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## MEMORANDUM

TO: Planning Commission

FROM: Sambo Kirkman, Senior Planner

DATE: May 25, 2021

SUBJECT: Public Comment for the Planning Commission

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The following are public comments staff have received for TA2021-0001 Small Wireless Facility Text Amendment:

- Attachment A: Correspondence from Meridee Pabst, Wireless Policy Group, on behalf of Cingular Wireless PCS, LCC (AT&T), dated May 24, 2021
- Attachment B: AT&T PowerPoint Slide received May 25, 2021
- Attachment C: Correspondence from Tim Halinski, T-Mobile West, LLC, dated May 24, 2021
- Attachment D: Correspondence from Kim Allen, Wireless Policy Group, on behalf of Verizon Wireless, dated May 24, 2021



May 24, 2021

Terry Lawler, Chair  
 Beaverton Planning Commission  
 City of Beaverton  
 12725 SW Millikan Way  
 Beaverton, OR 97005

Via email to – [mailboxCEDDplanning@beavertonoregon.gov](mailto:mailboxCEDDplanning@beavertonoregon.gov)

Re: **TA2021-0001 – Small Wireless Facility Text Amendment**

Dear Chair Lawler and Commissioners:

Thank you for the opportunity to comment on the draft small wireless facility (“SWF”) policy document and planned development code amendments related to SWFs, Eligible Facilities Requests (site modifications under Section 6409<sup>1</sup>), and other wireless matters. These comments are provided to the City of Beaverton (“City”) on behalf of New Cingular Wireless PCS, LLC (“AT&T”).

AT&T supports the City’s efforts to update its wireless code and standards to address advancements in technology and for greater consistency with federal law – most notably, the 2018 Federal Communications Commission (“FCC”) Order,<sup>2</sup> relevant portions of which were upheld on appeal last August,<sup>3</sup> and the FCC rule governing Eligible Facilities Requests.<sup>4</sup>

Moreover, AT&T agrees with the City’s proposal to exempt SWFs in the right-of-way from zoning, consistent with the League of Oregon Cities model ordinance, which recommends removing SWF projects from zoning review because “[i]t is simply not

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<sup>1</sup> 47 U.S.C. §1455.

<sup>2</sup> *Accelerating Wireless and Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, Declaratory Ruling and Third Report and Order, 33 FCC Rcd 9088 (2018)(“FCC Order”).

<sup>3</sup> *City of Portland v. United States*, 969 F.3d 1020 (9th Cir. 2020), *petition for cert. filed*, No. 20-1354 (March 22, 2021).

<sup>4</sup> 47 C.F.R. §1.6100.

practicable to comply with the state’s land use requirements and the FCC’s regulations at the same time.”<sup>5</sup>

But AT&T remains concerned that the draft SWF policy document does not include technically feasible design standards, especially when considering the pole diameter, equipment volume, and height standards applicable to its typical “micro” SWF design.

For each of AT&T’s likely “micro” SWF designs – a “SmartStack” light pole and a SWF attached to a wooden utility pole – AT&T could not meet the proposed standards and would have to obtain an adjustment in most circumstances (in every instance for the SmartStack and in residential zones for the SWF on a wooden utility pole), in order to receive City approval for construction. The lack of feasibility in the relevant standards is discussed in more detail below.

While AT&T will need to obtain an adjustment or design deviation, neither of the procedural options provided under the proposed SWF policy offer an opportunity for approval:

- According to the SWF policy document and staff report, the **adjustment process (Section 3)** is intended to be for “unique circumstances”<sup>6</sup> and requires the “applicant [ . . . ] to identify the unforeseen circumstances that warrant the adjustment.”<sup>7</sup> With “unforeseen circumstances” as the threshold, AT&T could never obtain an adjustment; here, AT&T is sharing its foreseeable circumstances and design limitations in an attempt to inform this code change process.
- Similarly, the proposed **“pre-approved design” process (Section 2.7(d))**, which requires that an applicant show that the alternative design “exceeds” the applicable design standards, sets an impossible threshold.<sup>8</sup> The reason that an applicant would seek relief is that it is unable to meet the standard in question. It continues to be unclear to AT&T how this proposed standard would allow an alternative design. In contrast, jurisdictions like Bellevue, Washington, offer a pre-approved design process that allows applicants “to receive preapproval of a

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<sup>5</sup> League of Oregon Cities Small Wireless Facilities Model Ordinance, p. 2.

<https://www.orcities.org/resources/communications/bulletin/loc-releases-new-small-cell-model-ordinance-and-design-guidelines>

<sup>6</sup> Staff Report, p. 3.

<sup>7</sup> Staff Report, p. 7.

<sup>8</sup> Because this is the proposed standard for approving an alternative design, AT&T believes the City means “exceeds” as in “better than.” City staff has not clarified that “exceeds” is being used as in “larger than,” which more accurately describes the likely reason for an alternative design, but causes confusion, given the alternative meanings of “exceeds.”

programmatic SWF design *that deviates from the design standards but achieves an equal or better aesthetic concealment outcome.*<sup>9</sup>

For technical feasibility, the City's standards should allow reasonably foreseeable SWF designs and provide relief from standards when the applicant can show its design achieves an equal or better aesthetic outcome or when strict application of the standards would have the effect of prohibiting wireless service under federal law.

AT&T asks that the Commission recommend adoption of technically feasible SWF standards. Please also see the enclosed redlines of both the SWF policy document and the BDC amendments for additional changes suggested for consistency with federal law, clarification, and feasibility.

### **The importance of wireless technology to Beaverton**

Beaverton households, businesses, and emergency responders are increasingly reliant on wireless networks to communicate and access necessary services:

- Since 2007, AT&T has seen data usage on its network increase by 580,000 percent.<sup>10</sup>
- Well over half (63.4%) of Oregon State homes no longer use traditional landline telephone service and instead choose to be wireless only.<sup>11</sup>
- Nationwide, four in five adults aged 25–29 (80.4%) and aged 30-34 (83%) are wireless-only adults.<sup>12</sup>

In addition, wireless communications are a critical tool for first responders in emergency situations. In many areas, 80 percent or more of 911 calls come from wireless phones.<sup>13</sup>

Small wireless facilities are a critical component of AT&T's response to this rapidly increasing demand for wireless services. SWFs relieve pressure on wireless networks in high-traffic areas by bolstering network capacity, allowing faster downloads, and improving call quality within their coverage areas. SWFs also are capable of delivering

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<sup>9</sup> Bellevue City Code 6.08.06(E)(emphasis added).

<sup>10</sup> <https://buildingour5gfuture.com/connectmissouri/>

<sup>11</sup> CDC Wireless Substitution: State-Level Estimates from the National Health Interview Survey (released December 2019).

<sup>12</sup> CDC Wireless Substitution: Early Release of Estimates from the National Health Interview Survey, January-June 2020 (released February 2021 ).

<sup>13</sup> <https://www.nena.org/page/911Statistics>

wireless services to areas that cannot be otherwise served by a traditional cell tower or building-mounted macro facilities.

### **Proposed SWF standards' lack of feasibility**

AT&T is very concerned about the lack of feasibility in the standards proposed in the draft SWF policy document. Under the FCC Order, aesthetic regulations for SWFs apply to the extent they are reasonable, technically feasible, and published in advance.<sup>14</sup> Each SWF standard must be technically feasible for all carriers. If not technically feasible, SWF standards have the effect of prohibiting wireless service in violation of federal law.<sup>15</sup>

In this region, AT&T has two SWF designs: a smaller “pico” design and a larger “micro” design, which is typically needed to serve a suburban area with medium to large lot sizes. AT&T’s “micro” SWF design is currently the predominant AT&T design planned for Beaverton. (The “SmartStack” SWF that the Planning Commission approved last year in *WF2020-0011* was a “pico” SWF installation, the smaller of AT&T’s two standard designs.)

Two examples of the proposed SWF policy’s lack of feasibility are especially illustrative, when they are applied to AT&T’s “micro” SWF design:

- **For AT&T’s “SmartStack” light pole design:**
  - AT&T’s “micro” SmartStack meets the City’s requirement to enclose equipment within the pole,<sup>16</sup> but has a 20-inch diameter, which is not allowed under the proposed SWF Policy, which limits diameter to 16 inches.<sup>17</sup> Also, an additional height of more than six feet will be needed in order to both clear the obstruction of a luminaire and to accommodate more than one SWF technology on the pole (4G and 5G). Enclosed is a photo simulation illustrating AT&T’s “micro” SWF deployed through a SmartStack design.
  - The City’s current BDC for wireless installations in the right-of-way permits up to 24 inches in diameter and an additional 10 feet in height, outright,<sup>18</sup> seemingly recognizing that if all equipment and antennas are

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<sup>14</sup> FCC Order at ¶¶ 86-87.

<sup>15</sup> *City of Portland v. United States*, 969 F.3d at 1042.

<sup>16</sup> Section 2.7(3)(A)(1).

<sup>17</sup> Section 2.7(4)(B)(1).

<sup>18</sup> BDC 60.70.35.19.J and -D.

to be internalized (or at least appear internalized), additional space is required. As a result of this proposed policy change, a SWF design that is permitted outright today will be foreclosed.

- In order to meet the City's currently proposed diameter (16 inches<sup>19</sup>) and height (no more than six feet above the existing pole<sup>20</sup>) standards for a streetlight pole with both 4G and 5G antennas, AT&T must mount some equipment external to the pole and must mount 5G antennas external to the pole (likely below the luminaire), both of which are not allowed by the SWF policy and both of which would result in a less visually appealing design.
  - Finally, the proposed SWF standards for a "new, nonreplacement" (wireless-only) pole allow up to 24 inches in diameter and 40 feet in height.<sup>21</sup> But it seems the City would want to avoid adding new vertical infrastructure, which could be as large as what AT&T is proposing for a replacement streetlight pole.
- **For AT&T's equipment cabinet on a wooden utility pole in residential zones:**
    - AT&T's "micro" installation on a wooden utility pole includes an exterior mounted equipment cabinet to house the radios and other supporting equipment to operate the SWF.
    - The FCC's definition of a "small wireless facility" provides for up to 28 cubic feet in equipment volume.<sup>22</sup>
    - The proposed SWF Policy only allows nine (9) cubic feet for an equipment cabinet in residential zones. This restrictive standard does not allow for the equipment cabinet needed to support a "micro" SWF installation.
    - Since AT&T started commenting on the lack of feasibility in the proposed equipment standards, the standards have only become smaller in later drafts. (While 9 cubic feet in residential zones and 18 cubic feet in all other zones was proposed in last year's draft SWF policy, the currently proposed standards are 9 cubic feet and 17 cubic feet.) AT&T suggests that the City adopt an 18 cubic foot standard in all zones to feasibly accommodate equipment.
    - Without a feasible equipment standard for a wooden utility pole attachment, carriers will have no options except to install a new pole, adding vertical infrastructure to the right-of-way, or installing more,

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<sup>19</sup> Id.

<sup>20</sup> Section 2.7(4)(B)(2).

<sup>21</sup> Section 2.7(4)(D)(1)-(2).

<sup>22</sup> 47 C.F.R. §1.6002(l).

smaller SWFs. Similar to the SmartStack standards above, strict limitations on cabinet size would result in a less visually appealing street corridor.

Also of continuing concern are the SWF policy's requirements that antennas be shrouded or "internal" to the pole; depending on the frequency used, some antennas may not be feasibly covered with concealment. AT&T suggests that the City take the same approach as many other jurisdictions in the region, by qualifying such concealment standards so they apply "to the extent technically feasible."

As explained above, the SWF Policy offers no meaningful relief valve from these infeasible standards.

