable structures to the greatest extent possible, in order to reduce cumulative negative impact upon the City;

7. ~~Allow wireless communication companies to use City property (i.e. City Hall, Community Center, parks, etc.) for the placement of wireless facilities, where consistent with other public needs, as a means to generate revenue for the City;~~

8. ~~Ensure~~Encourage wireless communication facilities are to be configured in a way that minimizes the adverse visual impact of the wireless communication facilities, as viewed from different vantage points, through careful design, landscape screening, minimal impact siting options and camouflaging techniques, and through assessment of ~~technology~~the carrier's service objective, current location options, siting, future available locations, and innovative siting techniques ~~and siting possibilities beyond the jurisdictional boundaries of the City~~;

9. Enhance the ability of the wireless communications facility providers ~~of telecommunications services~~ to provide such services to the community quickly, effectively and efficiently;

10. Provide for the removal of wireless communication facilities that are abandoned or no longer inspected for safety concerns and Building Code compliance, and provide a mechanism for the City to cause these abandoned wireless communication facilities to be removed, to protect the citizens from imminent harm and danger;

~~11. Avoid potential damage to adjacent properties from tower failure, through engineering, careful siting, and maintenance of wireless communication facilities; and~~

~~12. Provide a means for public input on major wireless communications facility placement, construction and modification.~~

B. In furtherance of these objectives, the City shall give due consideration to the Comprehensive Land Use Plan, zoning code, existing land uses, and environmentally sensitive areas in approving sites for the location of communication towers and antennas.

C. These objectives were developed to protect the public health, safety and welfare, to protect property values, and to minimize visual impact, while furthering the development of enhanced telecommunication services in the City. ~~These objectives were designed to comply with the Telecommunications Act of 1996.~~ The provisions of this Chapter are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting personal wireless services. This Chapter shall not be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent personal wireless services or to prohibit or have the effect of prohibiting wireless service within the City.

D. To the extent that any provision of this Chapter is inconsistent or conflicts with any other City ordinance, this Chapter shall control. Otherwise, this Chapter shall be construed consistently with the other provisions and regulations of the City.

~~E. In reviewing any application to place, construct or modify wireless communication facilities, the City shall act within a reasonable period of time after an application for a permit is duly filed, taking into account the nature and scope of the application. Any decision to deny an application shall be in writing, supported by substantial evidence contained in a written record. The City shall approve, approve with conditions, or deny the application in accordance with Title 18 of the Tukwila Municipal Code, this Chapter, the adopted Tukwila Comprehensive Plan, and other applicable ordinances and regulations.~~

Section 7. Ordinance No. 2135 §1 (part), as codified at TMC Section 18.58.020, “Authority and Application,” is hereby amended to read as follows:

18.58.020 Authority and Application

The provisions of this Chapter shall apply to the placement, construction or modification of all wireless communication facilities, except as specifically exempted in TMC Section 18.58.030. Any person who desires to locate a wireless communication facility inside or outside the right-of-way, which is not specifically exempted by TMC Section 18.58.030, shall comply with the applicable application permitting requirements, and design and aesthetic regulations described in this Chapter. In addition, applicants for wireless communication facilities inside the City’s right-of-way must also obtain a franchise pursuant to TMC Chapter 11.32.

Section 8. Ordinance No. 2135 §1 (part), as codified at TMC Section 18.58.030, “Exemptions” is hereby amended to read as follows:

18.58.030 Exemptions

The provisions of this Chapter shall not apply to the following:

~~1. Wireless communication facilities permits are not required for subparagraphs 1.a through 1.e of this section; however, a building permit may be required for work on buildings:~~

~~a1. Routine maintenance and repair of wireless communication facilities (excluding structural work or changes in height or dimensions of support structures or buildings); provided that the wireless communication facilities received approval from the City for the original placement and construction and provided further that compliance with the standards of this code is maintained and right-of-use permit obtained if the wireless communication facility is located in the right-of-way. This shall not include changes in height or dimensions of towers or buildings; provided that the wireless communication facility received approval from the City of Tukwila or King County for the original placement, construction or subsequent modification.~~

~~b. Changing of antennas on wireless communication facilities is exempt from wireless facilities permits, provided the total area of the new antennas and support structure is not increased more than 10% of the previous area or the area is reduced.~~

~~e2. Changing or adding additional antennas within a previously permitted concealed building-mounted installation is exempt provided there is no visible change from the outside.~~

~~e3. Bird exclusionary devices may be added to towers and are not subject to height limitations.~~

~~e4. Additional ground equipment may be placed within an approved equipment enclosure, provided the height of the equipment does not extend above the screening fence.~~

~~25.~~ An antenna that is designed to receive or send direct broadcast satellite service and/or broadband signals, or other means for providing internet service including direct-to-home satellite services, and that is 1 meter or less in diameter or diagonal measurement, and when the antenna is attached to the residence or business that is utilizing the service.

~~36.~~ An antenna that is designed to receive video programming services via multipoint distribution services, including multi-channel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, and that is 1 meter or less in diameter or diagonal measurement.

~~47.~~ An antenna that is designed to receive television broadcast signals.

~~58.~~ Antennas for the receiving and sending of amateur radio devices or ham radios, provided that the antennas meet the height requirements of the applicable zoning district, and are owned and operated by a Federally-licensed amateur radio station operator or are used exclusively for receive-only antennas and provided further that compliance with the standards of this code is maintained. ~~In order to reasonably accommodate licensed amateur radio operators as required by Federal Code of Regulations, 47 CFR Part 97, as amended, and Order and Opinion (PRB-1) of the Federal Communication Commission of September 1985, and RCW 35A.21.260, a licensed amateur radio operator may locate a tower not to exceed the height requirements of the applicable zoning district, provided the following requirements are met for such towers located in a residentially-zoned district:~~

~~a.—The tower and any antennas located thereon shall not have any lights of any kind on it and shall not be illuminated either directly or indirectly by any artificial means;~~

~~b.—The color of the tower and any antennas located thereon must all be the same and such that it blends into the sky, to the extent allowed under requirements set forth by the Federal Aviation Administration;~~

~~c.—No advertising logo, trademark, figurine or other similar marking or lettering shall be placed on the tower or any wireless communication facilities mounted or otherwise attached thereto or any building used in conjunction therewith;~~

~~d.—The tower shall be located a distance equal to or greater than its height from any existing residential structure located on adjacent parcels of property, including any attached accessory structures;~~

~~e.—A tower must be at least three-quarters of its height from any property line on the parcel of property on which it is located, unless a licensed engineer certifies that the tower will not collapse or that it is designed in such a way that, in the event of collapse, it falls within itself, and in that event, it must be located at least one-third of its height from any property line;~~

~~f.—No signs shall be used in conjunction with the tower, except for one sign not larger than 8½" high and 11" wide and as required by Federal regulations;~~

~~g.—Towers shall not be leased or rented to commercial users, and shall not otherwise be used for commercial purposes; and~~

~~h. All towers must meet all applicable State and Federal statutes, rules and regulations, including obtaining a building permit from the City, if necessary.~~

~~69. Emergency communications equipment during a declared public emergency, when the equipment is owned and operated by an appropriate public entity.~~

~~710. Any wireless internet communication facility that is owned and operated by a government entity, for public safety radio systems, ham radio and business radio systems.~~

~~811. Antennas and related equipment no more than 3 feet in height that are being stored, shipped or displayed for sale.~~

~~912. Radar systems for military and civilian communication and navigation.~~

~~13. Automated meter reading (“AMR”) facilities for collecting utility meter data for use in the sale of utility services, except for WIP and other antennas greater than two feet in length, so long as the AMR facilities are within the scope of activities permitted under a valid franchise agreement between the utility service provider and the City.~~

~~14. Eligible facilities requests. See TMC Section 18.58.090.~~

Section 9. Regulations Established. A new TMC Section 18.58.040 is hereby established to read as follows:

18.58.040 Definitions

For the purposes of this Chapter, the following terms shall have the meaning ascribed to them below.

1. “**Antenna(s)**” in the context of small wireless facilities and consistent with 47 CFR 1.1320(w) and 1.6002(b) means an apparatus designed for the purpose of emitting radiofrequency (“RF”) radiation, to be operated or operating from a fixed location pursuant to FCC authorization, for the provision of personal wireless and any commingled information services. For the purposes of this definition, the term “antenna” does not include an unintentional radiator, mobile station, or device authorized by 47 CFR Title 15.

2. “**Antenna equipment,**” consistent with 47 CFR 1.1320(d), means equipment, switches, wiring, cabling, power sources, shelters, or cabinets associated with an antenna, located at the same fixed location as the antenna, and when collocated on a structure, are mounted or installed at the same time as the antenna.

3. “**Applicant**” means any person submitting an application for a wireless communication facility permit pursuant to this Chapter.

4. “**Collocation**” means:

a. Mounting or installing an antenna facility on a preexisting structure;
and/or

b. Modifying a structure for the purpose of mounting or installing an antenna facility on that structure.

5. **“Director”** means the Department of Community Development Director or designee.

6. **“Equipment enclosure”** means a facility, shelter, cabinet, or vault used to house and protect electronic or other associated equipment necessary for processing wireless communication signals. “Associated equipment” may include, for example, air conditioning, backup power supplies, and emergency generators.

7. **“FCC” or “Federal Communications Commission”** means the federal administrative agency, or lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers on a national level.

8. **“Macro Facility”** means a large wireless communication facility that provides radio frequency coverage for wireless services. Generally, macro facility antennas are mounted on ground-based towers, rooftops and other existing structures, at a height that provides a clear view over the surrounding buildings and terrain. Macro wireless communication facilities (WCF) typically contain antennas that are greater than three cubic feet per antenna and typically cover large geographic areas with relatively high capacity and may be capable of hosting multiple wireless service providers. Macro facilities include but are not limited to monopoles, lattice towers, macro cells, roof-mounted and panel antennas, and other similar facilities.

9. **“Permittee”** means a person who has applied for and received a wireless communication facility permit pursuant to this Chapter.

10. **“Personal wireless services”** means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.

11. **“Person”** includes corporations, companies, associations, joint stock companies, firms, partnerships, limited liability companies, other entities, and individuals.

12. **“Service provider”** shall be defined in accord with RCW 35.99.010(6). “Service provider” shall include those infrastructure companies that provide telecommunications services or equipment to enable the construction of wireless communication facilities.

13. **“Small wireless facility”** shall be defined as provided in 47 CFR 1.6002(I).

14. **“Stealth Technique”** means stealth techniques specifically designated as such at the time of the original approval of the wireless communication facility for the purposes of rendering the appearance of the wireless communication facility as something fundamentally different than a wireless communication facility including, but not limited to, the use of nonreflective materials, appropriate colors, and/or a concealment canister.

15. **“Structure”** means a pole, tower, base station, or other building, whether or not it has an existing antenna equipment, that is used or to be used for the provision of personal wireless service (on its own or commingled with other types of services).

16. **“Telecommunications service”** shall be defined in accord with RCW 35.99.010(7).

17. “Tower” means any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communication services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services, and fixed wireless services such as microwave backhaul and the associated site.

18. “Traffic signal pole” means any structure designed and used primarily for support of traffic signal displays and equipment, whether for vehicular or nonmotorized users.

19. “Transmission equipment” means equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communication services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

20. “Unified enclosure” means a small wireless facility providing concealment of antennas and equipment within a single enclosure.

21. “Utility pole” means a structure designed and used primarily for the support of electrical wires, telephone wires, television cable, or lighting for streets, parking lots, or pedestrian paths.

22. “Wireless communication facilities” or “WCF” means facilities used for personal wireless services.

23. “Wireline” means services provided using a physically tangible means of transmission including, without limitation, wire or cable, and the apparatus used for such transmission.

Section 10. TMC Section 18.58.040 Amended and Recodified to TMC 18.58.050. Ordinance Nos. 2251 §68 and 2135 §1 (part), as codified at TMC Section 18.58.040, “Permits Required,” are hereby amended to recodify this section as TMC Section 18.58.050, which shall read as follows:

18.58.040 18.58.050 Permits Required General Provisions

A. No person may place, construct or modify a wireless communication facility subject to this Chapter without first having in place a permit issued in accordance with this Chapter. Except as otherwise provided herein, the requirements of ~~this Chapter are in addition to the applicable requirements of TMC Title 18 TMC Chapters 18.100, 18.104 and 18.108 do not apply to this TMC Chapter 18.58.~~

~~B. Any application submitted pursuant to this Chapter shall be reviewed and evaluated by the Director for all projects located on public or private property. The Director of Public Works or his/her designee shall review all proposed wireless communication facilities that are totally within City right-of-way. If a project is both on private or public~~

~~property and City right-of-way, the DCD Director shall review the application. Regardless of whether the DCD Director or the Director of Public Works is reviewing the application, all applications will be reviewed and evaluated pursuant to the provisions of this Chapter.~~

~~B. Macro facilities, as defined in TMC Section 18.58.040, are allowed in zones consistent with TMC Section 18.58.060.F and require a macro facility permit pursuant to TMC Section 18.58.020.~~

~~C. Small wireless facilities, as defined in TMC Section 18.58.040, are permitted uses throughout the City but still require a small wireless facility permit pursuant to TMC Section 18.58.020. Small wireless facilities located within the City's rights-of-way require a valid franchise.~~

~~C. The applicant is responsible for obtaining all other permits from any other appropriate governing body (i.e., Washington State Department of Labor and Industries, Federal Aviation Administration, etc.).~~

~~D. This Chapter provides guidelines for the placement and construction of wireless communication facilities, not exempt as set forth in TMC Section 18.58.030 from its provisions and modification of wireless communication facilities.~~

~~ED.~~ No provision of this Chapter shall be interpreted to allow the installation of a wireless communication facility to reduce the minimum parking or landscaping on a site.

~~F. Wireless communication facilities that are governed under this Chapter shall not be eligible for variances under TMC Chapter 18.72. Any request to deviate from this Chapter shall be based on the exceptions or waivers set forth in this Chapter.~~

~~GE. Third Party Expert Review~~—Applicants use various methodologies and analyses, including geographically-based computer software, to determine the specific technical parameters of the services to be provided utilizing the proposed wireless communication facilities, such as expected coverage area, antenna configuration, capacity, and topographic constraints that affect signal paths. In certain instances, a third party expert may be needed to review the engineering and technical data submitted by an applicant for a permit. The City may at its discretion require an engineering and technical review as part of a permitting process. The reasonable costs actually incurred by the City for such of the technical review shall be borne by the applicant, provided that the City provides to the applicant an itemized accounting of the costs actually charged by said third party reviewer and incurred by the City.

~~H. The selection of the third party expert may be by mutual agreement between the applicant and the City, or at the discretion of the City, with a provision for the applicant and beneficially interested parties to comment on the proposed expert and review his/her qualifications. The third party expert review is intended to address interference and public safety issues and be a site-specific review of engineering and technical aspects of the proposed wireless communication facilities and/or a review of the applicants' methodology and equipment used, and is not intended to be a subjective review of the site which was selected by an applicant. Based on the results of the expert review, the~~

City may require changes to the application. The expert review shall address the following:

1. The accuracy and completeness of submissions;
2. The applicability of analysis techniques and methodologies;
3. The validity of conclusions reached;
4. The viability of other sites in the City for the use intended by the applicant; and
5. Any specific engineering or technical issues designated by the City.

I. Any decision by the DCD Director, Director of Public Works, or Hearing Examiner shall be given substantial deference in any appeal of a decision by the City to either approve, approve with conditions, or deny any application for a wireless communication facility.

J. No alterations or changes shall be made to plans approved by the Director, Director of Public Works, or Hearing Examiner without approval from the City. Minor changes which do not change the overall project may be approved by the Director as a minor modification.

F. Appeals. Appeals related to wireless communication facilities shall be filed in King County Superior Court or in a court of competent jurisdiction.

G. Permit Revocation – Suspension – Denial. A permit issued under this Chapter may be revoked, suspended or denied for any one or more of the following reasons:

1. Failure to comply with any federal, state, or local laws or regulations.
2. Failure to comply with the terms and conditions imposed by the City on the issuance of a permit.
3. When the permit was procured by fraud, false representation, or omission of material facts.
4. Failure to comply with federal standards for RF emissions.

Section 11. TMC Section 18.58.050 Amended and Recodified to TMC 18.58.060. Ordinance Nos. 2251 §69 and 2135 §1 (part), as codified at TMC Section 18.58.050, “Types of Permits – Priority – Restrictions,” are hereby amended to recodify this section as TMC Section 18.58.060, which shall read as follows:

18.58.050 18.58.060 Types of Permits—Priority--Restrictions Macro Facilities

A. Applications will be reviewed based on the type of wireless communication facilities requested to be permitted. Each wireless communication facility requires the appropriate type of project permit review, as shown in Table A. In the event of uncertainty on the type of a wireless facility, the DCD Director shall have the authority to determine how a proposed facility is incorporated into Table A.

TABLE A			
Type of Permit Required, Based on Type of Wireless Communication Facility			
Type of Facility	Zoning⁽¹⁾		
	Residential	Commercial	Industrial
Adding antennas to an existing tower or utility pole	—Type 1⁽²⁾	—Type 1⁽²⁾	—Type 1⁽²⁾
Eligible facilities modification	—Type 1	—Type 1	—Type 1
Utility pole replacement for co-location	—Type 2	—Type 2	—Type 2
Concealed building attached	—Type 2⁽³⁾	—Type 2⁽³⁾	—Type 1
Non-concealed building attached	—Type 2⁽⁴⁾	—Type 2	—Type 1
New tower or height adjustment request	—Type 3⁽⁴⁾	—Type 3	—Type 3

~~(1) Zoning for any private/public property or right-of-way:~~

~~Residential—LDR, MDR, or HDR.~~

~~Commercial—O, MUO, RCC, NCC, RC, RCM, TUC, C/LI or TVS.~~

~~Industrial—LI, HI, MIC/L, or MIC/H.~~

~~(2) Provided the height of the tower or utility pole does not increase and the square footage of the enclosure area does not increase.~~

~~(3) An applicant may request to install a non-concealed building attached facility, under TMC Section 18.58.140.~~

~~(4) MDR and HDR only.~~

~~B. The priorities for the type of wireless communication facility shall be based upon their placement in Table A; most desirable facilities are located toward the top and least desirable facilities toward the bottom. Any application for a wireless communication facility must follow the hierarchy of Table A. For example, an applicant must demonstrate by engineering evidence that using a transmission tower co-location is not possible before moving to a utility pole replacement for co-location, and so forth, with the last possible siting option being a new tower or waiver request.~~

~~C. The City's preferences for locating new wireless communication facilities are as follows:~~

~~1. Place antennas on existing structures, such as buildings, towers, water towers, or electrical transmission towers.~~

~~2. Place wireless communication facilities in non-residentially-zoned districts and non-residential property.~~

~~3. Place antennas and towers on public property and on appropriate rights-of-way if practical, provided that no obligation is created herein for the City to allow the use of City property or public right-of-way for this purpose.~~

~~4. **City Property/Public Rights-of-Way.** The placement of personal wireless communication facilities on City owned property and public rights-of-way will be subject to other applicable sections of the Tukwila Municipal Code and review by other departments (i.e., Public Works, Parks and Recreation, etc.).~~

~~5. Wireless communication facilities shall not be permitted on property designated as landmark or as part of a historic district.~~

~~D. Applicants shall submit all of the information required pursuant to TMC Section 18.104.060 and the following:~~

~~1. **Type 1** Applicant shall submit:~~

~~a. A completed application form provided by the Department of Community Development.~~

~~b. Four sets of plans prepared by a design professional. The plans shall include a vicinity map, site map, architectural elevations, method of attachment, proposed screening, location of proposed antennas, and all other information which accurately depicts the proposed project. Minimum size is 8.5" by 11". Plans shall be no greater than 24" x 36".~~

~~c. A letter from the applicant outlining the proposed project and an evaluation from the applicant with regard to the City's Code requirements and whether the proposal qualifies for review under Section 6409 of the Spectrum Act.~~

~~d. Information sufficient to determine whether a proposed facilities modification per TMC Section 18.58.200 would be a substantial change to an existing eligible support structure.~~

~~e. Sensitive Area studies and proposed mitigation (if required).~~

~~f. If an outdoor generator is proposed, a report prepared by an acoustical engineer demonstrating compliance with TMC Chapter 8.22, "Noise."~~

~~g. SEPA Application (if required).~~

~~2. **Type 2** Applicant shall submit all information required for a Type 1 application, plus the following:~~

~~a. Four sets of photo simulations that depict the existing and proposed view of the proposed facility.~~

~~b. Materials board for the screening material.~~

~~c. If landscaping is proposed, four sets of a landscaping plan prepared by a Washington State licensed landscape architect.~~

~~d. Letter from a radio frequency engineer that demonstrates that the facility meets Federal requirements for allowed emissions.~~

~~e. If the facility is located within a residential zone, a report from a radio frequency engineer explaining the need for the proposed wireless communication facility. Additionally, the applicant shall provide detailed discussion on why the wireless communication facility cannot be located within a commercial or industrial zone.~~

~~3. **Type 3**—The applicant shall submit all the information required for Type 1 and Type 2 applications, plus the following:~~

- ~~a. All information required for new towers under TMC Section 18.58.060.~~
- ~~b. The radio frequency engineer report shall include a discussion of the information required under TMC Section 18.58.060. The report shall also explain why a tower must be used instead of any of the other location options outlined in Table A.~~
- ~~c. Provisions for mailing labels for all property owners and tenants/residents within 500 feet of the subject property.~~
- ~~d. Engineering plans for the proposed tower.~~
- ~~e. A vicinity map depicting the proposed extent of the service area.~~
- ~~f. A graphic simulation showing the appearance of the proposed tower and ancillary structures and ancillary facilities from five points within the impacted vicinity. Such points are to be mutually agreed upon by the Director of DGD and applicant. All plans and photo simulations shall include the maximum build-out of the proposed facility.~~
- ~~g. Evidence of compliance with minimum Federal Communications Commission (FCC) requirements for radio frequency emissions.~~
- ~~h. Evidence of compliance with Federal Aviation Administration (FAA) standards for height and lighting and certificates of compliance from all affected agencies.~~
- ~~i. Evidence that the tower has been designed to meet the minimum structural standards for wireless communication facilities for a minimum of three providers of voice, video or data transmission services, including the applicant, and including a description of the number and types of antennas the tower can accommodate.~~

In order to manage the City in a thoughtful manner that balances the need to accommodate new and evolving technologies with the preservation of the natural and aesthetic environment of the City, the City of Tukwila has adopted this administrative process for the deployment of macro facilities. Applicants are encouraged and expected to provide all related applications listed in TMC Section 18.58.060.A for each facility in one submittal unless they have already obtained a franchise or lease.

A. Required applications. The Director is authorized to establish application forms to gather the information required by City ordinances from applicants.

1. **Franchise.** If any portion of the applicant's facilities are to be located in the right-of-way, the applicant shall apply for, and receive, a franchise consistent with TMC Chapter 11.32. An applicant with a franchise for the deployment of macro facilities in the City may apply directly for a macro facility permit and related approvals.

2. **Macro Facility Permits.** The applicant shall submit a macro facility permit application as required by TMC Section 18.58.020. Prior to the issuance of a macro facility permit, the applicant shall pay a permit fee in an amount in accordance with the fee schedule adopted by resolution of the City Council, or the actual costs incurred by the City in reviewing such permit application.

3. **Associated Permit(s) and Checklist(s).** The applicant shall attach all associated required permit applications including, but not limited to, applications required under TMC Chapter 11.08, and applications or check lists required under the City's Critical Areas, Shoreline or SEPA ordinances.

4. **Leases.** An applicant who desires to place a macro facility on City property outside the right-of-way or attach a macro facility to any structure owned by the City shall include an application for a lease as a component of its application. Leases for the use of public property, structures, or facilities shall be submitted to the City Council for approval.