AT&T suggests that the City's SWF Policy provide a reasonable path forward for installing typical SWF designs.

Please see the enclosed redline of the SWF policy for additional comments.

#### **Development Code Changes**

In several instances, the proposed changes to the BDC are inconsistent with federal law and/or lack clarity. AT&T suggests the changes shown in the enclosed redline.

We appreciate your consideration of AT&T's comments and for all of the efforts by the City's leaders and staff to establish workable policies for the wireless industry, including AT&T, and the people living and working in the Beaverton community.

Sincerely,



Meridee Pabst  
meridee.pabst@wirelesspolicy.com

Enclosures: Photo simulation of AT&T's SmartStack design with 20-inch diameter pole  
Redlined suggested changes to SWF Policy Document and BDC

cc: Sambo Kirkman, Senior Planner  
Anna Slatinsky, Planning Division Manager

# AT&T "SmartStack" Design with 20-inch Diameter



PROPOSED

<b>CITY OF BEAVERTON</b>	<b>Policy No. [reserved]</b>
<b>CITY COUNCIL POLICY</b>	Adopted: [date] Revised:
<b>GENERAL SUBJECT: SMALL WIRELESS FACILITIES</b>	

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## SECTION 1. GENERAL PROVISIONS

### SECTION 1.1. PURPOSE AND INTENT

- (a) On September 27, 2018, the Federal Communications Commission (“FCC”) adopted a *Declaratory Ruling and Third Report and Order*, FCC 18-133 (the “*Small Cell Order*”), in connection with two informal rulemaking proceedings entitled *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, WT Docket No. 17-79, and *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84. The regulations adopted in the *Small Cell Order* significantly curtail the local authority over wireless and wireline communication facilities reserved to State and local governments under sections 253 and 704 in the federal Telecommunications Act. Numerous legal challenges to the *Small Cell Order* were raised, but its regulations became effective while such challenges are pending. On August 12, 2020, the United States Court of Appeals for the Ninth Circuit invalidated many aesthetic restrictions in the *Small Cell Order* but largely upheld the other restrictions. *Portland v. United States*, 969 F.3d 1020 (9th Cir. 2020). The court specifically invalidated the requirements that aesthetic regulations be objective and no more burdensome than those applied to other infrastructure deployments. See *id.* at 1039–42. Although municipalities may exercise reasonable discretion over small wireless facilities, they must do so on an expedited basis to meet the short shot clock limits. Importantly, the Ninth Circuit’s decision remains subject to further appeals that could stretch well into 2021 and even into 2022. Although the City of Beaverton opposes the *Small Cell Order* and the FCC’s blatant overreach, the City recognizes the practical reality in establishing clear and concise processes and standards to address how installation of these facilities are to occur within the City. Accordingly, the City Council adopts this Policy as a means to accomplish such compliance that can be quickly amended or repealed by resolution in the future without the need to amend the City’s municipal code. This policy document is to address small wireless facilities within the City’s public rights-of-way and on private property.
- (b) The City of Beaverton intends this Policy to establish reasonable, uniform and comprehensive standards and procedures for small wireless facilities deployment, construction, installation, collocation, modification, operation, relocation and removal within the City’s territorial boundaries, consistent with and to the extent permitted under federal and Oregon state law. The standards and procedures contained in this Policy are intended to, and should be applied to, protect and promote public health, safety and welfare, and balance the benefits that flow from robust, advanced wireless services with the City’s local values, which include without limitation the aesthetic character of the City, its neighborhoods and community. This Policy is also intended to reflect and promote the community interest by: (1) ensuring that the balance between public and private interests is maintained; (2) protecting the City’s visual character from potential adverse impacts and/or visual blight created or exacerbated by small wireless facilities and

**Commented [MP1]:** AT&T appreciates that a local jurisdiction typically balances such interests in zoning regulations/decisions, but it may not do so without regard for federal law.

A number of the City’s proposed standards are not technically feasible as required by the FCC’s 2018 Small Wireless Order and the proposed deviation criteria do not appear to provide meaningful relief.

related communications infrastructure; (3) protecting and preserving the City's environmental resources; (4) protecting and preserving the City's public rights-of-way and municipal infrastructure located within the City's public rights-of-way; and (5) promoting access to high-quality, advanced wireless services for the City's residents, businesses and visitors.

- (c) This Policy is not intended to, nor shall it be interpreted or applied to: (1) prohibit or effectively prohibit any personal wireless service provider's ability to provide personal wireless services; (2) prohibit or effectively prohibit any entity's ability to provide any telecommunications service, subject to any competitively neutral and nondiscriminatory rules, regulations or other legal requirements for rights-of-way management; (3) unreasonably discriminate among providers of functionally equivalent services; (4) deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such wireless facilities comply with the FCC's regulations concerning such emissions; (5) prohibit any collocation or modification that the City may not deny under federal or Oregon state law; (6) impose any unreasonable, discriminatory or anticompetitive fees that exceed the City's objectively reasonable and actual cost to provide the services for which the fee is charged; or (7) otherwise authorize the City to preempt any applicable federal or Oregon law.

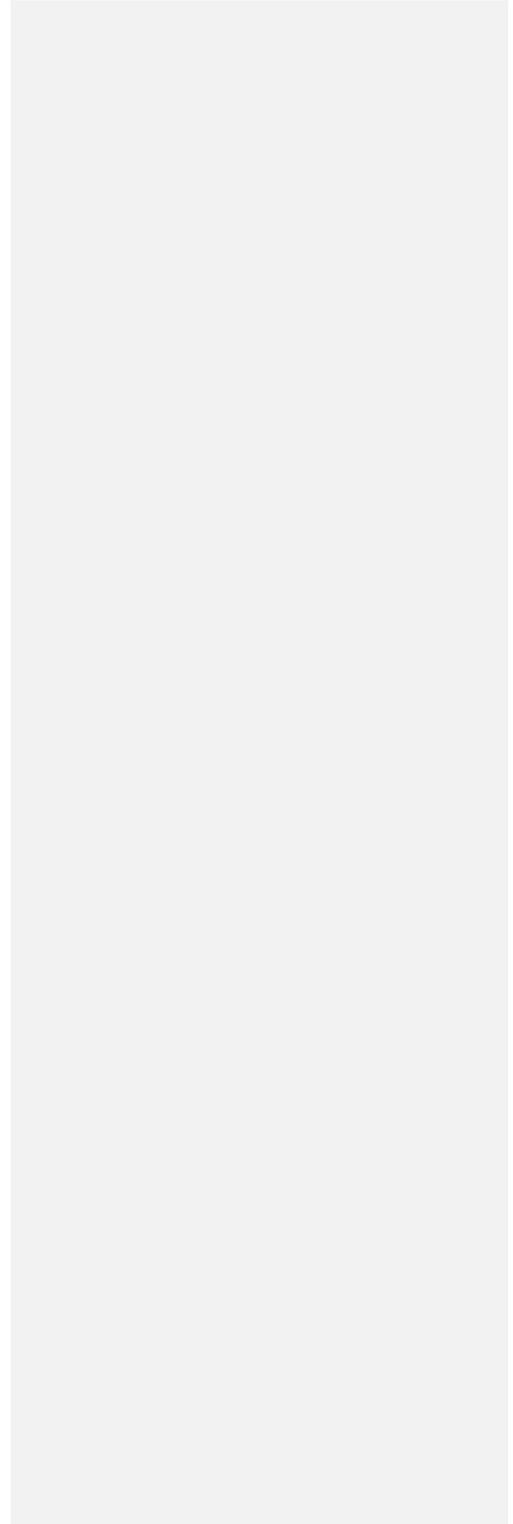
#### SECTION 1.2. GENERAL DEFINITIONS

- (a) **Undefined Terms.** Undefined phrases, terms or words in this section will have the meanings assigned to them in 47 U.S.C. § 153 and applicable federal regulations as may be amended or superseded, and, terms that still remain undefined will have their ordinary meanings. If any definition assigned to any phrase, term or word in this section conflicts with any federal or state-mandated definition, the federal or state-mandated definition will control.
- (b) **Defined Terms.**
- (1.) **“Antenna”** means the same as defined in 47 C.F.R. § 1.6002(b), as may be amended or superseded. (ADD FCC HPERLINK)
- (2.) **“Antenna Equipment”** means the same as defined 47 C.F.R. § 1.6002(c), as may be amended or superseded. (ADD FCC HPERLINK)
- (3.) **“Antenna Facility”** means the same as defined in 47 C.F.R. § 1.6002(d), as may be amended or superseded. (ADD FCC HPERLINK)
- (X) **“approval authority”** means the City official responsible for reviewing applications for small wireless facilities permits and vested with the authority to approve, conditionally approve or deny such applications as provided in this Policy. The approval authority for applications in connection with small wireless facilities shall be the Director or their designee.

- (X) “**arterial**” means a roadway designed to interconnect and support principal arterials and freeways. They link major commercial, residential, industrial, and employment areas. Arterials are typically spaced about one mile apart to assure access to through routes and to reduce the incidence of traffic using collectors or local streets in lieu of a well-placed arterial street. The term “arterial” as used in this Policy is defined in the City of Beaverton Comprehensive Plan, Transportation Element.
- (X) “**batched application**” means more than one application submitted at the same time.
- (X) “**collector**” means a roadway designed to balance access and circulation within residential, commercial, and industrial areas. Collectors differ from arterials in that they provide circulation within the city and distribute trips onto neighborhood routes and local streets. The term “collector” as used in this Policy is defined in the City of Beaverton Comprehensive Plan, Transportation Element.
- (X) “**collocate**” means the same as defined by the FCC in 47 C.F.R. § 1.6002(g), as maybe amended or superseded. (ADD FCC HPERLINK)
- (X) “**concealed**” or “**concealment**” means camouflaging techniques that integrate the transmission equipment into the surrounding natural and/or built environment such that the average, untrained observer cannot directly view the equipment but would likely recognize the existence of the wireless facility or concealment technique. Camouflaging concealment techniques include but are not limited to: (1) facade or rooftop mounted pop-out screen boxes;(2) antennas mounted within a radome above a streetlight; (3) equipment cabinets painted or wrapped to match thebackground; and (4) an isolated or standalone faux-tree.
- (X) “**decorative pole**” means any pole that includes decorative or ornamental features, design elements and/or materials intended to enhance the appearance of the pole or the public rights-of-way in which the pole is located.
- (X) “**FCC**” means the Federal Communications Commission or its duly appointed successor agency.
- (X) “**FCC Shot Clock**” means the presumptively reasonable time frame within which the City generally must act on a given wireless application, as defined by the FCC and as may be amended or superseded.
- (X) “**local streets**” are designed to have the sole function of providing access to adjacent land. Local street design deliberately discourages through traffic and is important to neighborhood identity. The term “local streets” as used in this Policy is defined in the City of Beaverton Comprehensive Plan, Transportation Element.
- (X) “**ministerial permit**” means any City-issued non-discretionary permit required to commence or complete any construction or other activity subject to the City’s jurisdiction. Ministerial permits may include, without limitation, any building permit, construction permit, electrical permit, encroachment permit, excavation permit, traffic