B. Macro facility application requirements.

1. A pre-application meeting is encouraged prior to submitting an application for a macro facility permit.

2. The following information shall be provided by all applicants for a macro facility permit:

a. The name, address, phone number and authorized signature on behalf of the applicant.

b. If the proposed site is not owned by the City, the name, address and phone number of the owner and a signed document or lease confirming that the applicant has the owner's permission to apply for permits to construct the macro facility.

c. A statement identifying the nature and operation of the macro facility.

d. A vicinity sketch showing the relationship of the proposed use to existing streets, structures and surrounding land uses, and the location of any nearby bodies of water, wetlands, critical areas or other significant natural or manmade features.

e. Construction drawings as well as a plan of the proposed use showing proposed streets, structures, land uses, open spaces, parking areas, fencing, pedestrian paths and trails, buffers, and landscaping, along with text identifying the proposed use(s) of each structure or area included on the plan.

f. Photo simulations of the proposed macro facility from public rights-of-way, public properties and affected residentially zoned properties. Photo simulations must include all cable, conduit and/or ground-mounted equipment necessary for and intended for use in the deployment regardless of whether the additional facilities are to be constructed by a third party.

g. A sworn affidavit signed by an RF engineer with knowledge of the proposed project affirming that the macro facility will be compliant with all FCC and other governmental regulations in connection with human exposure to radio frequency emissions for every frequency at which the facility will operate. If facilities that generate RF radiation necessary to the macro facility are to be provided by a third party, then the permit shall be conditioned on an RF certification showing the cumulative impact of the RF emissions on the entire installation.

h. Information necessary to demonstrate the applicant's compliance with FCC rules, regulations and requirements that are applicable to the proposed macro facility.

i. If not proposing a collocation, then documentation showing that the applicant has made a reasonable attempt to find a collocation site acceptable to engineering standards and that collocating was not technically feasible, or that it was not financially feasible based on commercially reasonable efforts, or that it posed a physical problem.

j. Information sufficient to establish compliance with TMC Sections 18.58.060.F and TMC 18.58.060.G.

k. If proposing a new monopole/tower, information sufficient to establish compliance with TMC Section 18.58.070.B.

l. Such additional information as deemed necessary by the Director for proper review of the application, and which is sufficient to enable the Director to make a fully informed decision pursuant to the requirements of this Chapter.

C. Macro facility permit review procedures.

1. **Completeness.** An application for a macro facility is not complete until the applicant has submitted all the applicable items required by TMC Section 18.58.060.B and to the extent relevant, has submitted all the applicable items in TMC Section 18.58.060.A and the City has confirmed that the application is complete.

2. **Public Notice.** The City shall provide notice of a complete application for a macro facility permit on the City's website with a link to the application. Prior to construction, the applicant shall provide notice of construction to all impacted property owners within 100 feet of any proposed wireless facility via a doorhanger that shall include an email contact and telephone number for the applicant. Notice is for the public's information and is not a part of a hearing or part of the land use appeal process.

3. **Review.** The Director shall review the application for conformance with the application requirements in this Chapter and specifically the review criteria in TMC Section 18.58.060.D to determine whether the application is consistent with this Chapter.

4. **Decision.** The Director shall issue a decision in writing. The Director may grant a permit, grant the permit with conditions pursuant to this chapter and the code, or deny the permit.

a. Any condition reasonably required to enable the proposed use to meet the standards of this chapter and code may be imposed.

b. If no reasonable condition(s) can be imposed that ensure the application meets such requirements, the application shall be denied.

c. The Director's decision is final.

D. Macro facility review criteria.

1. No application for a macro facility may be approved unless all of the following criteria, as applicable, are satisfied:

a. The proposed use will be served by adequate public facilities including roads, and fire protection.

b. The proposed use will not be materially detrimental to uses or property in the immediate vicinity of the subject property and will not materially disturb persons in the use and enjoyment of their property.

c. The proposed use will not be materially detrimental to the public health, safety and welfare.

d. The proposed use complies with this Chapter and all other applicable provisions of this code.

2. The Director shall review the application for conformance with the following criteria:

a. Compliance with prioritized locations pursuant to TMC Section 18.58.060.F.

b. Compliance with development standards pursuant to TMC Section 18.58.060.G.

E. Macro facility permit requirements.

1. The permittee shall comply with all of the requirements within the macro facility permit.

2. The permittee shall allow collocation of proposed macro facilities on the permittees' site, unless the permittee demonstrates that collocation will impair the technical operation of the existing macro facilities to a substantial degree.

3. The permittee shall notify the City of any sale, transfer, assignment of a macro facility within 60 days of such event.

4. All installations of macro facilities shall comply with any governing construction or electrical code including the National Electrical Safety Code, the National Electric Code or state electrical code, as applicable.

5. A macro facility permit issued under this chapter must be substantially implemented within 24 months from the date of final approval or the permit shall expire. The permittee may request one extension to be limited to 12 months, if the applicant cannot construct the macro facility within the original 24-month period.

6. **Site safety and maintenance.** The permittee shall maintain the macro facilities in safe and working condition. The permittee 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.

F. **Macro facility location hierarchy.** Macro facilities shall be located in the following prioritized order of preference:

1. Collocated on existing macro facility(ies) or another existing public facility/utility facility (i.e., an existing or replacement utility pole or an existing monopole/tower).

2. Collocated on existing buildings and structures located in nonresidential zones.

3. Collocated on existing building and structures in residential zones not used for single-family residential uses (e.g. religious facility or public facility, or multi-family building).

4. New monopole/tower proposed in an industrial, commercial, or business zone district, where the sole purpose is for wireless communication facilities; provided that approval for new monopole/tower is given pursuant to TMC Section 18.58.070. Said monopole/tower shall be the minimum height necessary to serve the target area but in no event may it exceed the height requirements of the underlying zoning district by more than 10 feet; however, the monopole/tower shall be designed to allow extensions to accommodate the future collocation of additional antennas and support equipment. Further, the monopole/tower shall comply with the setback requirements of the commercial or business zone districts, as applicable. In no case shall the monopole/tower be of a height that requires illumination by the Federal Aviation Administration (FAA).

5. New monopole/tower proposed in a residential zone district, where the sole purpose is for wireless communications, but only if the applicant can establish that the monopole/tower cannot be collocated on an existing facility or structure and receives approval pursuant to TMC Section 18.58.070. Further, the proposed monopole/tower shall be no higher than the minimum height necessary to serve the target area but in no event may it exceed the height requirements of the underlying zoning district by more than 10 feet; however, the structure shall be designed to allow extensions to accommodate the future collocation of additional antennas and support equipment. In no case shall the antenna be of a height that requires illumination by the FAA.

G. Macro facility design and concealment standards. All macro facilities shall be constructed or installed according to the following standards:

1. Macro facilities must comply with applicable FCC, Federal Aviation Administration (FAA), state, and City regulations and standards.

2. Antennas shall be located, mounted and designed so that visual and aesthetic impacts upon surrounding land uses and structures are minimized, and so they blend into the existing environment.

3. Macro facilities must be screened or camouflaged employing the best available techniques, such as compatible materials, non-glare paint, location, color, artificial trees and hollow flagpoles, and other tactics to minimize visibility of the facility from public streets and residential properties.

a. Macro facilities shall be designed and placed or installed on a site in a manner that takes maximum advantage of existing trees, mature vegetation, and structures by:

(1) Using existing site features to screen the macro facility from residential properties and the right-of-way; and

(2) Using existing or new site features as a background in a way that helps the macro facility blend into the background.

b. As a condition of permit approval, the City may require the applicant to supplement existing trees and mature vegetation within its screened area to screen the facility.

c. A macro facility shall be painted either in a nonreflective color or in a color scheme appropriate to the background against which the macro facility would be viewed from a majority of points within its viewshed, and in either case the color must be approved by the City as part of permit approval.

d. Macro facilities may be subject to additional screening requirements by the Director to mitigate visual impacts to adjoining properties or public right-of-way as determined by site-specific conditions.

4. If proposing to locate on a building, the macro facility shall meet the height requirements of the underlying zoning category; provided the macro facility may exceed the height requirements by 10 feet so long as the macro facility is shrouded or screened.

5. If proposing to locate on a replacement utility pole, the height of the replacement pole shall not exceed 15 feet taller than the existing pole and may not be greater than 50 feet tall in residential zones unless the applicant demonstrates in writing that an additional height increase is required for vertical clearance separation and it is the minimum extension possible to provide sufficient separation. Within all other zones, the height of the replacement utility pole shall not exceed 10 feet taller than the height requirements of the underlying zone.

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

7. Equipment facilities shall be placed underground if applicable feasible, or, if permitted above ground, shall:

a. Be screened from any street and adjacent property with fencing, walls, landscaping, structures or topography or a combination thereof or placed within a building; and

b. Not be located within required building setback areas.

8. If a security barrier is installed that includes a fence, wall or similar freestanding structure, the following shall apply:

a. The height of the barrier shall be restricted by the height limitations in the zoning district. The height is measured from the point of existing or finished grade, whichever is lower at the exterior side of the barrier to the highest point of the barrier.

b. Be screened from adjoining properties and City right-of-way through the use of appropriate landscaping materials including:

(1) Placement of landscape vegetation around the perimeter of the security barrier, except that a maximum 10-foot portion of the fence may remain without landscaping in order to provide access to the enclosure.

(2) The landscaping area shall be a minimum of 5 feet in width.

(3) The permittee shall utilize evergreen plants that shall be a minimum of 6 feet tall at the time of planting and shall obscure the site within 2 years.

(4) Landscaping and the design of the barrier shall be compatible with other nearby landscaping, fencing and freestanding walls.

(5) If a chain link fence is allowed in the zone district, it shall be green vinyl slats.

9. Sufficient space for temporary parking for regular maintenance of the proposed macro facility must be demonstrated.

10. Macro facilities may not: (i) produce noise in excess of the limitation set forth in TMC Chapter 6.04; and (ii) be used for mounting signs, billboards or message displays of any kind.

11. The Director shall consider the cumulative visual effects of macro facilities mounted on existing structures and/or located on a given permitted site in determining whether the additional permits can be granted so as to not adversely affect the visual character of the City.

Section 12. TMC Section 18.58.060 Amended and Recodified to TMC 18.58.070. Ordinance Nos. 2251 §70 and 2135 §1 (part), as codified at TMC Section 18.58.060, "New Towers," are hereby amended to recodify this section as TMC Section 18.58.070, which shall read as follows:

18.56.060 18.58.070 New Towers

~~A. New towers are not permitted within the City unless the Hearing Examiner finds that the applicant has demonstrated by a preponderance of the evidence that:~~

~~1. Coverage objective—There exists an actual (not theoretical) significant gap in service, and the proposed wireless communication facility will eliminate such significant gap in service; and~~

~~2. Alternates—No existing tower or structure, or other feasible site not requiring a new tower in the City, can accommodate the applicant's proposed wireless communication facility; and~~

~~3. Least intrusive: The proposed new wireless communication facility is designed and located to remove the significant gap in service in a manner that is, in consideration of the values, objectives and regulations set forth in this chapter, TMC Title 18, and the Comprehensive Land Use Plan, the least intrusive upon the surrounding area.~~

A. **Applicability.** Any application for a new macro facility tower shall be reviewed, and approved or denied, by the Hearing Examiner as a Type 3 decision pursuant to TMC Section 18.108.030.

B. Review Criteria. The Hearing Examiner shall ~~be the reviewing body on the review the~~ application to construct a new macro facility tower, and shall determine whether ~~or not~~ each of the above following requirements are met: ~~Examples of evidence demonstrating the foregoing requirements include, but are not limited to, the following:~~

~~1. That the tower height is the minimum necessary in order to achieve the coverage objective;~~

~~2. That no existing towers or structures or alternative sites are located within the geographic area required to meet the applicant's engineering requirements to meet its coverage objective (regardless of the geographical boundaries of the City);~~

~~3. That existing towers or structures are not of a sufficient height or could not feasibly be extended to a sufficient height to meet the applicant's engineering requirements to meet its coverage objective;~~

4.1. That collocation is not feasible because:

a. eExisting structures or towers do not have sufficient structural strength to support the applicant's proposed antenna and ancillary facilities;

5b. That tThe applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing structures would cause interference with the applicant's proposed antenna;

6c. That tThe fees, costs or contractual provisions required by the owner or operator in order to share an existing tower or structure, or to locate at an alternative site, or to adapt an existing tower or structure or alternative site for sharing, are unreasonable. Costs exceeding new tower construction by 25% are presumed to be unreasonable; or

7d. The applicant demonstrates other limiting factors that render existing towers and structures or other sites unsuitable.