**AT&T Comments – May 24, 2021**

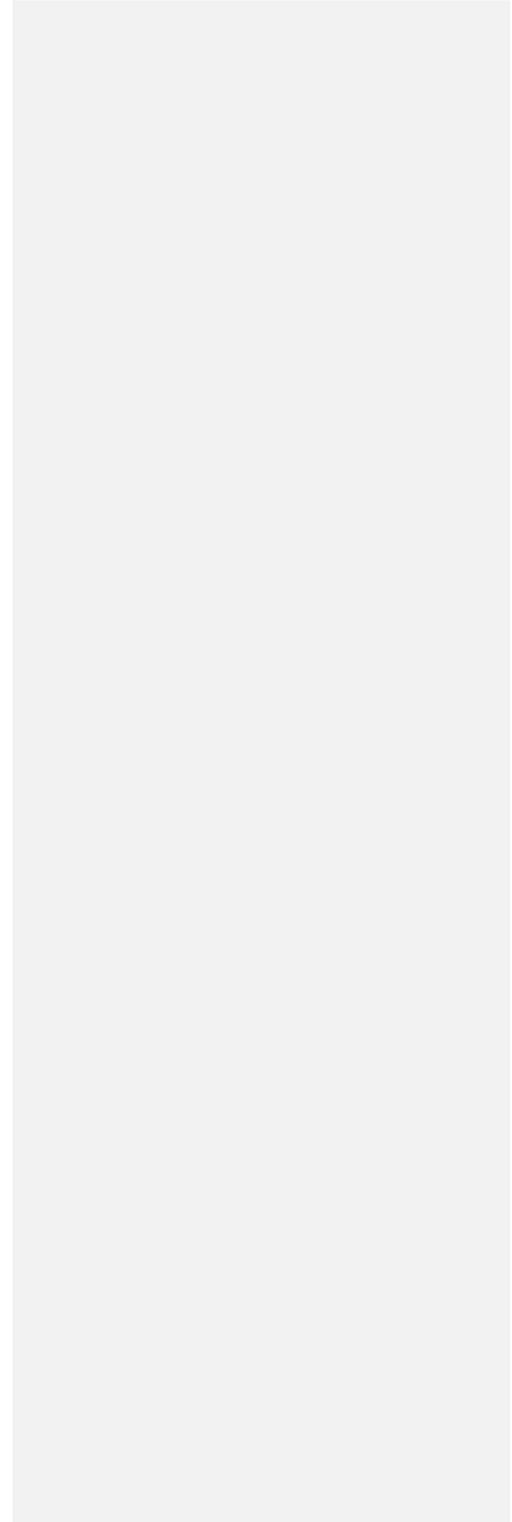
| control permit and/or any similar over-the-counter approval issued by the City's departments.



- (X) “**neighborhood routes**” are designed to be longer than local streets and provide connectivity to collectors or arterials. Because they have greater connectivity, they generally have more traffic than local streets and are used by residents to get into and out of their neighborhoods. The term “neighborhood routes” as used in this Policy is defined in the City of Beaverton Comprehensive Plan, Transportation Element.
- (X) “**personal wireless services**” means the same as defined in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended or superseded. (ADD FCC HPERLINK)
- (X) “**personal wireless service facilities**” means the same as defined in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended or superseded. (ADD FCC HPERLINK)
- (X) “**Pole**” means a type of structure that is or may be used in whole or in part by or for wireline communications, electric distribution or transmission, lighting, traffic control, signage, or similar function, or for collocation of small wireless facilities; provided, such term does not include a tower or building structures.
- (X) “**principal arterial**” means streets that are designed to serve to connect neighboring cities and urban areas. They are of regional significance and often of statewide importance as well. The term “principal arterial” as used in this Policy is defined in the City of Beaverton Comprehensive Plan, Transportation Element.
- (X) “**Rights-of-Way (ROW)**” means and includes, the space in, upon, above, along, across, over or under a street identified as a local, collector, neighborhood route, arterial, principal arterial, or freeway in the City’s Comprehensive Plan, Transportation Element.
- (X) “**RF**” means radio frequency or electromagnetic waves.
- (X) “**Section 6409**” means Section 6409(a) of the Middle-Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156, codified as 47 U.S.C. § 1455(a), as may be amended or superseded. (ADD FCC HPERLINK)
- (X) “**small wireless facility**” or “**small wireless facilities**” means the same as defined by the FCC in 47 C.F.R. § 1.6002(l), as may be amended or superseded. (ADD FCC HPERLINK)
- (X) “**Strand Mounted**” means small wireless antenna(s) and equipment attached directly to the wire hanging between two utility poles.
- (X) “**Structure**” means the same as defined in 47 C.F.R. § 1.6002(m), as may be amended or superseded, which defines that term as a pole, tower, or base station, whether or not it has an existing antenna facility, that is used or to be used for the provision of personal wireless service (whether on its own or comingled with other types of service).
- (X) “**support structure**” means a “structure” as defined by the FCC in 47 C.F.R. § 1.6002(m), as may be amended or superseded.

- (X) **“tower”** means a structure, tower, pole or mast solely dedicated to support one or more wireless communication antenna systems, including but not limited to, guyed towers, lattice towers and monopoles; provided, such term does not include a pole as defined within this Policy, a building or electric transmission structures.
  
- (X) **“Wireless Communication Facility”** A non-staffed facility for the transmission of radio frequency (RF) signals, usually consisting of an equipment shelter, cabinet or other enclosed structure housing electronic equipment; a support structure; and antenna systems or other transmission and reception devices. This includes cellular towers, cellular antennas, satellite dishes, and microwave dishes.

DRAFT



## SECTION 2. SMALL WIRELESS FACILITIES

### SECTION 2.1. APPLICABILITY; REQUIRED PERMITS AND APPROVALS

(a) **Applicable Facilities.**

- (1) The development, installation, and modification of the following uses are subject to the provision set forth in this policy:
    - (A) Collocation of a small wireless facility; and
    - (B) Modification of an existing pole to be used for a small wireless facility that does not result in the replacement of the pole.
    - (C) Replacement of an existing pole that is required to accommodate a small wireless facility.
    - (D) Placement of a new pole to be used for a small wireless facility.
  - (2) **Small Wireless Facilities.** Except as expressly provided otherwise in this Policy, the provisions in this Policy shall be applicable to all existing small wireless facilities and all applications and requests for authorization to construct, install, attach, operate, collocate, modify, reconstruct, relocate, remove or otherwise deploy small wireless facilities within the public rights-of-way or on private property within the City's jurisdictional and territorial boundaries.
- (b) **Small Cell Permit.** A "small cell permit," subject to the approval authority's prior review and approval, is required for any small wireless facility proposed on an existing, new or replacement structure.
- (c) **Request for Approval Pursuant to Section 6409.** Notwithstanding anything in the Policy to the contrary, requests for approval to collocate, replace or remove transmission equipment on an existing wireless tower or base station submitted pursuant to Section 6409 will be subject to the current FCC rules and regulations for "eligible facilities requests" as defined by FCC and as may be amended or superseded.

(d) **Other Permits and Approvals.** In addition to a small cell permit, the applicant must obtain all other permits and regulatory approvals as may be required by any other federal, state or local government agencies prior to ~~submittal~~ **construction of a small wireless facility application.**

(a) **Master Lease Agreement.** ~~Requirements outlined in a Master Lease Agreement shall supersede the requirements identified within this section.~~

Commented [MP2]: This is not consistent with the 2018 FCC Order (¶ 145 regarding successive permit applications) and the shot clock rule. The City may not require successive reviews.

Commented [MP3]: Staff noted recently that this subsection would control interpretation of this Policy, but it appears to have dropped from the draft since November.

**SECTION 2.2. SMALL CELL PERMIT APPLICATION REQUIREMENTS**

- (a) **Small Cell Permit Application Contents.** All applications for a small wireless facility proposed must include all the information and materials required in this Section 2.2(a).
- (1) **Application Form.** The applicant shall submit a complete, duly executed small cell permit application on the then-current form that includes a checklist of required materials to be provided with the application form.
- (2) **Application Deposit.** The applicant shall submit the applicable small cell permit application deposit established by City Council resolution. Batched applications must include the applicable small cell permit application deposit for each small wireless facility in the batch.
- (3) **Construction Drawings.** The applicant shall submit true and correct construction drawings, prepared, signed and stamped by an Oregon licensed or registered engineer, that depicts all the existing and proposed improvements, equipment and conditions related to the proposed project, which includes without limitation any and all poles, posts, pedestals, traffic signals, towers, streets, sidewalks, pedestrian ramps, driveways, curbs, gutters, drains, handholes, manholes, fire hydrants, equipment cabinets, antennas, cables, trees and other significant landscape features. The construction drawings must:
- (i) contain cut sheets identifying the technical specifications for all existing and proposed antennas and antenna equipment, which includes without limitation the manufacturer, model number and physical dimensions;
  - (ii) If the applicant is asserting that the proposal's height is allowed due to the height of adjacent structures, for projects within the right-of-way or a private street, identify all structures in the right-of-way within 500 lineal feet from the proposed small wireless facility and call out such structures' overall height aboveground level
  - ~~(iii) for projects on private property, identify all structures within 50 feet of the property line~~
  - ~~(iv)~~(iii) depict the applicant's plan for electric and data backhaul utilities, which shall include the locations for all conduits, cables, wires, handholes, junctions, transformers, meters, disconnect switches, and points of connection, to the extent that the applicant is responsible for their construction; and
  - ~~(v)~~(iv) demonstrate that proposed project will be in full compliance with all applicable health and safety laws, regulations or other rules, which includes without limitation all building codes, electric codes, local street standards and specifications, and public utility regulations and orders.

Commented [MP4]: The companies providing such utilities will obtain their own permits, based on their own designs/construction plans. A SWF applicant can show its construction to the point of connection.

- (4) **Site Survey.** The applicant shall submit a survey prepared, signed and stamped by an Oregon licensed or registered engineer. The survey must identify and depict all existing boundaries, encroachments and other structures

within 75-20 feet from the proposed facility location, which includes without limitation all relevant: (i) traffic lanes; (ii) all private properties and property lines; (iii) above and, in areas where excavation is proposed, below-grade utilities, and related structures and encroachments; (iv) fire hydrants, roadside call boxes and other public safety infrastructure; (v) streetlights, decorative poles, traffic signals and permanent signage; (vi) sidewalks, driveways, parkways, curbs, gutters and storm drains; (vii) benches, trash cans, mailboxes, kiosks and other street furniture; and (viii) existing trees, planters and other landscaping features.