All engineering evidence must be provided and certified by a registered and qualified professional engineer and clearly demonstrate the evidence required.

2. The proposed tower meets all applicable design standards in TMC Section 18.58.060.

3. Where the proposed tower does not comply with the requirements of this Chapter, the applicant has successfully demonstrated that denial of the application would effectively prohibit the provision of service in violation of 47 USC 253 and/or 332.

C. Determination. The Hearing Examiner, after holding an open public hearing in accordance with TMC Chapter 18.112, shall either approve, approve with conditions, or deny the application, ~~or remand the application back to staff for further investigation in a manner consistent with the Hearing Examiner order.~~

Section 13. Ordinance No. 2135 §1 (part), as codified at TMC Section 18.58.070, “General Requirements,” is hereby repealed.

~~18.58.070—General Requirements~~

~~The following shall apply to all wireless communication facilities regardless of the type of facility:~~

~~1. *Noise*—Any facility that requires a generator or other device which will create noise must demonstrate compliance with TMC Chapter 8.22, “Noise”. A noise report, prepared by an acoustical engineer, shall be submitted with any application to construct and operate a wireless communication facility that will have a generator or similar device. The City may require that the report be reviewed by a third party expert at the expense of the applicant.~~

~~2. *Signage*—Only safety signs or those mandated by other government entities may be located on wireless communication facilities. No other types of signs are permitted on wireless communication facilities. 3. *Parking*—Any application must demonstrate that there is sufficient space for temporary parking for regular maintenance of the proposed facility.~~

~~3. *Parking*—Any application must demonstrate that there is sufficient space for temporary parking for regular maintenance of the proposed facility.~~

~~4. *Finish*—A tower shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA or FCC, be painted a neutral color so as to reduce its visual obtrusiveness.~~

~~5. *Design*—The design of all buildings and ancillary structures shall use materials, colors, textures, screening and landscaping that will blend the tower facilities with the natural setting and built environment.~~

~~6. *Color*—All antennas and ancillary facilities located on buildings or structures other than towers shall be of a neutral color that is identical to or closely compatible with the color of the supporting structure so as to make the antenna and ancillary facilities as visually unobtrusive as possible.~~

~~7. *Lighting*—Towers shall not be artificially lighted unless required by the FAA, FCC or other applicable authority. If lighting is required, the reviewing authority shall review the lighting alternatives and approve the design that would cause the least disturbance to the surrounding areas. No strobe lighting of any type is permitted on any tower.~~

~~8. *Advertising*—No advertising is permitted at wireless communication facility sites or on any ancillary structure or facilities equipment compound.~~

~~9. *Equipment Enclosure*—Each applicant shall be limited to an equipment enclosure of 360 square feet at each site. However, this restriction shall not apply to enclosures located within an existing commercial, industrial, residential or institutional building or eligible facilities modifications.~~

Section 14. Ordinance No. 2135 §1 (part), as codified at TMC Section 18.58.080, “Electrical Transmission Tower Co-Location—Specific Development Standards,” is hereby repealed.

~~**18.58.080 Electrical Transmission Tower Co-Location-Specific Development Standards**~~

~~The following requirements shall apply:~~

~~1. *Height*—There is no height requirement for antennas that are located on electrical transmission towers.~~

~~2. *Antenna aesthetics*—There are no restrictions on the type of antennas located on the electrical transmission tower. The antennas must be painted to match the color of the electrical transmission tower.~~

~~3. *Antenna intensity*—There is no limit on the number of antennas that may be located on an electrical transmission tower structure.~~

~~4. *Feed lines and coaxial cables*—shall be attached to one of the legs of the electrical transmission tower. The feed lines and cables must be painted to match the color of the electrical transmission tower.~~

~~5. *Cabinet equipment*—Cabinet equipment shall be located directly under the electrical transmission tower where the antennas are located or a concealed location. The wireless communication equipment compound shall be fenced; the fence shall have a minimum height of 6 feet and a maximum height of 8 feet. The fence shall include slats, wood panels, or other materials to screen the equipment from view. Barbed wire may be used in a utility right-of-way that is not zoned residential.~~

~~6. *Setbacks*—Since the facility will be located on an existing electrical transmission tower, setbacks shall not apply.~~

Section 15. Ordinance No. 2135 §1 (part), as codified at TMC Section 18.58.090, “Adding Antennas to Existing WCF Tower-Specific Development Standards,” is hereby repealed.

~~**18.58.090 Adding Antennas to Existing WCF Tower-Specific Development Standards**~~

~~The following requirements shall apply:~~

~~1. *Height*—The height must not exceed what was approved under the original application to construct the tower. If the height shall exceed what was originally approved, approval as a Type 2 decision is required for any height which will be less than the maximum height of the zone.~~

~~2. *Antenna aesthetics*—Antennas shall be painted to match the color scheme of the tower.~~

~~3.1. *Antenna intensity*—There is no limit on the number of antennas that may be located on an existing tower.~~

~~4.—*Feed lines and coaxial cables*—Feed lines and coaxial cables shall be located within the tower. Any exposed feed lines or coaxial cables (such as when extended out of the tower to connect to the antennas) must be painted to match the tower.~~

~~5.—*Cabinet equipment*—A new cabinet shall be located within the equipment enclosure that was approved as part of the original application. If the applicant wishes to expand the equipment enclosure from what was approved by the City or County under the previous application, the applicant shall seek a wireless communication facility (Type 2) application for only the equipment enclosure increase.~~

~~6.—*Setbacks*—Setbacks shall not apply when an applicant installs new antennas on an existing tower and uses an existing equipment enclosure. If the equipment enclosure is increased, it must meet setbacks.~~

Section 16. Ordinance No. 2135 §1 (part), as codified at TMC Section 18.58.100, “Concealed Building Mounted Development Requirements,” is hereby repealed.

~~18.58.100 Concealed Building Mounted Development Requirements.~~

The following requirements shall apply:

~~1. *Height*—The proposed facility must meet the height requirement of the applicable zoning category. The antennas can qualify under TMC Section 18.50.080, “Rooftop Appurtenances”, if the antennas are located in a church spire, chimney or fake chimney, elevator tower, mechanical equipment room, or other similar rooftop appurtenances usually required to be placed on a roof and not intended for human occupancy. Stand-alone antennas shall not qualify as rooftop appurtenances.~~

~~2.—*Antennas aesthetics*—The antennas must be concealed from view by blending with the architectural style of the building. This could include steeple-like structures and parapet walls. The screening must be made out of the same material and be the same color as the building. Antennas shall be painted to match the color scheme of the building(s).~~

~~3.—*Feed lines and coaxial cables*—Feed lines and cables should be located below the parapet of the rooftop.~~

~~4.—*Cabinet equipment*—If cabinet equipment cannot be located within the building where the wireless communication facilities will be located, then the City’s first preference is to locate the equipment on the rooftop of the building. If the equipment can be screened by placing the equipment below the parapet walls, no additional screening is required. If screening is required, then the proposed screening must be consistent with the existing building in terms of color, style, architectural style and material. If the cabinet equipment is to be located on the ground, the equipment must be fenced with a 6-foot tall fence, and materials shall be used to screen the equipment from view. Barbed wire may be used in the TVS, LI, HI, MIC/L, and MIC/H zones.~~

~~5.—*Setbacks*—The proposed wireless communication facilities facility must meet the setback of the applicable zoning category where the facility is to be located.~~

Section 17. Ordinance No. 2135 §1 (part), as codified at TMC Section 18.58.110, "Non-concealed Building Mounted Development Requirements," is hereby repealed.

~~18.58.110 Non-concealed Building Mounted Development Requirements.~~

The following requirements shall apply:

~~1. *Height* - The proposed facility must meet the height requirements of the applicable zoning category. If the building where the facility is located is at or above the maximum height requirements, the antennas are permitted to extend a maximum of 3 feet above the existing roof line. Non-concealed building-mounted facilities shall not qualify as "Rooftop Appurtenances" under TMC 18.50.080.~~

~~2. *Antenna aesthetics* - The first preference for any proposed facility is to utilize flush-mounted antennas. Nonflush-mounted antennas may be used when their visual impact will be negated by the scale of the antennas to the building. "Shrouds" are not required unless they provide a better visual appearance than exposed antennas. Antennas shall be painted to match the color scheme of the building(s).~~

~~3. *Feed lines and coaxial cables* - Feed lines and cables should be located below the parapet of the rooftop. If the feed lines and cables must be visible, they must be painted to match the color scheme of the building(s).~~

~~4. *Cabinet equipment* - If cabinet equipment cannot be located within the building where the wireless communication facilities will be located, then it must be located on the rooftop of the building. If the equipment can be screened by placing the equipment below the parapet walls, no additional screening is required. If screening is required, then the proposed screening must be consistent with the existing building in terms of color, style, architectural style and material. If the cabinet equipment is to be located on the ground, the equipment must be fenced with a 6-foot tall fence and materials shall be used to screen the equipment from view. Barbed wire may be used in the TVS, LI, HI, MIC/L, and MIC/H zones.~~

Section 18. Ordinance No. 2135 §1 (part), as codified at TMC Section 18.58.120, "Utility Pole Co-location," is hereby repealed.

~~18.58.120 Utility Pole Co-location.~~

The following requirements shall apply:

~~1. *Height* - The height of a utility pole co-location is limited to 10 feet above the replaced utility pole, and may be not greater than 50 feet in height in residential zones. Within all other zones, the height of the utility pole is limited to 50 feet or the minimum height standards of the underlying zoning, whichever is greater.~~

~~2. *Replacement pole* - The replaced utility pole must be used by the owner of the utility pole to support its utility lines (phone lines or electric). A replaced utility pole cannot be used to provide secondary functions to utility poles in the area.~~

~~3. *Pole aesthetics* - The replaced utility pole must have the color and general appearance of the adjacent utility poles.~~

~~4. *Coaxial cables* – Coax cables limited to 1/2” in diameter may be attached directly to a utility pole. Coax cables greater than 1/2” must be placed within the utility pole. The size of the cables is the total size of all coax cables being utilized on the utility pole.~~

~~5. *Pedestrian impact* – The proposal shall not result in a significant change in the pedestrian environment or preclude the City from making pedestrian improvements. If a utility pole is being replaced, consideration must be made to improve the pedestrian environment if necessary.~~

~~6. *Cabinet equipment* – Unless approved by the Director of Public Works, all cabinet equipment and the equipment enclosure must be placed outside of City right-of-way. If located on a parcel that contains a building, the equipment enclosure must be located next to the building. The cabinet equipment must be screened from view. The screening must be consistent with the existing building in terms of color, style, architectural style and material. If the cabinet equipment is to be located on the ground, the equipment must be fenced with a 6-foot-tall fence and materials shall be used to screen the equipment from view. Barbed wire may be used in the TVS, LI, HI, MIC/L, and MIC/H zones~~

~~7. *Setbacks* – Any portion of the wireless communication facilities located within City right-of-way is not required to meet setbacks. The City will evaluate setbacks on private property under the setback requirements set forth in TMC Section 18.58.170.~~

Section 19. Ordinance No. 2135 §1 (part), as codified at TMC Section 18.58.130, “Towers-Specific Development Standards,” is hereby repealed.