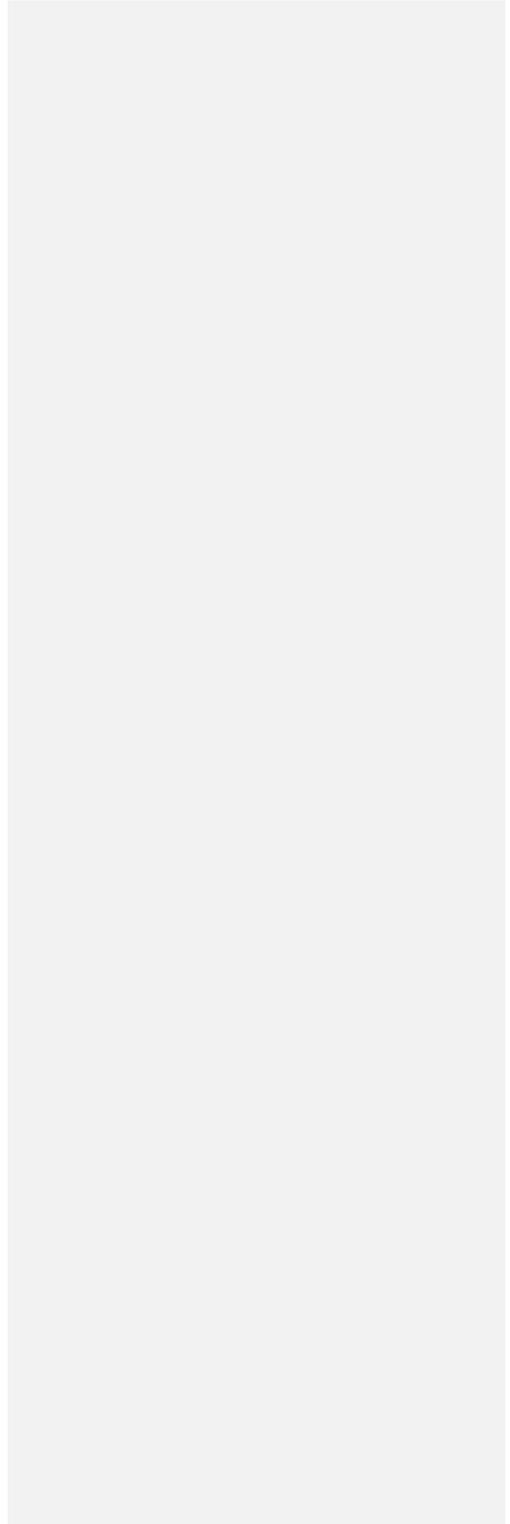
- (5) **Photo Simulations.** The applicant shall submit site photographs and photo simulations that show the existing location and proposed small wireless facility in context from at least two vantage points within the public streets or other publicly accessible spaces, together with a vicinity map that shows the proposed site location and the photo location for each vantage point. At least one simulation must depict the small wireless facility from a vantage point approximately less than 50 feet from the proposed support structure or location.
- (6) **Project Narrative and Justification.** The applicant shall submit a written statement that explains in plain factual detail whether and why the proposed wireless facility qualifies as a “small wireless facility” as defined by the FCC in 47 C.F.R. § 1.6002(l). A complete written narrative analysis will state the applicable standards in this policy and all the facts that allow the City to conclude the standards will be met—bare conclusions not factually supported do not constitute a complete written analysis. As part of the written statement the applicant must also include: (i) whether and why the proposed support is a “structure” as defined by the FCC in 47 C.F.R. § 1.6002(m); and (ii) whether and why the proposed wireless facility meets each required finding for a small cell permit as provided in Section 2.4(c).
- (7) **RF Compliance Report.** The applicant shall submit an RF exposure compliance report that certifies that the proposed small wireless facility, as well as any collocated wireless facilities, will comply with applicable federal RF exposure standards and exposure limits. The RF report must be prepared and certified by an RF engineer or qualified employee of the applicant acceptable to the City. The RF report must include the actual frequency and power levels (in watts effective radiated power) for all existing and proposed antennas at the site and exhibits that show the location and orientation of all transmitting antennas and the boundaries of areas with RF exposures in excess of the uncontrolled/general population limit (as that term is defined by the FCC) and also the boundaries of areas with RF exposures in excess of the controlled/occupational limit (as that term is defined by the FCC). Each such boundary shall be clearly marked and identified for every transmitting antenna at the project site.
- (8) **Regulatory Authorization.** The applicant shall submit evidence of the applicant’s regulatory status under federal and Oregon law to provide the services and construct the small wireless facility proposed in the application.

Commented [MP5]: 75 feet is an unreasonably large area. What is the rationale for this?

Does the City require such detail for other ROW construction?

Commented [MP6]: Below grade utilities are only relevant where the applicant will excavate/disturb the ground.

- (9) **Site License Agreement.** For any small wireless facility proposed to be installed



on any structure owned or controlled by the City and located within the public rights-of-way, the applicant shall submit a partially-executed site license agreement on a form prepared by the City that states the terms and conditions for such non-exclusive use by the applicant. No changes shall be permitted to the City's form site license agreement except as may be indicated on the form itself. Any unpermitted changes to the City's form site license agreement shall be deemed a basis to deem the application incomplete. Refusal to accept the terms and conditions in the City's site license agreement shall be an independently sufficient basis to deny the application.

- (10) **Owner's Authorization.** Any small wireless facility proposed to be installed on any real property outside of the right-of-way is subject to the provisions for owner authorization in BDC. If the owner is a public or other utility or joint pole association, the applicant may submit authorization reasonably acceptable to the Director.

Commented [MP7]: Aren't JPAs a California entity?

- (b) **Additional Requirements.** The City Council authorizes the approval authority to develop, publish and from time to time update or amend permit application requirements, forms, checklists, guidelines, informational handouts and other related materials that the approval authority finds necessary, appropriate or useful for processing any application governed under this Policy that is subject to the approval authority's review. All such requirements and materials must be in written form and publicly stated to provide all interested parties with prior notice.

### SECTION 2.3 SMALL CELL PERMIT APPLICATION SUBMITTAL AND COMPLETENESS REVIEW

- (a) **Requirements for a Duly Filed Application.** Any application for a small cell permit will not be considered duly filed unless submitted in accordance with the requirements in this Section 2.3(a).
- (1) **Pre-Submittal Conferences.** The City strongly encourages, but does not require, potential applicants to schedule and attend a pre-submittal conference with the approval authority for all proposed projects that involve small wireless facilities. A voluntary pre-submittal conference is intended to streamline the review process through informal discussion between the potential applicant and staff that includes, without limitation, the appropriate project classification and review process; any latent issues in connection with the proposed project, including compliance with generally applicable rules for public health and safety; potential concealment issues or concerns (if applicable); coordination with other City departments responsible for application review; and application completeness issues. To mitigate unnecessary delays due to application incompleteness, potential applicants are encouraged (but not required) to bring any draft applications or other materials so that City staff may provide informal feedback and guidance about whether such draft applications or other materials may be incomplete or unacceptable. The approval authority shall use reasonable efforts to provide the potential applicant with an appointment within five working days after receiving a written request and any applicable fee or deposit to reimburse the City for its reasonable costs to provide the services rendered in the pre-submittal conference.
- (b) **Application Completeness Review.** Staff will evaluate the application submittal

to determine if all the required materials are provided. If the application is determined to be incomplete, staff will notify the applicant no more than 10 days from the submittal of the application of the materials needed to complete the application or as required by the FCC. If the applicant is notified that the application is incomplete on its initial submittal, then the FCC shot clock restarts on the date the supplemental submission is provided to the City. After the first supplemental submission, the FCC shot clock will toll if the supplemental submission did not provide the information requested in the City's original notification that the application was incomplete.

- (c) **Applications Deemed Withdrawn.** To promote efficient review and timely decisions, and to mitigate unreasonable delays or barriers to entry caused by chronically incomplete applications, any application governed under this Policy will be automatically deemed withdrawn by the applicant when the applicant fails to tender a substantive response to the approval authority within 60 calendar days after the approval authority deems the application incomplete in a written notice to the applicant. The approval authority, in the approval authority's discretion, may grant a written extension for up to an additional 30 calendar days when the applicant submits a written request prior to the 60th day that shows good cause to grant the extension. Good cause for an extension shall include, without limitation, delays due to circumstances outside the applicant's reasonable control. The cost of City staff review time, or \$100, whichever is greater will be assessed against the deposit provided by the applicant, and the remainder of the deposit refunded. As used in this Section 2.3(c), a "substantive response" must include the materials identified as incomplete in the approval authority's notice.
- (d) **Batched Applications.** Applicants may submit batched applications; provided, however, that the batch must contain all the required elements for a complete application for each facility included in the batch.
- (e) **Additional Procedures.** The City Council authorizes the approval authority to establish other reasonable rules and regulations for duly filed applications subject to the approval authority's review, which may include without limitation regular hours for appointments with applicants, as the approval authority deems necessary or appropriate to organize, document and manage the application intake process. All such rules and regulations must be in written form and publicly stated to provide all interested parties with prior notice.

Commented [MP8]: Any required presubmittal appointment starts the shot clock.

#### SECTION 2.4. APPROVALS AND DENIALS; NOTICES

- (a) **Public Construction Notice.** ~~Prior to any approval, conditional approval or denial~~ **construction**, public notice shall be mailed to all properties and record owners of properties within 3500 feet from the project site measured laterally in both directions and on both sides of the street.
  - (1) The notice **and public outreach** must contain the following:
    - i. Case file number for the application
    - ii. General project description including location;

Commented [MP9]: Suggest using construction notice like the majority of jurisdictions with notice provisions in this region.

- ~~iii. The applicant's identification and contact information for providing comments, as provided on the application submitted to the City;~~
  - ~~iv. contact information for the approval authority;~~
  - ~~v. A statement that the approval authority will act on the application without a public hearing but will accept written public comments that evaluate the application for compliance with the findings in Section 2.4.c and standards in Section 2.6 and Section 2.7; and~~
  - ~~vi. A statement that the FCC requires the City to act on small cell permit applications, which includes any administrative appeals, in 60 days for attachments to existing structures and 90 days for new structures, unless the applicant voluntarily agrees to toll the timeframe for review. Notice is to be mailed approximately seven (7) days once the submittal package is deemed complete.~~
  - ~~vii. A statement that interested parties can submit written comments, but, to be considered, the City must receive those comments no later than the comment closing date, which is a specific date established by the Director and which is approximately twenty eight (28) calendar days from the date the application is determined to be or deemed complete. The comment closing date shall be listed in boldface type.~~
  - ~~viii. A statement that the decision shall be made after the comment closing date.~~
- (2) ~~Projects to be placed on a preferred location utilizing a pre-approved design are exempt from Section 2.4.a.1. However, prior to construction of the facility the applicant shall conduct public outreach to include the following:~~
- ~~(i) Comment period will be a minimum of two weeks and must occur prior to construction.~~
  - ~~(ii) The notification will be on applicant's letterhead.~~
  - ~~(iii) The applicant will mail the notification to all properties and owners of properties within 3500' of the proposed site at least 3 days prior to the comment period.~~
  - ~~(iv) The notification will contain a deadline for comments, description of the installation, a map of the location labeled with street names, and before and after photo simulations of the site.~~
  - ~~(v) The notification will include the name, direct telephone number, and email address of an applicant contact. The notification will direct the public to submit or direct any comments to the applicant contact. The applicant contact must be an employee of the applicant and must be available to answer questions, orally and in writing, from the public. The applicant may designate a consultant knowledgeable with the project to answer questions so long as the employee is copied on written communications.~~
  - ~~(vi) Within 2 months of installation, a consolidated log of received comments and complaints must be submitted to the City.~~
  - ~~(vii) Documentation of the outreach process must be kept for one year after construction of the site and must be made available upon City request.~~

~~(b) — **Administrative Review.** Not less than 10 calendar days after the public notice required in Section 2.4(a), the approval authority shall approve, conditionally approve or deny a complete and duly filed small cell permit application without a public hearing.~~

~~(e)(b)~~ **Required Findings.** The approval authority may approve or conditionally approve a complete and duly filed application for a small cell permit when the approval authority finds:

- (1) the proposed project meets the definition for a “small wireless facility” as defined by the FCC or the design criteria for a strand-mounted facility in this Policy;
- (2) the proposed project would be in the most preferred location within ~~500-250~~ feet from the proposed facility location in any direction or the applicant has demonstrated with substantial evidence in the written record that no other, more preferred location(s) within ~~500-250~~ feet would be technically feasible or that no other, more preferred location within ~~500-250~~ feet is available;
- (3) ~~if~~ the proposed project involves a lesser-preferred design for the pole, antenna, or antenna equipment, the applicant has demonstrated with substantial evidence in the written record that no other preferred design would be technically feasible or available based on the surrounding area and the requirements of the carrier;
- (4) the proposed project does not materially and demonstrably interfere with the safe operation of traffic control equipment;
- (5) ~~the proposed project, including without limitation its appearance and operation, would not be materially adverse to public peace, health, safety, comfort or general welfare;~~
- (6) the proposed project is consistent with any applicable City plan, ~~and would not be materially detrimental to the use of surrounding properties or improvements;~~
- (7) The proposed project will not unreasonably impact visual and aesthetic continuity among other like facilities, and it can be made reasonably compatible with and have a minimal impact on livability and appropriate use and development of properties in the surrounding area.
- (8) the proposed project does not materially and demonstrably interfere with sight lines or clear zones for transportation or pedestrians;
- (9) the proposed project does not materially fail to comply with the Americans with Disabilities Act or similar federal, state, or local laws, standards and regulations regarding pedestrian access or movement;

Commented [MP10]: The substantive standard was 250 feet in the prior draft.