~~18.58.130 Towers-Specific Development Standards.~~

The following requirements shall apply:

~~1. *Height* – Any proposed tower with antennas shall meet the height standards of the zoning district where the tower will be located. Bird exclusionary devices are not subject to height limitations.~~

~~2. *Antenna and tower aesthetics* – The applicant shall utilize a wireless communication concealed facility. The choice of concealing the wireless communication facility must be consistent with the overall use of the site. For example, having a tower appear like a flagpole would not be consistent if there are no buildings on the site. If a flag or other wind device is attached to the pole, it must be appropriate in scale to the size and diameter of the tower.~~

~~3. *Setbacks* – The proposed wireless communication facilities must meet the setbacks of the underlying zoning district. If an exception is granted under TMC Section 18.58.170 with regards to height, the setback of the proposed wireless communication facilities will increase 2 feet for every foot in excess of the maximum permitted height in the zoning district.~~

~~4. *Color* – The color of the tower shall be based on the surrounding land uses.~~

~~5. Feed lines and coaxial cables – All feed lines and cables must be located within the tower. Feed lines and cables connecting the tower to the equipment enclosure, which are not located within the wireless communication facility equipment compound, must be located underground.~~

Section 20. Ordinance No. 2135 §1 (part), as codified at TMC Section 18.58.140, “Request to Use Non-concealed Building Attached in Lieu of a Concealed Building Attached,” is hereby repealed.

~~18.58.140 Request to Use Non-concealed Building Attached in Lieu of a Concealed Building Attached.~~

~~The use of concealed building facilities shall have first priority in all residential and commercial zones. However, an applicant may request to construct a non-concealed building attached wireless communication facility in lieu of a concealed wireless communication facility. The following criteria shall be used:~~

~~1. Due to the size of the building and the proposed location of the antennas, the visual impact of the exposed antennas will be minimal in relation to the building.~~

~~2. Cables are concealed from view and any visible cables are reduced in visibility by sheathing or painting to match the building where they are located.~~

~~3. Cabinet equipment is adequately screened from view.~~

~~4. Due to the style or design of the building, the use of a concealed facility would reduce the visual appearance of the building.~~

~~5. The building where the antennas are located is at least 200 feet from the Duwamish/Green River~~

Section 21. Ordinance No. 2135 §1 (part), as codified at TMC Section 18.58.150, “Landscaping/Screening,” is hereby repealed.

~~18.58.150 Landscaping/Screening.~~

~~A. The visual impacts of wireless communication facilities may be mitigated and softened through landscaping or other screening materials at the base of the tower, facility equipment compound, equipment enclosures and ancillary structures, with the exception of wireless communication facilities located on transmission towers, or if the antenna is mounted flush on an existing building, or camouflaged as part of the building and other equipment is housed inside an existing structure. The DCD Director, Director of Public Works or Hearing Examiner, as appropriate, may reduce or waive the standards for those sides of the wireless communication facility that are not in public view, when a combination of existing vegetation, topography, walls, decorative fences or other features achieve the same degree of screening as the required landscaping; in locations where the visual impact of the tower would be minimal; and in those locations where large wooded lots and natural growth around the property perimeter may be sufficient buffer.~~

~~B. Landscaping shall be installed on the outside of fences. Existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for or as a supplement to landscaping or screening requirements. The following requirements apply:~~

~~1. Screening landscaping shall be placed around the perimeter of the equipment cabinet enclosure, except that a maximum 10-foot portion of the fence may remain without landscaping in order to provide access to the enclosure.~~

~~2. The landscaping area shall be a minimum of 5 feet in width around the perimeter of the enclosure.~~

~~3. The applicant shall utilize evergreens that shall be a minimum of 6 feet tall at the time of planting.~~

~~4. Applicant shall utilize irrigation or an approved maintenance schedule that will insure that the plantings are established after two years from the date of planting.~~

~~C. The applicant shall replace any unhealthy or dead plant materials in conformance with the approved landscaping development proposal, and shall maintain all landscape materials for the life of the facility. In the event that landscaping is not maintained at the required level, the Director, after giving 30 days advance written notice, may maintain or establish the landscaping at the expense of the owner or operator and bill the owner or operator for such costs until such costs are paid in full.~~

Section 22. Ordinance Nos. 2251 §71 and 2135 §1 (part), as codified at TMC Section 18.58.160, "Zoning Setback Exceptions," are hereby repealed.

~~18.58.160 Zoning Setback Exceptions.~~

~~A. Generally, wireless communication facilities placed on private property must meet setbacks of the underlying zoning. However, in some circumstances, allowing modifications to setbacks may better achieve the goal of this Chapter of concealing such facilities from view.~~

~~B. The Director or Hearing Examiner, depending on the type of application, may permit modifications to be made to setbacks when:~~

~~1. An applicant for a wireless communication facility can demonstrate that placing the facility on certain portions of a property will provide better screening and aesthetic considerations than provided under the existing setback requirements; or~~

~~2. The modification will aid in retaining open space and trees on the site; or~~

~~3. The proposed location allows for the wireless communication facility to be located a greater distance from residentially-zoned (LDR, MDR, and HDR) properties.~~

~~C. This zoning setback modification cannot be used to waive/modify any required setback required under the State Building Code or Fire Code.~~

Section 23. Ordinance Nos. 2251 §72 and 2135 §1 (part), as codified at TMC Section 18.58.170, "Height Waivers," are hereby repealed:

~~18.58.170 Height Waivers.~~

~~A. Where the Hearing Examiner finds that extraordinary hardships, practical difficulties, or unnecessary and unreasonable expense would result from strict compliance with the height limitations of the Zoning Code, or the purpose of these regulations may be served to a greater extent by an alternative proposal, it may approve an adjustment to these regulations; provided that the applicant demonstrates that the adjustments are consistent with the values, objectives, standards, and requirements of this Chapter, TMC Title 18, and the Comprehensive Land Use Plan, and demonstrate the following:~~

~~1. A particular and identifiable hardship exists or a specific circumstance warrants the granting of an adjustment. Factors to be considered in determining the existence of a hardship shall include, but not be limited to:~~

- ~~a. Topography and other site features;~~
- ~~b. Availability of alternative site locations;~~
- ~~c. Geographic location of property; and~~
- ~~d. Size/magnitude of project being evaluated and availability of co-location.~~

~~B. In approving the adjustment request, the Hearing Examiner may impose such conditions as it deems appropriate to assure consistency with the values, objectives, standards and requirements of this Chapter, TMC Title 18, and the Comprehensive Land Use Plan and to ensure that the granting of the height adjustment will not be detrimental to the public safety, health or welfare, or injurious to other property, and will promote the public interest.~~

~~C. A petition for any such adjustment shall be submitted, in writing, by the applicant with the application for Hearing Examiner review. The petition shall state fully the grounds for the adjustment and all of the facts relied upon by the applicant.~~

Section 24. TMC Section 18.58.190 Amended and Recodified to TMC 18.58.080. Ordinance No. 2135 §1 (part), as codified at TMC Section 18.58.190, "Removal of Abandoned Wireless Communication Facilities," is hereby amended to recodify this section as TMC Section 18.58.080, which shall read as follows:

~~18.58.190~~ 18.58.080 Removal of Abandoned Wireless Communication Facilities

Any ~~antenna or tower~~wireless communication facility that, after the initial operation of the facility, is not used for the purpose for which it was intended at the time of filing of the application for a continuous period of 12 months shall be considered abandoned, and the owner of such ~~antenna or tower~~facility shall remove same within 90 days of receipt of notice from the City notifying the owner of such abandonment. Failure to remove such abandoned ~~tower~~facility shall result in declaring the ~~antenna and/or tower~~facility a public nuisance. If there are two or more users of a single tower, then this section shall not become effective until all users cease using the tower.

Section 25. Regulations Established. A new TMC Section 18.58.090 is hereby established to read as follows:

18.58.200 18.58.090 Standards for Eligible Facilities Modifications Requests

A. Under 47 USC 1455 and relevant FCC regulations (see 47 CFR §1.6100), a local jurisdiction must approve a modification of a wireless facility qualifying as an eligible facility request. Accordingly, the City adopts the following provisions for review of applications for eligible facility requests as defined by this chapter and federal law. This section implements § 6409 of the “Middle Class Tax Relief and Job Creation Act of 2012” (the “Spectrum Act”) (PL-112- 96; codified at 47 U.S.C. § 1455(a)), which requires the City to approve any eligible facilities request for a modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station. The intent is to exempt eligible facilities requests from zoning and development regulations that are inconsistent with or preempted by Section 6409 of the Spectrum Act, while preserving the City’s right to continue to enforce and condition approvals under this chapter on compliance with generally applicable building, structural, electrical, and safety codes and with other laws codifying objective standards reasonably related to health and safety.

B. Definitions.

1. *“Base station”* shall mean and refer to the structure or equipment at a fixed location that enables wireless communications licensed or authorized by the FCC, between user equipment and a communications network. The term does not encompass a tower as defined in this chapter or any equipment associated with a tower. Base station includes without limitation:

a. The term includes, but is not limited to, eEquipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul regardless of technological configuration (including Distributed Antenna Systems (“DAS”) and small wireless facilities).

b. The term includes, but is not limited to, rRadio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems DAS and small -cell networks wireless facilities).

c. The term includes aAny structure other than a tower that, at the time an eligible facilities modification application is filed with the City under this chapter, supports or houses equipment described in subparagraphs (a) and (b) of TMC Section 18.58.200.B18.58.090.B, and that has been reviewed and approved under the applicable zoning or siting process, or under another State, county or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

d. The term does not include any structure that, at the time a completed eligible facilities modification application is filed with the City under this section, does not support or house equipment described in subparagraphs (a) and (b) of TMC Section ~~18.58.200.B~~18.58.090.B.

2. “Collocation” shall mean the mounting or installing of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communication purposes.

~~23. “Eligible facilities modification request” shall mean and refer to any proposed facilities modification that has been determined pursuant to the provisions of this chapter to be subject to this chapter and that does not result in a substantial change in the physical dimensions of an eligible support structure~~ any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving:

- a. Collocation of new transmission equipment;
- b. Removal of transmission equipment; or
- c. Replacement of transmission equipment.-

~~34. “Eligible support structure” shall mean and refer to any existing tower or base station as defined in this chapter provided it is in existence at the time the eligible facilities modification application is filed with the City under this chapter.~~

45. “Existing” shall mean and refer to a constructed tower or base station that was reviewed and approved under the applicable zoning or siting process and lawfully constructed; provided, that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.

~~5. “Proposed facilities modification” shall mean and refer to a proposal submitted by an applicant to modify an eligible support structure the applicant asserts is subject to review under Section 6409 of the Spectrum Act, and involving:~~

- ~~a. collocation of new transmission equipment;~~
- ~~b. removal of transmission equipment; or~~
- ~~c. replacement of transmission equipment.~~

6. “Site” shall mean and refer to the current boundaries of the leased or owned property surrounding a tower (other than a tower in the public rights-of-way) and any access or utility easements currently related to the site and, for other eligible support structures, shall mean and be further restricted to, that area in proximity to the structure and to other transmission equipment already deployed on the ground. The current boundaries of a site are the boundaries that existed as of the date that the original support structure or a modification to that structure was last reviewed and approved by a state or local government, if the approval of the modification occurred prior to the Spectrum Act or otherwise outside of the Section 6409(a) process.

7. “Substantial Change”. A ~~proposed facilities~~ modification will substantially change the physical dimensions of an eligible support structure if it meets any of the following criteria:

a. For towers not in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than 10 feet, whichever is greater. The separation of antennas is measured by the distance from the top of the existing antennas to the bottom of the new antennas.

Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings’ rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act.

b. For towers not in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than 6 feet.

c. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed 4 cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure.

d. For any eligible support structure:

(1) it entails any excavation or deployment outside the current site; except that, for towers other than towers in the public rights-of-way, it entails any excavation or deployment of transmission equipment outside of the current site by more than 30 feet in any direction. The site boundary from which the 30 feet is measured excludes any access or utility easements currently related to the site;

(2) it would defeat the concealment elements of the eligible support structure; or

(3) it does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment provided, however, that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in this section.

8. “Tower” shall mean and refer to any structure built for the sole or primary purpose of supporting any antennas and their associated facilities, licensed or authorized by the FCC, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

9. “Transmission Equipment” shall mean and refer to equipment that facilitates transmission for any wireless communication service licensed or authorized by the FCC, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

~~C. Proposed facilities modification applications are not subject to the application requirements set forth in TMC Section 18.104.060.~~**Application.** The Director shall prepare and make publicly available an application form that shall be limited to the information necessary for the City to consider whether an application is an eligible facilities request. The application may not require the applicant to demonstrate a need or business case for the proposed modification.