Commented [MP11]: These are discretionary standards typically reserved for conditional uses.

- (10) the proposed project would not be located on a prohibited support structure identified in this Policy;
- (11) the proposed project complies with all applicable design standards in this Policy; and
- (12) the applicant has demonstrated that the proposed project will be in planned compliance with all applicable FCC regulations and guidelines for human exposure to RF emissions.; and
- (13) all public notices required for the application have been given.

(d)(c) **Conditional Approvals; Denials without Prejudice.** Subject to any applicable federal or Oregon laws, nothing in this Policy is intended to limit the approval authority's ability to conditionally approve or deny without prejudice any small cell permit application as may be necessary or appropriate to ensure compliance with this Policy.

(e)(d) **Decision Notices.** The approval authority shall notify the applicant by written notice of its decision on the small cell permit application within five calendar days after its decision, or before the FCC Shot Clock expires, whichever occurs first. If the approval authority denies the application (with or without prejudice), the written notice must contain the reasons for the decision.

(f)(e) **Appeals.** Decision by the approval authority shall be subject to an administrative appeal to the City Manager.

#### SECTION 2.5. STANDARD CONDITIONS OF APPROVAL

- (a) **General Conditions.** In addition to all other conditions adopted by the approval authority for a small cell permit, all small cell permits issued under this Policy shall be automatically subject to the conditions in this Section.
  - (1) **Post-Installation Certification.** Within 60 calendar days after the permittee commences full, unattended operations of a small wireless facility approved or deemed-approved, the permittee shall provide the approval authority with documentation reasonably acceptable to the approval authority that the small wireless facility has been installed and/or constructed in strict compliance with the approved construction drawings and photo simulations. Such documentation shall include without limitation as-built drawings, GIS data and site photographs.
  - (2) **Build-Out Period.** This small cell permit will automatically expire 12 months from the approval date (the "build-out period") unless construction of the small cell facility is complete; provided that, the post installation certification that is required in subsection 2.5(a)(13) may still be provided within the 60 days following commencement of operations. The City may agree to extend the build-out period for one 6-month period if good cause is determined. If the City does not extend the build-out period, and if it expires, the permittee must resubmit a complete application, including all application fees.

**Commented [MP12]:** This looks like a partial acceptance of AT&T's prior suggestion to allow the certification 60 days after construction is complete, even if that extends beyond the 12-month build-out period. I believe the City intended to accept the rest of this proviso.

- (3) **Site Maintenance.** The permittee shall keep the site, which includes without limitation any and all improvements, equipment, structures, access routes, fences and landscape features, in a neat, clean and safe condition in accordance with the approved construction drawings and all conditions in this small cell permit. The permittee shall keep the site area free from all litter and debris at all times. The permittee, at no cost to the City, shall remove and remediate any graffiti or other vandalism at small wireless facility within 72-hours after the permittee receives notice or otherwise becomes aware that such graffiti or other vandalism occurred. The permittee will provide the City with annual updates of their active small wireless facility sites within the City. The documentation shall be in the form of a GIS data layer.
- (4) **Compliance with Laws.** The permittee shall maintain compliance at all times with all federal, state and local statutes, regulations, orders or other rules that carry the force of law (“laws”) applicable to the permittee, the subject property, the small wireless facility or any use or activities in connection with the use authorized in this small cell permit, which includes without limitation any laws applicable to human exposure to RF emissions. The permittee expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve or otherwise lessen the permittee’s obligations to maintain compliance with all laws. No failure or omission by the City to timely notice, prompt or enforce compliance with any applicable provision in the Beaverton Municipal Code, this Policy any permit, any permit condition or any applicable law or regulation, shall be deemed to relieve, waive or lessen the permittee’s obligation to comply in all respects with all applicable provisions in the Beaverton Municipal Code, this Policy, any permit, any permit condition or any applicable law or regulation.
- (5) **Adverse Impacts on Other Properties.** The permittee shall not perform or cause others to perform any construction, installation, operation, modification, maintenance, repair, removal or other work that involves heavy equipment or machines except during normal construction work hours authorized by the Beaverton Code. The approval authority may issue a stop work order for activities that violate this condition in whole or in part.
- (6) **Permit Revocation.** Any permit granted under this Policy may be revoked in accordance with the provisions and procedures in Beaverton Code 4.15.
- (7) **Record Retention.** Throughout the permit term, the permittee must maintain a complete and accurate copy of the written administrative record, which includes without limitation the small cell permit application, small cell permit, the approved plans and photo simulations incorporated into this approval, all conditions associated with this approval, any ministerial permits or approvals issued in connection with this approval and any records, memoranda, documents, papers and other correspondence entered into the public record in

~~connection with the small cell permit, (collectively, “records”). If the permittee does not maintain such records as required in this condition, any ambiguities or uncertainties that would be resolved by inspecting the missing records will be construed against the permittee. The permittee shall protect all records from damage from fires, floods and other hazards that may cause deterioration. The permittee may keep records in an electronic format; provided, however, that hard copies or electronic records kept in the City’s regular files will control over any conflicts between such City-controlled copies or records and the permittee’s electronic copies, and complete originals will control over all other copies in any form. The requirements in this condition shall not be construed to create any obligation to create or prepare any records not otherwise required to be created or prepared by other applicable laws. Compliance with the requirements in this condition shall not excuse the permittee from any other similar record retention obligations under applicable law.~~

(8) **Abandoned Wireless Facilities.** The small wireless facility authorized under this small cell permit shall be deemed abandoned if not operated for any continuous six-month period. Within 90 days after a small wireless facility is abandoned or deemed abandoned, the permittee and/or owner shall completely remove the small wireless facility and all related improvements and shall restore all affected areas to a condition compliant with all applicable laws, which includes without limitation the Beaverton Code. In the event that neither the permittee nor the owner complies with the removal and restoration obligations under this condition within said 90-day period, the City shall have the right (but not the obligation) to perform such removal and restoration with or without notice, and the permittee and owner shall be jointly and severally liable for all costs and expenses incurred by the City in connection with such removal and/or restoration activities.

~~(9) **Landscaping.** The permittee shall replace any significant landscape features damaged or displaced by the construction, installation, operation, maintenance or other work performed by the permittee or at the permittee’s direction on or about the site. If any trees are damaged or displaced, the permittee shall hire and pay for a licensed arborist to select, plant and maintain replacement landscaping in an appropriate location for the species. Any replacement tree must be substantially the same size as the damaged tree. The permittee shall, at all times, be responsible to maintain any replacement landscape features.~~

~~(9)~~  
(10) **Cost Reimbursement.** The permittee acknowledges and agrees that (i) the permittee’s request for authorization to construct, install and/or operate the small wireless facility will cause the City to incur costs and expenses; (ii) the permittee shall be responsible to reimburse the City for all objectively reasonable and actual costs incurred in connection with the permit, which includes without limitation costs related to application review, permit issuance, site inspection and any other costs reasonably related to or caused by the request for authorization to construct, install and/or operate the wireless facility; (iii) any application fees required for the application may not cover all such reimbursable costs and that the

Commented [MP13]: Is this a generally applicable requirement in the City? Does the City have an ordinance applicable to street trees?

Commented [MP14]: This appears to transfer the City’s maintenance responsibility for its existing, then displaced, then replaced landscaping. The carrier’s obligation for its ongoing impact to the ROW is already accounted for in its payment of a recurring ROW fee.

permittee shall have the obligation to reimburse City for all such costs 30 days after a written demand for reimbursement and reasonable documentation to support such costs; and (iv) the City shall have the right to withhold any permits or other approvals in connection with the wireless facility until and unless any outstanding costs have been reimbursed to the City by the permittee. The City shall refund to the applicant any unused application deposit funds within 30 days of its issuance of the permit.

(b) **Conditions for Small Wireless Facilities in the Public Rights-of-Way.** In addition to all conditions in subsection (a), all small cell permits for small wireless facilities in the public rights-of-way issued under this Policy shall be automatically subject to the conditions in this Section 2.5(b) and the requirements in BC 4.15.

(1) **Future Undergrounding Programs.** Notwithstanding any term remaining on any small cell permit, but subject to any applicable laws, if other utilities or communications providers in the public rights-of-way underground their facilities in the segment of the public rights-of-way where the permittee's small wireless facility is located, the permittee must also underground its equipment, if technically feasible, at approximately the same time. This undergrounding requirement excludes the antennas and any approved electric meter. ~~Antenna equipment such as radios and computers that require an environmentally controlled underground vault to function shall not be exempt from this condition.~~ Small wireless facilities installed on wood utility poles that will be removed pursuant to the undergrounding program may be reinstalled on a streetlight that complies with the City's standards and specifications or new pole as allowed by the design standards in this policy. Such undergrounding shall occur at the permittee's sole cost and expense except as may be reimbursed through tariffs approved by the state public utilities commission for undergrounding costs.

Commented [MP15]: It appears the City agreed to make this requirement applicable to the extent "technically feasible." See two lines above. As discussed previously, such feasibility limitations relate specifically to the location of radios, which could then be exempt from this condition.

Commented [MP16]: Collocation on a streetlight pole may not be feasible.

(2) **Electric Meter Upgrades.** If the commercial electric utility provider adopts or changes its rules obviating the need for a separate or ground-mounted electric meter and enclosure, the permittee on its own initiative and at its sole cost and expense shall remove the separate or ground-mounted electric meter and enclosure. Prior to removing the electric meter, the permittee shall apply for any encroachment and/or other ministerial permit(s) required to perform the removal. Upon removal, the permittee shall restore the affected area to its original condition that existed prior to installation of the equipment.

Commented [MP17]: Isn't this inapplicable in Beaverton since PGE will charge on a flat rate?

(c) **Modified Conditions.** The City Council authorizes the approval authority to modify, add or remove conditions to any small cell permit as the approval authority deems necessary or appropriate to: (1) protect and/or promote the public health, safety and welfare; (2) tailor the standard conditions to the particular facts and circumstances associated with the deployment; and/or (3) memorialize any changes to the proposed deployment needed for compliance with the Beaverton Municipal Code, this policy, generally applicable health and safety requirements and/or any other applicable laws. To the extent required by applicable FCC regulations, the approval authority shall take care to ensure that any different conditions applied to small wireless facilities are no more burdensome than those

applied to other infrastructure deployments.

## SECTION 2.6. LOCATION PREFERENCES

**Preface to Location Preferences.** This subsection (a) provides guidance as to how to interpret and apply the location preferences in this Section 2.6. To better assist applicants and decisionmakers understand and respond to the community's aesthetic preferences and values, subsections d) and e) set out listed preferences for locations and support structures to be used in connection with small wireless facilities in ordered hierarchies. Applications that involve lesser-preferred locations or structures may be approved so long as the applicant demonstrates by substantial evidence in the written record that either: (1) no more preferred locations or structures exist within ~~500-250~~ feet from the proposed site; or (2) any more preferred locations or structures within ~~500-250~~ feet from the proposed site would be technically infeasible or unavailable. Subsection (d) identifies "prohibited" support structures on which the City shall not approve any small cell permit application for any competitor or potential competitor.

Commented [MP18]: The prior draft had 250 feet here.

- (a) All small wireless facilities shall be located to avoid any physical or visual obstruction to pedestrian or vehicle traffic, or in any manner create safety hazards to pedestrians, bicyclist or motorists.
- (b) All small wireless facilities shall be positioned to not encroach or effectively narrow the clear path of any pedestrian, bicycle or roadway facility unless approved by the City Engineer.
- ~~(e) All small wireless facilities are prohibited on historic or ornamental streetlight poles and traffic signal poles.~~

~~(d)~~(c) With exception to small wireless facilities, all other Wireless Communication Facilities are prohibited in the public rights-of-way

~~(e)~~(d) **Locations in the Public Rights-of-Way.** The City prefers small wireless facilities in the public rights-of-way to be installed in locations, ordered from most preferred to least preferred, as follows:

- (1) locations within commercial, multiple use or industrial districts on or along principal arterials and arterials;
- (2) locations within commercial, multiple use or industrial districts on or along collectors;
- (3) locations within commercial, multiple use or industrial districts on or along neighborhood routes;
- (4) locations within commercial, multiple use or industrial districts on or along local streets;

(5) locations within residential districts on or along principal arterials and

arterials;

- (6) locations within residential districts on or along collectors;
- (7) locations within residential districts on or along neighborhood routes;
- (8) locations within residential districts on or along local streets; and
- (9) locations within the City’s Historic or Preservation Districts or Overlay Districts

**(f)(e) Locations Outside the Public Rights-of-Way.** The City prefers small wireless facilities outside the public rights-of-way to be installed in locations, ordered from most preferred to least preferred, as follows:

- (1) Utility easements (for which setbacks do not apply);
- (2) City- owned / public agency- owned property;
- (3) Parcels within industrial zones;
- (4) Parcels within commercial zones.
- (5) Parcels within multiple-use zones.
- (6) Parcels within residential zones.

**(g)(f) Support Structures in the Public Rights-of-Way.** The City prefers small wireless facilities to be installed on support structures in the public rights-of-way, ordered from most preferred to least preferred, as follows:

- (1) existing or replacement streetlight poles;
- (2) existing or replacement wood utility poles;
- (3) new, non-replacement streetlight poles;
- (4) new, non-replacement poles for small wireless facilities;
- (5) other street furniture, such as signs and bus shelters.

**(h)(g) Support Structures Outside the Public Rights-of-Way.** The City prefers small wireless facilities to be installed on support structures outside the public rights-of-way, ordered from most preferred to least preferred, as follows:

- (1) existing towers that do not require replacement.
- (2) existing buildings or other non-tower structures previously approved for use

as a support structure for wireless communications facilities;

- (3) other existing or replacement buildings, utility poles, parking lot light standards, or non-tower structures;
- (4) replacement towers;
- (5) new, non-replacement towers for small wireless facilities;

(h) **Prohibited Support Structures.** The City prohibits small wireless facilities to be installed on the following support structures, whether located in the public rights-of-way or not:

~~(1) decorative poles;~~

~~(2)(1) traffic signals, signs, poles, cabinets and related devices;~~

~~(3)(2)~~ any utility pole scheduled for removal or relocation within 12 months from the time the approval authority acts on the small cell permit application;

~~(4)(3)~~ new, non-replacement wood poles.

(i) **Additional Placement Requirements.** In addition to all other requirements in this Policy, small wireless facilities, other infrastructure deployments and all related equipment and improvements shall to the extent feasible:

- (1) When installing a new pole or other non-replacement support structure, be placed as close as possible to the property line between two parcels that abut the public rights-of-way;
- (2) not be placed directly in front of any ground-level door;
- (3) not be placed directly in front of any first- or second-story window;
- (4) not be placed within any sight distance triangles at any intersections;
- (5) not be placed in any location that obstructs views of any traffic signs or signals;
- (6) not be placed in any location that obstructs illumination patterns for existing streetlights;
- (7) for new, non-replacement small wireless facility, must be placed at least 10 feet away from any driveway or established pedestrian pathway between a residential structure and the public rights-of-way; and
- (8) for new, non-replacement small wireless facility, must be placed at least 50 feet away from any driveways for police stations, fire stations or other emergency

Commented [MP19]: Are other types of poles and utilities subject to these restrictions?

responder facilities.

~~(k)(i)~~ **Replacement Pole Locations.** All replacement poles must be: (1) located as close to the removed pole's location as feasible; (2) reasonably aligned with the other existing poles along the public rights-of-way; and (3) compliant with all applicable standards and specifications issued by the Director, which may include, without limitation, requirements related to aesthetics, materials and safety.

**SECTION 2.7. DESIGN STANDARDS**

**(a) General Standards.**

~~(1)~~ **Concealment.** ~~All small wireless facilities must be designed to resemble something other than a wireless facility whenever technically feasible and concealed to the maximum extent feasible with design elements and techniques that mimic or blend with the underlying support structure, surrounding environment and adjacent uses.~~

Commented [MP20]: Compliance with specific design standards should presumptively meet this subsection.

~~(2)~~**(1) Noise.** Small wireless facilities and all antenna equipment and transmission equipment must comply with all applicable noise control standards and regulations in Beaverton Code Chapter 5.15, as either may be amended or superseded, and shall not exceed, either on an individual or cumulative basis, the noise limit in the applicable district.

~~(3)~~**(2) Lights.** Small wireless facilities shall not include any lights that would be visible from publicly accessible areas, except as may be required under Federal Aviation Administration, FCC, other applicable regulations for health and safety. All equipment with lights (such as indicator or status lights) must be installed in locations and within enclosures that mitigate illumination impacts visible from publicly accessible areas. The provisions in this subsection shall not be interpreted or applied to prohibit installations on streetlights or luminaires installed on new or replacement poles as may be required under this Policy. Any light beacons or lightning arresters shall be included in the overall height calculation.

~~(4)~~**(3) Landscape Features.** Small wireless facilities shall not displace any existing significant landscape features unless:

(A) Such displaced landscaping is replaced with native and/or drought-resistant plants, trees or other landscape features approved by the approval authority and

~~(B)~~ For projects within the right-of-way and private streets, the applicant submits and adheres to a landscape maintenance plan. The landscape plan must include existing vegetation, and vegetation proposed to be removed or trimmed, and the landscape plan must identify proposed landscaping by species type, size and location. ~~Where applicable, landscape maintenance must be performed in accordance Beaverton Code Sections 5.05.101 and~~

Commented [MP21]: Are these generally applicable requirements for ROW work?

Commented [MP22]: This appears to transfer the City's maintenance responsibility for its existing, then displaced, then replaced landscaping. The carrier's obligation for its ongoing impact to the ROW is already accounted for in its payment of a recurring ROW fee.

~~(B) 5.05.102, as may be amended or superseded. In addition, all landscaping shall be maintained in a neat and clean condition and kept well-manicured and sufficiently watered. Dead vegetation and litter shall not be allowed to gather. The replacement of dead trees and other vegetation shall be made in conformance with the approved landscaping plan within a reasonable period.~~

(C) For project on private property, the applicant submits and adheres to a landscape maintenance plan consistent with the standards established in Section 60.05.25 of the Beaverton Development Code.

~~(5)~~**(4) Site Security Measures.** To prevent unauthorized access, theft, vandalism, attractive nuisance or other hazards, reasonable and appropriate security measures, such as locks, removable climbing pegs and anti-climbing devices, may be approved. Security measures shall be designed and implemented in a manner that enhances or contributes to the overall concealment, and the approval authority may condition approval on additional concealment elements to mitigate any aesthetic impacts, which may include, without limitation, additional landscape features. The approval authority shall not approve barbed wire, razor ribbon, electrified fences or any similar security measures. Cabinets and equipment shrouds must be kept secured to prevent unauthorized access. Alarm systems shall not include any audible sirens or other sounds.

~~(6)~~**(5) Signage; Advertisements.** All small wireless facilities must include signage that accurately identifies the site owner/operator, the owner/operator's site name or identification number and a 24-hour emergency toll-free number to the owner/operator's network operations center. Small wireless facilities may not bear any other signage or advertisements unless expressly approved by the City, required by law or recommended under FCC, Occupational Safety and Health Administration or other United States governmental agencies for compliance with RF emissions regulations. No other advertising, branding or other signage is allowed unless approved by the Director.

~~(7)~~**(6) Secondary Power Sources.** The approval authority may approve secondary or backup power sources on a case-by-case basis. The approval authority shall not approve any permanent diesel generators within the public rights-of-way or at any other location or within 200 feet from any residence; provided, however, the approval authority may approve sockets or other connections used for temporary backup generators.

~~(8)~~**(7) Street Parking.** Small wireless facilities and any associated antenna equipment or other improvements shall not reduce any street parking spaces within the public rights-of-way.

~~(9)~~**(8) Fire Safety.** All small wireless facilities shall include (A) a power shut off immediately accessible to fire service personnel, through a Knox box or similar rapid-access system approved by Tualatin Valley Fire & Rescue (TVF&R)], upon arrival at the scene of a fire and/or anticipated power surge due to power being turned off or on for any reason; (B) surge protection devices capable of

mitigating a direct or partial direct lightning discharge; (C) surge protection devices capable of mitigating significant electrical disturbances that may enter the small wireless facility via conductive cables; (D) at least one-hour fire resistant interior surfaces to be used in the composition of all structures; and (E) monitored automatic fire notification and extinguishing systems for all small wireless facilities as approved by TVF&R or applicable building code standards.

(10)(9) **Compliance with Health and Safety Regulations.** All small wireless facilities shall be designed, constructed, operated and maintained in compliance with all generally applicable health and safety regulations, which includes without limitation all applicable regulations for human exposure to RF emissions and compliance with the federal Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 *et seq.*).

**(b) Small Wireless Facilities in the Public Right-of-Way.**

(1) **Overall Height.** Small wireless facilities are not to exceed a height of 40 feet or 10 percent taller than the existing pole, whichever is greater, or as otherwise allowed in this subsection for specific pole types. Exceptions to this height restriction require documentation from the pole owner showing the additional height is required for safety regulations or practices.

Commented [MP23]: It is still difficult to read this subsection together with the height allowed by pole type below. Suggest that the specific standards by pole type rule the general, as is the case under the rules of interpreting statutes.

**(2) Antennas.**

(A) **Concealment.** All antennas and associated mounting equipment, hardware, cables or other connectors must be completely concealed either placed internal to the pole or within an opaque antenna shroud or radome, to the extent technically feasible. The antenna shroud or radome must be painted a flat, non-reflective color to match the underlying support structure, to the extent technically feasible.

Commented [MP24]: Exceptions from height can also be needed for other purposes – to allow the antenna to clear the obstruction of the luminaire on a streetlight, for example. AT&T suggests a clear allowance for the height needed for technical feasibility.

Commented [MP25]: As discussed, not all antennas may be shrouded or painted.

(B) **Antenna Volume.** Each individual antenna or antenna enclosure may not exceed three cubic feet in volume. The total maximum number of antennas permitted on the small cell facility are based on the pole type and the mounting of the antennas.