D. Qualification as an eligible facilities request. Upon receipt of an application for an eligible facilities request, the Director shall review such application to determine whether the application qualifies as an eligible facilities request.

E. Time frame for review. Applications for an eligible facilities request are reviewed by the Director or his/her designee, who will approve the application within 60 days of the date an applicant submits an eligible facilities request application, unless the Director determines that the application does not qualify under FWRC 19.257.020. ~~City decisions on eligible facilities modifications shall be issued within 60 days from the date the application is received by the City, subtracting any time between the City’s notice of incomplete application or request for additional information and the applicant’s resubmittal. Following a supplemental submission, the City will respond to the applicant within 10 days, stating whether the additional information is sufficient to complete review of the application. This timing supersedes TMC Section 18.104.130.~~

F. Tolling the time frame for review. The 60-day review period begins to run when the application is filed and may be tolled only by mutual agreement by the City and the applicant or in cases where the City determines that the application is incomplete. The time frame for review of an eligible facilities request is not tolled by a moratorium on the review of applications.

1. To toll the time frame for incompleteness, the City shall provide written notice to the applicant within 30 days of receipt of the application, clearly and specifically delineating all missing documents or information required in the application and including a citation to the publicly stated code provision requiring such information. The City

recognizes that such a notice is limited to information “reasonably related” to determining whether the application meets the “eligible facilities request” requirements.

2. The time frame for review begins running again when the applicant makes a supplemental submission in response to the City’s notice of incompleteness.

3. Following a supplemental submission, the City will notify the applicant within 10 days if the supplemental submission did not provide the information identified in the original notice delineating missing information. The time frame is tolled in the case of second or subsequent notices pursuant to the procedures identified in this subsection. Second or subsequent notice of incompleteness may not specify missing documents or information that were not delineated in the original notice of incompleteness. If the City fails to approve or deny an eligible facilities modification within the time frame for review, the applicant may notify the City in writing that the review period has expired and that the application has therefore been deemed granted.

G. **Determination that an application is not an eligible facilities request.** If the City determines that the applicant’s request does not qualify as an eligible facilities request, the City shall deny the application.

H. **Failure to act.** In the event the City fails to approve or deny an eligible facilities request within the time frame for review (accounting for any tolling), the request shall be deemed granted. The deemed grant does not become effective until the applicant notifies the City in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.

FI. **Appeals.** Applicants and the City may bring claims related to Section 6409 (a) of the Spectrum Act, 47 USC 1455(a) to any court of competent jurisdiction.

Section 26. Regulations Established. A new TMC Section 18.58.100 is hereby established to read as follows:

18.58.100 Small Wireless Facility Application Process

A. **Applicability.** Any applications for small wireless facilities either inside or outside of the public right-of-way shall comply with the application requirements for a small wireless facility permit described in this Chapter. For small wireless facilities inside the right-of-way, the applicant must also comply with the requirements pursuant to TMC Chapter 11.32.

B. **Completeness.** An application for a small wireless facility is not complete until the applicant has submitted all the applicable items required by TMC Section 18.58.110 and, to the extent relevant, has submitted all the applicable items in TMC Section 18.58.100.C and the City has confirmed that the application is complete. Franchisees with a valid franchise for small wireless facilities may apply for a small wireless permit for the initial or additional phases of a small wireless facilities deployment at any time subject to the commencement of a new completeness review time period for permit processing.

C. **Application Components.** The Director is authorized to establish franchise and other application forms to gather the information required from applicants to evaluate the application and to determine the completeness of the application as provided herein. The application shall include the following components as applicable:

1. **Franchise.** If any portion of the applicant's facilities are to be located in the City's right-of-way, the applicant shall apply for, and receive approval of a franchise, consistent with the requirements in TMC Chapter 11.32. An application for a franchise may be submitted concurrently with an application for a small wireless facility permit(s).

2. **Small Wireless Facility Permit.** The applicant shall submit a small wireless facility permit application as required in the small wireless facility application requirements established in TMC Section 18.58.110 and pay the applicable permit fee in accordance with the fee schedule adopted by resolution of the City Council and which may be amended by the City Council from time to time.

3. **Associated Application(s) and Checklist(s).** Any application for a small wireless permit that contains an element not categorically exempt from SEPA review shall simultaneously apply under Chapter 43.21C RCW and TMC Title 21. Further, any application proposing small wireless facilities in a shoreline area (pursuant to TMC Chapter 18.44) or an environmentally sensitive area (pursuant to TMC Chapter 18.45) shall indicate why the application is exempt or comply with the review processes in such codes. Applications for small wireless facilities for new poles shall comply with the requirements in TMC Section 18.58.160.E.

4. **Leases.** An applicant who desires to attach a small wireless facility on any utility pole, light pole, or other structure or building owned by the City shall obtain a lease as a component of its application. City owned utility poles and the use of other public property, structures or facilities including, but not limited to any park land or facility, require City Council approval of a lease or master lease agreement.

Section 27. Regulations Established. A new TMC Section 18.58.110 is hereby established to read as follows:

18.58.110 Small Wireless Facility Application Requirements

The following information shall be provided by all applicants for a small wireless permit.

A. The application shall provide specific locational information including GIS coordinates of all proposed small wireless facilities and specify where the small wireless facilities will utilize existing, replacement or new poles, towers, existing buildings and/or other structures. The applicant shall specify ground-mounted equipment, conduit, junction boxes and fiber and power connections necessary for and intended for use in the small wireless facilities system regardless of whether the additional facilities are to be constructed by the applicant or leased from a third party. The applicant shall provide detailed schematics and visual renderings of the small wireless facilities, including engineering and design standards. The application shall have sufficient detail to identify:

1. The location of overhead and, to the extent applicable, underground public utilities, telecommunication, cable, water, adjacent lighting, sewer drainage and other lines and equipment within 50 feet of the proposed project area (which project area shall include the location of the fiber source and power source). Further, the applicant shall include all existing and proposed improvements related to the proposed location, including but not limited to poles, driveways, ADA ramps, equipment cabinets, street trees and structures within 50 feet of the proposed project area.

2. The specific trees, structures, improvements, facilities, lines and equipment, and obstructions, if any, that applicant proposes to temporarily or permanently remove or relocate and a landscape plan for protecting, trimming, removing, replacing, and restoring any trees or significant landscaping to be disturbed during construction. The applicant is discouraged from cutting/pruning, removing or replacing trees, and if any such tree modifications are proposed the applicant must comply with applicable provisions of TMC Chapter 11.20 and Chapter 18.54.

3 The applicant's plan for fiber and power service, all conduits, cables, wires, handholes, junctions, meters, disconnect switches and any other ancillary equipment or construction necessary to construct the small wireless facility, to the extent to which the applicant is responsible for installing such fiber and power service, conduits, cables, and related improvements. Where another party is responsible for installing such fiber and power service, conduits, cables, and related improvements, applicant's construction drawings shall include such utilities to the extent known at the time of application, but at a minimum applicant must indicate how it expects to obtain power and fiber service to the small wireless facility.

4. A photometric analysis of the roadway and sidewalk within 150 feet of the existing light if the site location includes a new light pole or replacement light pole if in a new location.

5. Compliance with the applicable aesthetic requirements pursuant to TMC Sections 18.58.150 and 18.58.160.

B. The applicant must show written approval from the owner of any pole or structure for the installation of its small wireless facilities on such pole or structure. The approval may be conditional (i.e. that the pole owner approves if the City also approves). Such written approval shall include approval of the specific pole, engineering and design specifications for the pole, as well as assurances that the specific pole can withstand wind and seismic loads as well as assurances in accordance with TMC Section 18.58.110.F, from the pole owner, unless the pole owner is the City. For City-owned poles or structures, the applicant shall obtain a lease from the City prior to or concurrent with the small wireless facility permit application so the City can evaluate the use of a specific pole.

C. The applicant is encouraged to batch the small wireless facility sites within an application in a contiguous service area and/or with similar designs.

D. The applicant shall submit a sworn affidavit signed by a Radio Frequency (RF) engineer with knowledge of the proposed project affirming that the small wireless facility will be compliant with all FCC and other governmental regulations in connection with human exposure to radio frequency emissions for every frequency at which the small wireless facility will operate. If facilities that generate RF radiation necessary to the small wireless facility are to be provided by a third party, then the small wireless permit shall be conditioned on an RF certification showing the cumulative impact of the RF emissions from the entire installation. The applicant may provide one emissions report for the entire batch of small wireless facility applications if the applicant is using the same small wireless facility configuration for all installations within that batch or may submit one emissions report for each subgroup installation identified in the batch.

E. The applicant shall provide proof of FCC or other regulatory approvals required to provide the service(s) or utilize the technologies sought to be installed, if such approvals are required.

F. A professional engineer licensed by the State of Washington shall certify in writing, over his or her seal, that construction plans of the small wireless facilities and structure or pole and foundation are designed to reasonably withstand wind and seismic loads as required by applicable codes.

G. Those elements that are typically contained in the right-of-way permit pursuant to TMC Chapter 11.08, including a traffic control plan, to allow the applicant to proceed with the build-out of the small wireless facility.

H. Proof of a valid City of Tukwila business license.

I. Recognizing that small wireless facility technology is rapidly evolving, the Director is authorized to adopt and publish standards for the structural safety of City-owned poles and structures, and to formulate and publish application questions for use when an applicant seeks to attach to City-owned poles and structures.

J. Such other information as the Director, in his/her reasonable discretion, shall deem appropriate to effectively evaluate the application based on technical, engineering and aesthetic considerations.

Section 28. Regulations Established. A new TMC Section 18.58.120 is hereby established to read as follows:

18.58.120 Small Wireless Facility Review Criteria and Process

A. The following provisions relate to the review of applications for a small wireless facility permit:

1. In any zone, upon application for a small wireless permit, the City shall permit small wireless facilities only when the application meets the applicable criteria of TMC Chapter 18.58.

2. Vertical clearance shall be reviewed by the Director in accordance with NESC or applicable pole safety codes to ensure the small wireless facilities will not pose a hazard to other users of the rights-of-way.

3. Replacement poles, new poles, and ground-mounted equipment shall only be permitted pursuant to the applicable standards in TMC Section 18.58.160.

4. No equipment shall be operated so as to produce noise in violation of TMC Chapter 8.22.

5. Small wireless facilities may not encroach onto or over private property or property outside of the right-of-way without the property owner's express written consent pursuant to TMC Section 18.58.160.A.1.

B. Decision. All small wireless facility applications shall be reviewed and approved or denied by the Director. The Director's decision shall be final and is not subject to appeal under City code or further review by the City.

C. Eligible Facilities Requests. Small wireless facilities may be expanded pursuant to an eligible facility request so long as the expansion:

1. does not defeat the specifically designated stealth techniques; and

2. incorporates the aesthetic elements required as conditions of approval set forth in the original small wireless facility approval in a manner consistent with the rights granted an eligible facility; and

3. does not exceed the conditions of a small wireless facility as defined by 47 CFR 1.6002(I).

D. Public Notice. The City shall provide notice of a complete application for a small wireless facility permit on the City's website with a link to the application. Prior to construction, the applicant shall provide notice of construction to all impacted property owners within 100 feet of any proposed small wireless facility via a doorhanger that shall include an email contact and telephone number for the applicant. Notice is for the public's information and is not a part of a hearing or part of the land use appeal process.

E. Withdrawal. Any applicant may withdraw an application submitted at any time, provided the withdrawal is in writing and signed by all persons who signed the original application or their successors in interest. When a withdrawal is received, the application shall be deemed null and void. If such withdrawal occurs prior to the Director's decision, then reimbursement of fees submitted in association with said application shall be reduced to withhold the amount of actual and objectively reasonable City costs incurred in processing the application prior to time of withdrawal. If such withdrawal is not accomplished prior to the Director's decision, there shall be no refund of all or any portion of such fee.

F. **Supplemental Information.** Failure of an applicant to provide supplemental information as requested by the Director within 90 days of notice by the Director shall be grounds for denial of that application unless an extension period has been approved by the Director. If no extension period has been approved by the Director, the Director shall notify the applicant in writing that the application is denied.