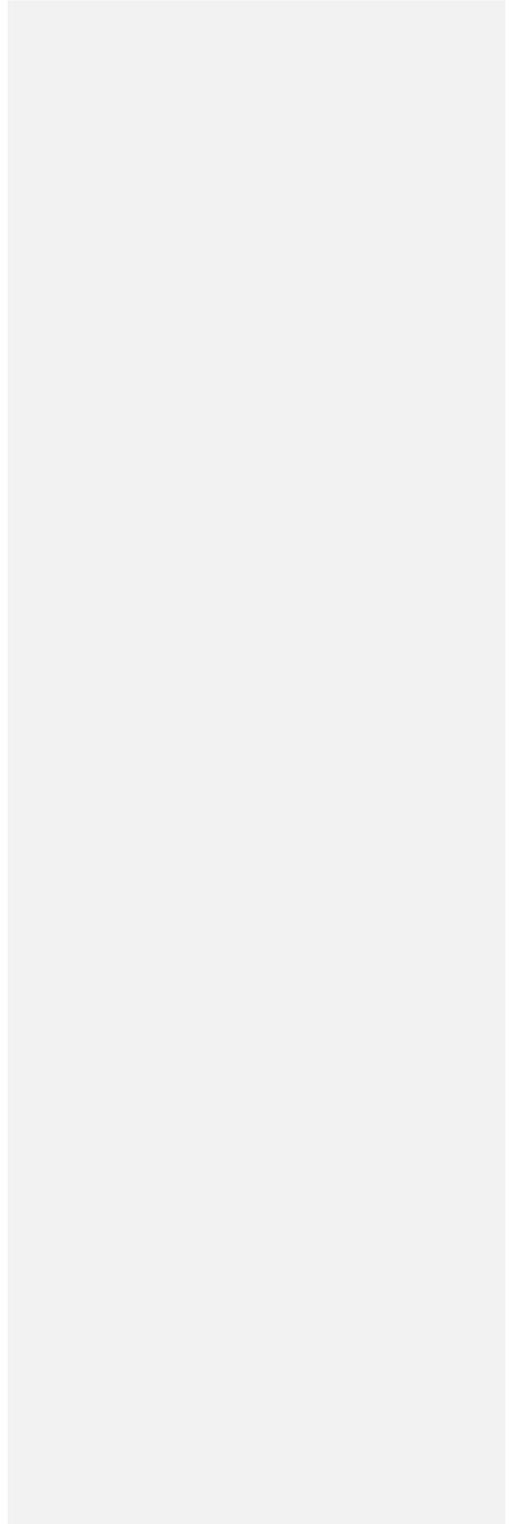
(C) **Mounting Requirements.** The mounting requirements are based on the following pole types, preferences ordered from most preferred to least preferred:

1. Streetlight
  - a. Radomes or shrouds for pole-top antennas shall not exceed more than 36 inches or 2.5 times the diameter of the base of the pole, whichever is less.
  - b. To the extent technically feasible, antennas shall be placed internal to the pole or affixed to the top of the pole. Mounting arms affixing the antenna to the side of the pole are prohibited, unless approved as part of a pre-approved design under this Policy.

Commented [MP26]: As discussed, some antennas may be recessed, but not placed "internal" to the pole.

It appears the City has accepted "recessed" as an alternative in the standards applicable to streetlight poles below.

- c. All wires connecting the antennas to the pole shall be placed



- d. To the extent technically feasible, aAntennas within line of sight of one another must be of a substantially similar configuration, design and finish to promote visual and aesthetic continuity among streetlights in the public rights-of-way.
2. Wood Utility Pole
- a. For antennas affixed to the top of the pole, radomes or shrouds for pole-top antennas shall not exceed more than 36 inches or 2.5 times the diameter of the base of the pole, whichever is less.
  - b. Antennas that are mounted on the pole shall be mounted as flush to the pole as technically feasible and allowed by the pole owner; however, no portion of the antenna shall extend more than 3 feet from the pole. Each bracket or extension arm shall be used for only one antenna.
  - c. Side-mounted antennas on a stand-off bracket or extension arm must be concealed within one or more shrouds that cover the antenna, mounting hardware and cables.
  - d. If the applicant demonstrates that additional separation is required for compliance with applicable health and safety regulations the approval authority may permit the additional spacing. Any modification shall be narrowly tailored to meet the minimum requirements under such health and safety regulations.
  - e. No more than five antennas shall be permitted on one utility pole by one carrier.
  - f. To the extent technically feasible, antennas within line of sight of one another must be of a substantially similar configuration, design and finish to promote visual and aesthetic continuity among wood utility poles in the public rights-of-way.
3. Other Structures. Structures other than streetlights, utility poles, and single-use poles:
- a. For antennas affixed to the side of a structure not identified above, the mounting arms are not to exceed 12-inches and shall be used for only one antenna.
  - b. The antenna and antenna mount connecting the antenna to the structure shall be placed within a shroud or designed to match or be compatible with the supporting structure.
  - c. All wires connecting the antennas to supporting equipment and supporting structure shall be placed internal to the structure or shall be placed
4. Single-Use Pole
- a. ~~Antennas and its mounting shall not exceed the diameter of the supporting structure.~~
  - b.a. To the extent technically feasible, aAntennas shall be placed internal to the pole or affixed to the top of the pole.

Commented [MP27]: Carriers have different designs. The City may not deny one carrier's design on the basis that it is different from another carrier's design.

"Or as approved by the Director" is added to a similar provision below. Is that intended to allow assessment of this issue?

Commented [MP28]: Carriers have different designs. The City may not deny one carrier's design on the basis that it is different from another carrier's design.

"Or as approved by the Director" is added to a similar provision below. Is that intended to allow assessment of this issue?

Commented [MP29]: It is not uncommon for a pole-top antenna to be somewhat larger in diameter than the pole, even in a SmartStack design.

Commented [MP30]: As discussed, some antennas may be recessed, but not placed "internal" to the pole. It appears the City has accepted "recessed" as an alternative in the standards applicable to streetlight poles below. That could be an alternative edit here.

- e-b. Mounting arms affixing the antenna to the side of the pole are prohibited, unless approved as part of a pre-approved design under this Policy.
- d-c. All equipment and wires connecting the antennas shall be placed internal to the supporting pole.

**(3) Antenna Equipment.**

(A) **Installation Preferences.** The installation preference of all non-antenna equipment is based on the following pole types, with antenna equipment preferences ordered from most preferred to least preferred. The following are specific design standards based on pole type:

1. Streetlight

a. ~~Underground: Size restriction based on ROW space available.~~

b-a. Internal to the pole; size restricted only by the available space internal to the pole.

e-b. Integrated into base of the pole

- i. Height of base not to exceed 6 feet (excluding any decorative transition between the base enclosure and the pole).
- ii. Width of the base shall not exceed 24 inches and shall provide a transition from the base to the pole.
- iii. Base to match in color and material to the pole unless a different color or decoration is approved by the Director.

e-c. External to the pole: Only if it is determined by the City Engineer the location of the facility requires a breakaway pole, then equipment is permitted on the exterior of the pole, when the following standards are met:

- i. Total cabinets installed shall not exceed 187 cubic feet in volume.
- ii. Cabinets shall be mounted no further than 6-inches from the supporting structure. The width or depth of the cabinet shall not exceed 36 inches.
- iii. Minimum clearance of seven (7) feet from the existing grade or as required by the pole owner whichever is greater.
- iv. All cables not placed in equipment cabinet shall be placed in conduits located no further than 6-inches from the supporting structure and colored to match the supporting structure.

2. Wood Utility Pole

a. ~~Underground: Size restriction based on ROW space available.~~

b-a. On the pole: All antenna equipment, excluding cabling connecting the antenna to the antenna equipment, shall be placed within cabinets and meet the following:

Commented [MP31]: Does the City want to permit enough width/diameter to achieve this? We note that the City's current code allows up to 24 inches in diameter, while this policy limits pole diameter to 16 in. See comments below.

Commented [MP32]: The last draft had 18. Suggest allowing 18 cu feet, or in the alternative, excepting concealment/enclosure/cabinet from the 17 cu ft.

i. Total cabinets installed shall not exceed ~~9 cubic feet in residential areas and 1718 cubic feet in non-residential areas in volume.~~

ii. Cabinets shall be mounted no further than 6-inches from the supporting structure. The width or depth of the cabinet shall not exceed 36 inches)

iii. Minimum clearance of seven (7) feet from the existing grade or as required by the pole owner whichever is greater.

iv. All cables not placed in equipment cabinet shall be placed in conduits located no further than 6-inches from the supporting structure and colored to match the supporting structure.

e-b. Ground mounted equipment is permitted in the industrial zone if adequate ROW is available and the location does not adversely affect pedestrian, bicycle, and vehicle circulation.

d-c. All wires connecting the antennas, antenna equipment and the supporting pole shall be placed in conduit and match in color to the supporting pole.

3. Single-Use Pole

a. ~~Underground: Size restriction based on ROW space available.~~

b-a. Internal to the pole: size restricted only by the available space internal to the pole.

e-b. Integrated into base of the pole

i. Height of base not to exceed 6 feet (excluding any decorative transition between the base enclosure and the pole).

ii. Width of the base shall not exceed 24 inches and shall provide a transition from the base to the pole.

iii. Base to match in color and material to the pole unless a different color or decoration is approved by the Director.

d-c. External to the pole: Only if it is determined by the City Engineer the location of the facility requires a breakaway pole, then equipment is permitted on the exterior of the pole, when the following standards are met:

i. Total cabinets installed shall not exceed ~~187 cubic feet in volume.~~

ii. Cabinets shall be mounted no further than 6-inches from the supporting structure or the minimum necessary to comply with safety standards and pole owner requirements. The width or depth of the cabinet shall not exceed 36 inches)

iii. Minimum clearance of seven (7) feet from the existing grade or as required by the pole owner whichever is greater.

iv. All cables not placed in equipment cabinet shall be placed

Commented [MP33]: As discussed, 9 cu ft is not technically feasible.

Commented [MP34]: The last draft had 18 cu ft. Suggest allowing 18 cu feet, or in the alternative, excepting concealment/enclosure/cabinet from the 17 cu ft.

The standards are now allowing the larger cabinet size on a streetlight pole & a single-use pole (compare with subsections (1) and (3)) – why wouldn't they allow the larger cabinet on a wooden pole, where it would be more compatible with the pole?

Commented [MP35]: It appears that the City is proposing a 24-in diameter to achieve this.

Commented [MP36]: The last draft had 18 cu ft. Suggest allowing 18 cu feet, or in the alternative, excepting concealment/enclosure/cabinet from the 17 cu ft.

in conduits located no further than 6-inches from the supporting structure or the minimum necessary to comply with safety standards and pole owner requirements and colored to match the supporting structure.

4. Other Structures

~~a. Underground: Size restriction based on ROW space available.~~

~~b.a. Internal to the polestructure: size restricted only by the available space internal to the polestructure.~~

~~c.b. Integrated into base of the pole~~

~~i. Height of base not to exceed 5 feet~~

~~ii. Width of the base shall not exceed 20-inches and shall provide a transition from the base to the pole.~~

~~iii. Base to match in color and material to the pole.~~

~~d.c. On the polestructure: All antenna equipment, excluding cabling connecting the antenna to the antenna equipment, shall be placed within cabinets and meet the following:~~

~~i. Total cabinets installed shall not exceed 187 cubic feet in volume.~~

~~ii. Cabinets shall be mounted no further than 6-inches from the supporting structure. The width or depth of the cabinet shall not exceed 36 inches)~~

~~iii. Minimum clearance of seven (7) feet from the existing grade or as required by the pole owner whichever is greater.~~

~~iv. All cables not placed in equipment cabinet shall be placed in conduits located no further than 6-inches from the supporting structure and colored to match the supporting structure.~~

~~e.d. Ground mounted is permitted in the industrial zone if adequate ROW available and the location does not affect pedestrian, bicycle, and vehicle circulation.~~

Commented [MP37]: This subsection appears to be for non-pole structures.

Commented [MP38]: The last draft had 18 cu. ft. Suggest allowing 18 cu feet, or in the alternative, excepting concealment/enclosure/cabinet from the 17 cu ft.

Commented [MP39]: Not a pole here.