G. **Consolidated Permit.** The issuance of a small wireless permit grants authority to construct small wireless facilities in the rights-of-way in a consolidated manner to allow the applicant, in most situations, to avoid the need to seek duplicative approval by both the Public Works and the Community Development departments. The general standards applicable to the use of the rights-of-way described in TMC Chapter 11.08 shall apply to all small wireless facility permits.

Section 29. Regulations Established. A new TMC Section 18.58.130 is hereby established to read as follows:

18.58.130 Small Wireless Facility Permit Requirements

A. **Permit Compliance.** The permittee shall comply with all of the requirements within the small wireless facility permit.

B. **Post-Construction As-Builts.** Upon request, the permittee shall provide the City with as-builts of the small wireless facilities within 30 days after construction of the small wireless facility, demonstrating compliance with the permit, visual renderings submitted with the permit application and any site photographs taken.

C. **Construction Time Limit.** Construction of the small wireless facility must be completed within 12 months after the approval date by the City. The permittee may request one extension of no more than six months, if the permittee provides an explanation as to why the small wireless facility cannot be constructed within the original 12-month period.

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

E. **Operational Activity.** The permittee shall commence operation of the small wireless facility no later than six months after installation. The permittee may request two extensions, each for an additional six-month period if the permittee can show that such operational activity is delayed due to inability to connect to electrical or backhaul facilities.

Section 30. Regulations Established. A new TMC Section 18.58.140 is hereby established to read as follows:

18.58.140 Small Wireless Facility Modification

A. If a permittee desires to modify their small wireless facilities, including but not limited to expanding or changing the antenna type, increasing the equipment enclosure, placing additional pole-mounted or ground-mounted equipment, or modifying the stealth techniques, then the permittee shall apply for a new small wireless permit.

B. A small wireless facility permit shall not be required for routine maintenance and repair of a small wireless facility within the rights-of-way, or the replacement of an antenna or equipment of similar size, weight, and height; provided, that such replacement does not defeat the stealth techniques used in the original small wireless facility and does not impact the structural integrity of the pole. Further, a small wireless facility permit shall not be required for replacing equipment within the equipment enclosure or reconfiguration of fiber or power to the small wireless facilities. Right-of-way use permits may be required for such routine maintenance, repair or replacement consistent with TMC Chapter 11.08.

Section 31. Regulations Established. A new TMC Section 18.58.150 is hereby established to read as follows:

18.58.150 Decorative Poles

A. The City discourages the use or replacement of certain decorative poles for small wireless facilities due to the aesthetic impact to the City's streetscape. Accordingly, the pedestrian light pole (herein referred to as "decorative poles"), designated in the City's Infrastructure Design and Construction Standards Manual, are discouraged from use or replacement for small wireless facilities:

B. Applications for small wireless facilities attached to decorative poles shall comply with TMC 18.58.160.F.

Section 32. Regulations Established. A new TMC Section 18.58.160 is hereby established to read as follows:

18.58.160 Small-Wireless Facility Aesthetic, Concealment, and Design Standards

A. All small wireless facilities shall conform with the following general aesthetic, concealment, and design standards, as applicable:

1. Except for locations in the right-of-way, small wireless facilities are prohibited on any property containing a single-family residential use in a residential zone; provided that where small wireless facilities are intended to be located more than 400 feet from a right-of-way and within an access easement over residential property, the location may be allowed if:

a. the applicant affirms they have received an access easement from the property owner to locate the facility in the desired location; and

b. the property owner where the facility will be installed has authority to grant such permission to locate the facility and related equipment at the designated location pursuant to the terms of the access easement; and

c. the installation is allowed by, and consistent with, the access easement;
and

d. such installation will not frustrate the purpose of the easement or create any access or safety issue; and

e. the location is in compliance with all land use regulations such as, but not limited to, setback requirements.

2. In the event power is later undergrounded in an area where small wireless facilities are located above ground on utility poles, the small wireless facilities shall be removed and may be replaced with a facility meeting the design standards for new poles in TMC Section 18.58.160.E.

3. Except for electrical meters with prior City approval, ground-mounted equipment in the rights-of-way is prohibited, unless such facilities are placed underground, 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 stealth technique plan substantially conforming to the applicable standards in TMC Section 18.58.160.E.3 and comply with the Americans with Disabilities Act, City construction standards, and state and federal regulations in order to provide a clear and safe passage within the public rights-of-way. Generators located in the rights-of-way are prohibited.

4. No signage, message, or identification other than the manufacturer's identification or signage 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 four by six inches); provided, that signs may be permitted as stealth technique where appropriate and safety signage as required by applicable laws, regulations, and standards is permitted.

5. 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 the stealth technique requirements pursuant to TMC Section 18.58.160.E.3.

6. The design standards in this chapter are intended to be used solely for the purpose of concealment and siting. Nothing contained in this chapter shall be interpreted or applied in a manner which dictates the use of a particular technology. When strict application of these requirements would render the small wireless facility technically infeasible or otherwise have the effect of prohibiting wireless service, alternative forms of aesthetic design or concealment may be permitted that provide similar or greater protections from negative visual impacts to the streetscape.

B. General Pole Standards. In addition to complying with the applicable general standards in TMC Section 18.58.160.A, all small wireless facilities on any type of utility pole shall conform to the following general pole design requirements as well as the applicable pole specific standards:

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

2. 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 neither 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.

3. Small wireless facilities are not permitted on 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 332.

4. Replacement poles and new poles shall comply with the Americans with Disabilities Act, City construction and sidewalk clearance standards, City development standards, City ordinances, 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.

5. Replacement poles shall be located as near as possible to the existing pole, but in no event further than 10 feet from the existing pole. Compliance with the light standards in the Tukwila Infrastructure and Construction Standards Manual is required and the existing pole shall be removed.

6. Side arm mounts for antennas or equipment must be the minimum extension necessary, and for wooden poles may be no more than 12 inches off the pole, and for nonwooden poles no more than six inches off the pole.

7. 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.

C. Nonwooden Pole Design Standards. In addition to complying with the applicable general standards in TMC Section 18.58.160.A and TMC Section 18.58.160.B, small wireless facilities attached to existing or replacement nonwooden poles inside or outside the right-of-way shall conform to the following design criteria:

1. All replacement poles shall conform to the City's standard small wireless facility pole design(s) published in the City's Infrastructure Design and Construction Standards Manual. The applicant, upon a showing that use or modification of the standard pole design is either technically or physically infeasible, or that the modified pole design will not comply with the City's ADA or sidewalk clearance requirements and/or

would violate electrical or other safety standards, may deviate from the adopted standard pole design and use the design standards as described in TMC Section 18.58.160.C., subsections 2 through 8.

2. Antennas and the associated equipment enclosures (including disconnect switches and other appurtenant devices) shall be fully concealed within the pole, unless such concealment is 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 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, or the small wireless facility.

For purposes of this section, “incompatible with the pole design” may include a demonstration by the applicant that the visual impact to the pole or the streetscape would be reduced by placing the antennas and equipment exterior to the pole.

3. The farthest point of any antenna or equipment enclosure may not extend more than 28 inches from the face of the pole.

4. All conduit, cables, wires, and fiber must be routed internally in the 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.

5. An antenna on top of an existing pole may not extend more than 6 feet above the height of the existing pole and the diameter may not exceed 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 they appear as a continuation of the original pole, including 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 screening. To the extent technically feasible, 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.

6. Any replacement pole shall substantially conform to the design of the pole it is replacing (including but not limited to color, shape and style) or the neighboring pole design standards utilized within the contiguous right-of-way.

7. The height of any replacement pole and antenna(s) may not extend more than 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.

8. 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 percent increase of the existing pole measured at the base of the pole, unless additional diameter is needed in order to conceal equipment within the base of the pole.

D. Wooden Pole Design Standards. In addition to complying with the applicable general standards in TMC Section 18.58.160.A and TMC Section 18.58.160.B, small wireless facilities attached to existing or replacement wooden utility poles and other wooden poles inside or outside the right-of-way shall conform to the following design criteria:

1. 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 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.

2. 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 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.

3. 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.

4. 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 percent increase of the existing utility pole measured at the base of the pole or the otherwise standard size used by the pole owner.

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

6. 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.

7. Antennas shall not be mounted more than 12 inches from the surface of the wooden pole.

8. 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 shall not be more than three cubic feet in volume.

9. A canister antenna may be mounted on top of an existing or replacement wooden pole, which may not exceed the height requirements described in TMC Section 158.58.170.D.1. A canister antenna mounted on the top of a wooden pole shall not exceed 16 inches in diameter, measured at the top of the pole and, to the extent

technically feasible, 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 install a side-mounted canister antenna, so long as the inside edge of the antenna is no more than 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.

10. The farthest point of any antenna or equipment enclosure may not extend more than 28 inches from the face of the pole.

11. An omnidirectional antenna may be mounted on the top of an existing wooden pole, provided such antenna is no more than four 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.

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

13. Equipment for small wireless facilities must be attached to the wooden pole, unless otherwise permitted to be ground mounted pursuant to TMC Section 18.58.160.A.3. 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 preexisting associated equipment on the pole, may not exceed 28 cubic feet. Multiple equipment enclosures may be acceptable if designed to more closely integrate with the pole design and do not cumulatively exceed 28 cubic feet. The applicant is encouraged to place the equipment enclosure(s) 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, or the small wireless facility.

14. 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 preexisting associated equipment on the pole, do not exceed 28 cubic feet. The unified enclosure may not be placed more than six 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.

E. Standards for small wireless facilities on new poles in the rights-of-way and installations on decorative poles. In addition to complying with the applicable general standards in TMC Section 18.58.160.A and TMC Section 18.58.160.B, small wireless facilities proposed to be attached to new poles or decorative poles shall comply with following:

1. Applicability. New poles within the rights-of-way or installations on a decorative pole are only permitted if the applicant can establish that:

a. The proposed small wireless facility cannot be located on an existing utility pole, 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 nonresidential use in a residential zone, whether by roof or ~~panel~~building mount or separate structure; and

b. The proposed small wireless facility receives approval for a stealth technique design, as described in TMC Section 18.58.160.E.3; and

c. The proposed small wireless facility also complies with the Shoreline Management Act, Growth Management Act, and State Environmental Policy Act, if applicable; and

d. No new poles shall be located in a critical area or associated buffer required by the City's Environmentally Sensitive Areas ordinance, TMC Chapter 18.45, except when determined to be exempt pursuant to said ordinance.

2. Review. An application for a new pole or installation on a decorative pole is subject to administrative review and approval or denial by the Director.

3. New poles. All new poles shall conform to the City's standard pole design adopted in the City's Infrastructure Design and Construction Standards Manual and comply with the stealth technique design consistent with TMC Section 18.58.160.E.5.

4. Decorative poles. If the applicant desires to place the small wireless facility on a decorative pole, and the City has adopted a small wireless facility standard for the decorative pole in the City's Infrastructure Design and Construction Standards Manual, then the applicant shall attempt to utilize the adopted decorative pole design. The applicant, upon a showing that using the standard decorative pole design is either technically or physically infeasible, or that a modified pole design will not comply with the city's ADA or sidewalk clearance requirements and/or would violate electrical or other safety standards, may deviate from the adopted standard decorative pole design and propose a stealth technique design consistent with TMC Section 18.58.160.E.5.

5. The stealth technique design shall include the design of the screening, fencing, or other concealment technique for the pole, equipment enclosure, and all related transmission equipment or facilities associated with the proposed small wireless facility, including but not limited to fiber and power connections.

b. The stealth technique 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 a design district, then the replacement pole shall be of the same general design as the pole it is replacing, unless the Director otherwise approves a variation due to aesthetic or safety concerns. Any stealth technique 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 stealth technique 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—or the appearance thereof—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 wires are installed internally within the structure. Further, applicant designs should, to the extent technically feasible, comply with the generally applicable design standards adopted pursuant to TMC Section 18.58.160.A and TMC Section 18.58.160.B.

c. If the Director has already approved a stealth technique 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 stealth technique design, unless it can show that such stealth technique design is not technically feasible, or that such design would undermine the generally applicable design standards adopted pursuant to TMC Section 18.58.160.A and TMC Section 18.58.160.B.

d. Even if an alternative location is established pursuant to TMC Section 18.58.160.E.1.a, the Director may determine, at the applicant's written request, that a new pole in the right-of-way is, in fact, a superior alternative based on the impact to the City, the stealth technique 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 master lease agreement from the City to locate such new pole or ground-mounted equipment. This requirement also applies to replacement poles that are taller than the replaced pole, when the overall height of the replacement pole and the proposed small wireless facility is more than 60 feet.

F. Standards for small wireless facilities attached to cables. In addition to complying with the applicable general standards in TMC Section 18.58.160.A, all small wireless facilities mounted on existing cables strung between existing utility poles shall conform to the following standards:

1. Each strand-mounted facility shall not exceed three cubic feet in volume.
2. Only one strand-mounted facility is permitted per cable between any two existing poles on an existing cable.
3. The strand-mounted devices shall be placed as close as feasible to the nearest utility pole, in no event more than 10 feet from the pole unless that location is technically infeasible or is not allowed by the pole owner for safety clearance.
4. No strand-mounted device shall be located in or above the portion of the roadway open to vehicular traffic.

5. Ground-mounted equipment to accommodate a shared mounted facility is not permitted except when placed in preexisting equipment cabinets or required by a third party electrical service provider.

6. Pole-mounted equipment shall comply with the requirements of TMC Section 18.58.160.A and TMC Section 18.58.160.B.

7. 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).

G. Standards for small wireless facilities attached to existing buildings. In addition to complying with the applicable general standards in TMC Section 18.58.160.A, all small wireless facilities attached to existing buildings shall conform to the following design criteria:

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

2. The interruption of architectural lines or horizontal or vertical reveals is discouraged.

3. 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.

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

5. 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.

6. To the extent technically feasible, small wireless facilities shall be painted and textured to match the adjacent building surfaces.

Section 33. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; references to other local, state or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

Section 34. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to any other person or situation.

Section 35. Effective Date. This ordinance or a summary thereof shall be published in the official newspaper of the City, and shall take effect and be in full force five days after passage and publication as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, at a Regular Meeting thereof this _____ day of _____, 2021.

ATTEST/AUTHENTICATED:

Christy O'Flaherty, MMC, City Clerk

Allan Ekberg, Mayor

APPROVED AS TO FORM BY:

Filed with the City Clerk: _____

Passed by the City Council: _____

Published: _____

Effective Date: _____

Ordinance Number: _____

Office of the City Attorney

Page No. of Ordinance Adopting Small Wireless Design Standards	Code Section	Industry Comment	City Response
2	18.58.020(A)(6)	Extent - comment: concerns on interference	CITY - this is simply a goal that the City aspires to, it does not require collocation and if collocation was required via a different code section, and the carrier could show that there was an interference issue, collocation would not be required.
2	18.58.020(A)(8)	AT&T - proposes revisions, see comment in draft	CITY - Agreed with proposed revision
4	18.58.030(A)(1)	Crown Castle - consider revising to exemption section to exempt decreases in height or size of antenna from the provisions of this chapter	CITY - Reject, they should still be required to apply for an eligible facilities request permit so the city can determine if they meet the EFR requirements
5	18.58.030(A)(10)	Crown Castle - proposed revision: Any wireless communications facility that is owned and operated by a government entity <u>for non-commercial purposes.</u>	CITY - Agreed with comment but suggest the following revision instead: "Any wireless communications facility that is owned and operated by a government entity, <u>for public safety radio systems, ham radio and business radio systems.</u> "
10	18.58.050(E)	VERIZON - See question in draft. Extent - See comment in draft. Crown Castle - proposed revision: The <u>reasonable</u> costs <u>actually incurred by the City for such-of-the</u> technical review shall be borne by the applicant, <u>provided that the City provides to the applicant an itemized accounting of the costs actually charged by said third party reviewer and incurred by the City.</u>	CITY - Regarding Verizon's comment: Staff recommended removing the agreement provision because it restricted use of the 3rd party review. CITY - Regarding Crown Castle's comment: Agreed with proposed revision, which also addresses Extent's concern.
10	18.58.050(F)	Industry - recommend striking this section because it will be governed by the relevant standard of review under LUPA, federal law or other means of review of City action.	CITY - Agreed with proposed revision
10	18.58.050(G)	Crown Castle - proposes striking "King County" Superior Court and leaving it as "court of competent jurisdiction.	CITY - Agreed with adding "court of competent jurisdiction but left "King County"
15	18.58.060(B)(2)(i)	VERIZON & AT&T - would like to add " <u>was not available</u> " to section as the inability to lease is a common reason for not collocating	CITY - PC to discuss

17	18.58.060(E)	AT&T - Consider revising section to allow permittee to apply for building permit within 1 year of the final approval of the permit and have the facility built within 2 years from the final approval. Reasoning is that as drafted, the requirement is unreasonably restrictive given the typical term of a land use permit in Tukwila (for design review, construction permitting must begin within 3 years of approval, CUPs require a building permit be applied for within 1 year and substantial construction within 2 years.	Amended to match CUP process
17	18.58.060(F)(3)	AT&T - proposed revision: "Collocated on existing buildings and structures in residential zones not used for <u>single family</u> residential uses (e.g. religious facility, or public facility, <u>or multifamily building</u>).	CITY - Agree with proposed revision
18	18.58.060(G)(2)	VERIZON - See comment in draft. AT&T - consider adding " <u>to the extent technically feasible</u> " to the end of the section.	CITY - Staff struck this requirement as being redundant in light of subsection 3.
18	18.58.060(G)(4)	VERIZON & AT&T - if locating on a building, the macro facility may exceed the height requirements of the underlying zoning category by 10 feet. Reasoning is that an additional 10 feet is consistent with City's preferences for collocation on buildings	CITY – Recommend accepting because it encourages collocation.
14	18.58.060(G)(5)	AT&T - proposes permitting up to 15 feet taller, unless additional height increase is required for vertical separation and it is the minimum extension possible to provide sufficient separation from electrical and wireline facilities	CITY – Recommend accepting because this is standard for macro facilities.
19	18.58.060(G)(7)	AT&T - wants to permit ground-based equipment above ground with the following proposed revision: " <u>Ground-based</u> equipment facilities shall be placed underground if applicable, or, if above ground, shall: "	CITY - Recommend rejecting, stated goal is to minimum ground clutter.
20	18.58.060(G)(11)	VERIZON - consider striking this section because it is contrary to the stated goal of collocation is also a very vague standard.	CITY – PC to discuss
20-21	18.58.070	VERIZON and AT&T suggest reorganizing this section for clarity because not all factors originally listed are relevant for each proposed tower.	CITY - Agreed with proposed revision
30	18.58.090(B)(7)	VERIZON - suggested revision to comply with FCC	CITY - Agreed with proposed revision
31	18.58.090(F)(1)	Crown Castle - proposed revision: To toll the time frame for incompleteness, the city shall provide written notice to the applicant within 30 days of receipt of the application, clearly and specifically delineating all missing documents or information required in the application <u>and including a citation to the publicly-stated code provision requiring such information. The City recognizes that such a notice is limited to information "reasonably related" to determining whether the application meets the "eligible facilities request" requirements.</u>	CITY - Agreed with proposed revision
32	18.58.090(H)	Crown Castle - proposed revision: In the event the city fails to approve or deny an eligible facilities request within the time frame for review (accounting for any tolling), the request shall be deemed granted. The deemed grant does not become effective until the applicant notifies the city in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted. <u>An applicant shall have the right to construct an eligible facilities request that is deemed granted pursuant to this section and no citations may be issued by the City for such construction.</u>	CITY - Reject revision.
34	18.58.110(A)(4)	AT&T - consider only requiring a photometric analysis if the replacement light pole is in a different location. Crown Castle - consider only requiring a photometric analysis if a new pole.	CITY - Agreed with proposed revision
34	18.58.100(B)	Crown Castle - written approval should take the form of a conditional approval (i.e. pole owner approves if city also approved)	CITY - Agreed with proposed revision

35	18.58.100€	Crown Castle - proposed revision: <u>if such approvals are required.</u>	CITY - Agreed with proposed revision
35	18.58.110(F)	AT&T - proposed revision: "Except when a pole owner exempt from the International Building Code completes its own structural analysis, a professional engineer licensed by the State of Washington shall certify in writing, over his or her seal, that construction plans of the small wireless facilities and structure or pole and foundation are designed to reasonably withstand wind and seismic loads as required by applicable codes." Reason is that PSE typically provides a letter addressing the IBC exemption	CITY - Rejected revision because a structural, licensed engineer's review is required to ensure structural integrity.
35	18.58.120	Crown Castle - proposes revision: vertical clearance shall be reviewed by the Director, <u>in accordance with NESC or applicable pole safety codes...</u> "	City - Accepted proposed revision.
36	18.58.120©(3)	Crown Castle - proposes striking "does not exceed the conditions of a small wireless facility."	CITY - Reject. SWF's are allowed to be expanded pursuant EFRs so long as it doesn't exceed the definition of SWF because otherwise it becomes a macro facility and those have different requirements (i.e. they may not be allowed in the ROW where SWF are allowed.)
36	18.58.120(D)	VERIZON - consider only notifying directly adjacent property owners rather than all property owners within 100 feet of the proposed facility	CITY - Reject. 100 feet is standard.
36	18.58.120(F)	Crown Castle - suggests revising to 120 days AT&T - suggests revising to 90 days	CITY - Staff accepted 90 days.
37	18.58.130(E)	VERIZON - allow unlimited extensions if needed because scheduling fiber and power is outside the control of the applicant.	CITY - Staff recommends allowing two extensions.
38	18.58.160(A)(1)	AT&T - proposed revision: "...small wireless facilities are prohibited on any property containing a <u>single family</u> residential use in a residential zone"	CITY - this would broaden where SWF can go by allowing them on non residential uses in a residential zone.
38	18.58.160(A)(3)	AT&T - consider allowing electrical meters on the ground in the ROW because PSE intends to require meters for some SWF and they can't be allowed on the pole or underground. Further, City's preliminary 5G pole standard allowed ground-mounted meters.	CITY - Accepted suggestion.
39	18.58.160(B)(5)	AT&T - consider allowing replacement poles to be within 10 feet rather than 5 feet of existing pole	CITY - Staff accepted the 10 feet so long as compliance with the construction standards manual is required.
39	18.58.160(B)(7)	AT&T - proposes deleting this section because it is covered by the franchise Crown Castle proposes deleting this section because SWF in the ROW are no less important than other utilities	CITY - recommend keeping because the pole's primary function should govern its utility to the City.
40	18.58.160©(3)	Crown Castle - concern that the restriction of 28 inches from the face of the pole is arbitrary and capricious	CITY - this space is the closest to the pole while still allowing access to maintain the antenna if needed
40	18.58.160©(5)	Crown Castle - proposes increase the diameter of the permitted antenna to 20 inches rather than 16.	CITY - Reject revision because 16 is standard.

43	18.58.160(E)(1)(a)	Verizon -proposes to strike this section as follows: "The proposed small wireless facility cannot be located on an existing utility pole or, 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 nonresidential use in a residential zone, whether by roof or panel mount or separate structure " Extent - also proposes to strike this section: they request not requiring use of private property before being allowed to install a new pole in the ROW.	CITY - reject revision, an alternatives analysis does not materially prohibit the carrier's ability to provide service.
44	18.58.160(E)(3)	AT&T - proposes striking the following: If no existing metered service is available, the applicant shall provide new metered electrical service -	CITY - Staff accepted proposed revision.
45	18.58.160(E)(5)(d)	VERIZON - proposed revision: "Even if an alternative location is established pursuant to TMC Section 18.58.160.E.1.a, <u>at the request of the Applicant</u> , the Director may determine that a new pole in the right-of-way is in fact a superior alternative"	CITY - Staff accepted the proposed revision.
45	18.58.160(E)(5)(e)	Crown Castle - questions why a lease is required if a new or replacement pole is located in the ROW	CITY - any time any equipment or poles are located in the ROW or on City property, City requires executing a lease to govern the access to that specific site.
45	18.58.160(F)(3)	Crown Castle - proposes allowing the strand-mounted SWF to be ten feet rather than five feet from the pole.	CITY - Staff accepted proposed revision.