(B) **Undergrounded Antenna Equipment.** All undergrounded antenna equipment must be installed in an environmentally controlled vault that is load-rated to meet the City’s standards and specifications. Underground vaults located beneath a sidewalk must be constructed with a slip-resistant cover. Vents for airflow shall be flush-to-grade when placed within the sidewalk and may not exceed two feet above grade when placed off the sidewalk. Applicants shall not be permitted to install an underground vault in a location that would cause any existing tree to be materially damaged or displaced.

(C) **Pole-Mounted Antenna Equipment.** All pole-mounted antenna equipment must be installed no more than 6-inches from the pole or the minimum necessary to comply with safety standards and pole owner requirements. Equipment may be placed in more cabinets or shrouds to minimize the

overall visual profile if the total maximum size allowed per pole is not exceeded and provided that the disconnect switch or other equipment for which access is needed for safety purposes, need not be enclosed. If any applicable health and safety regulations require a greater distance between the pole and antenna equipment, the maximum offset permitted between the antenna equipment and the pole shall be the minimum offset required by such regulations. Documentation shall be provided identifying the additional offset. All pole-mounted equipment and required or permitted signage must be placed and oriented away from adjacent sidewalks and structures, to the extent consistent with applicable FCC requirements. Pole-mounted equipment may be installed behind street, traffic or other signs to the extent that the installation complies with applicable public health and safety regulations. All cables, wires and other connectors must be routed through conduits within the pole, and all conduit attachments, cables, wires and other connectors must be concealed from public view. To the extent that cables, wires and other connectors cannot be routed through the pole, applicants shall route them through a single external conduits or a shroud that has been finished to match or be compatible with the underlying support structure.

(D) **Base-Mounted Antenna equipment.** All base-mounted antenna equipment must be installed within a shroud, enclosure or pedestal integrated into the base of the support structure. All cables, wires and other connectors routed between the antenna and base-mounted equipment must be concealed from public view.

~~(E) **Ground-Mounted Antenna equipment.** On collector roads, neighborhood routes and local roads, the City prefers ground-mounted antenna equipment to be concealed as follows: (i) within a landscaped parkway, median or similar location, behind or among new/existing landscape features and painted or wrapped in flat natural colors to blend with the landscape features; and (ii) if landscaping concealment is not technically feasible, disguised as other street furniture adjacent to the support structure, such as, for example, mailboxes, benches, trash cans and information kiosks. On arterial roads outside underground districts, proposed ground-mounted antenna equipment should be completely shrouded or placed in a cabinet substantially similar in appearance to existing ground-mounted antenna equipment cabinets. To promote and protect public health and safety and prevent potential hazards hidden behind large equipment cabinets, no individual ground-mounted antenna equipment cabinet may exceed 4.5 feet in height or 2.5 feet in width. Ground-mounted and base-mounted equipment cabinets shall not have any horizontal flat surfaces greater than 1.5 square inches to prevent litter or other objects left on such surfaces.~~

(F) **Antenna equipment Volume.** All antenna equipment associated with a small wireless facility installed above ground level or mounted to a pole shall not cumulatively exceed: (i) nine (9) cubic feet in volume if installed in a residential district; or (ii) 187 cubic feet in volume if installed in a non-

Commented [MP40]: RF signage must be placed as needed for FCC standards.

Commented [MP41]: Multiple conduits are typically used to separate wires/cables. Requiring multiple conduits to be enclosed within one large conduit or shroud is likely to have more significant aesthetic impacts.

Commented [MP42]: The 1.5 square inches in this standard does not make sense.

Commented [MP43]: 18 was in the prior draft. Suggest allowing 18 cu feet, or in the alternative, excepting concealment/enclosure/cabinet from the 17 cu ft.

(E) residential district. The volume calculation shall include any shroud, cabinet or other concealment device used in connection with the non-antenna equipment. The volume calculation shall not include any equipment or other improvements placed underground.

Commented [MP44]: See comment immediately above.

(4) Small Cell Facility Pole Types

(A) Pole installations are based on the following pole types, preferences ordered from most preferred to least preferred:

(B) Streetlights. Installation of a small wireless facilities on an existing streetlight must remove and replace the existing streetlight with one substantially similar to the City's standards and specifications but designed to accommodate wireless antennas and antenna equipment. The design shall include the following:

1. The maximum diameter of the pole to support the light fixture and small cell facility shall be 1624-inches.
2. Maximum height of the SWF shall not exceed six ten (10) feet above the existing pole, not to exceed meet the maximum height of 40 feet, whichever is greater.
3. Antennas must be installed above the pole within a single, canister style shroud or radome that tapers to the pole, placed internal to the pole or recessed into the pole.
4. Unless internal to the pole the antenna or antennal enclosure and associated fixture shall be colored to match or be compatible with the pole.
5. To the extent technically feasible, sStreetlights within line of-sight of other streetlights must be a common configuration/design and similar material or as approved by the Director.
6. Include a luminaire at substantially the same height and distance from the pole as the luminaire on the removed pole. If the luminaire is significantly relocated, a lighting plan shall be provided showing City standards are met.
7. ~~The pole is to be designed to break away in the event of a collision.~~ If determined by the City Engineer the street classification and the location of the pole within the ROW are such that the a breakaway design is not warranted, the request is exempt from this standard SWF may be built with external equipment and must be designed to break away in the event of a collision.

Commented [MP45]: The City's code currently allows 24 inches in CDC 60.70.35.19:

J. The maximum diameter of any new or replacement tower or pole shall be 24-inches.

AT&T's new radio requires a larger diameter for a SmartStack design. Suggest allowing the same diameter allowed below for a new pole (24 in) – see Subsection (4)(D) below – and in the current code (24 in). Or, in the alternative, allow an external equipment cabinet.

Commented [MP46]: The City's current code allows an additional 10 feet when collocating with / replacing an existing pole.

CDC 60.70.35.19.D:

Collocates to poles that existed on or before the date of adoption of this text amendment or replacement of poles, inclusive of antennas and any mounting devices, may extend above the maximum permitted height listed under Sections 20.05.15, 20.10.15, 20.15.15, 20.20.15, and 70.03 up to and including ten (10) feet above the height of the existing pole unless separately authorized through an adjustment or variance application.

We note that 40 feet in height is allowed for new poles, without restriction.

Commented [MP47]: The pole must be tall enough, with the antenna, for the antenna to clear the obstruction of the luminaire. Additional height will also be required to add new technologies.

Commented [MP48]: Carriers have different designs. The City may not deny one carrier's design on the basis that it is different from another carrier's design.

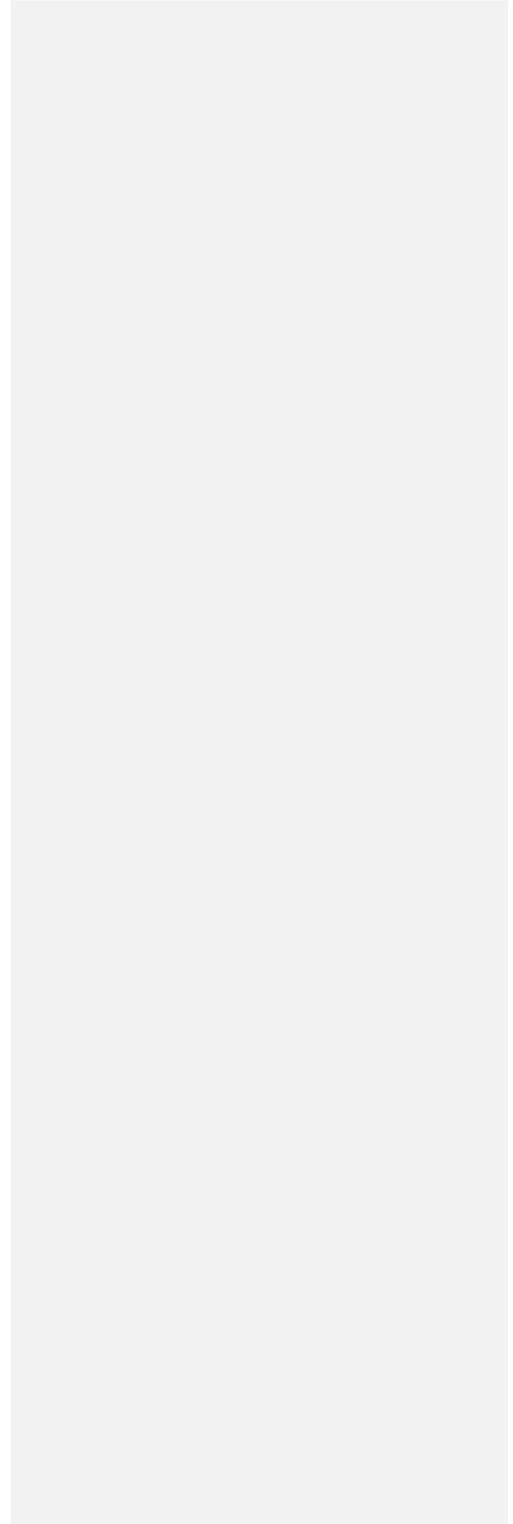
Will the Director approve variations as needed under this subsection?

(C) Wood Utility Poles. Applicants that propose to install small wireless facilities on an existing/replacement wood utility pole must meet the following requirements:

1. Antennas shall be placed above the pole unless the applicant demonstrates that mounting the antennas above the pole would be technically infeasible as supported by substantial evidence in the written record or not possible due to the pole owner's requirements.
2. ~~All cables, wires and other connectors must be concealed within a~~

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sleeve covering the side-arm mount or extension arm or in conduit  
colored to



- Match or be compatible with the existing pole color.
3. Pole may be replaced with a taller pole provided the replacement pole does not exceed 40 feet or 10 percent taller than the existing pole whichever is greater. Exceptions to this height restriction require documentation from the pole owner showing the additional height is required for safety regulations and/or practices. . .
- (D) **New, Non-Replacement Poles.** Applicants that propose to install small wireless facilities on a new, non-replacement pole must install a new streetlight substantially similar to the City's standards and specifications but designed to accommodate wireless antennas and antenna equipment located immediately adjacent to the proposed location. If there are no existing streetlights in the immediate vicinity or the addition of a new streetlight is determined by the City as not a feasible location or there are no other feasible alternatives for installing a small wireless facility under these standards, the applicant may install a metal or composite pole capable of concealing all the antennaequipment either within the pole or within an integrated enclosure located at the base of the pole. The pole diameter shall not exceed twenty-four (24) inches. All antennas, whether on a new streetlight or other new pole, must be installed above the pole within a single, canister style shroud or radome, or internalto or recessed into the pole.
1. Maximum pole diameter: 24-inches
  2. Height compatible to streetlights or other utility poles in close proximity not to exceed 40 feet.
  - ~~3. New pole (wireless facility only) the location shall be a minimum of 500 feet from an existing pole (including streetlights and utility poles).~~
  - ~~4.3. To the extent technically feasible, p~~Poles within line of-sight of other streetlights or utility poles must be a common-similar configuration/design and similar material or as approved by the City Engineer with the following preference: 1) Streetlight 2) Utility poles.
- (5) **Encroachments over Private Property.** Small wireless facilities may not encroach onto or over any private or other property outside the public rights-of-way without the owner's express written consent.
- (6) **Obstructions; Public Safety.** Small wireless facilities and any associated equipment or improvements shall not physically interfere with or impede access to any: (A) worker access to any above-ground or underground infrastructure for traffic control, streetlight or public transportation, including without limitation any curb control sign, parking meter, vehicular traffic sign or signal, pedestrian traffic sign or signal, barricade reflectors; (B) access to any public transportation vehicles, shelters, street furniture or other improvements at any public transportation stop; (C) worker access to above-ground or underground infrastructure owned or operated by any public or private utility agency; (D) fire hydrant or water valve; (E) access to any doors, gates, sidewalk doors, passage doors, stoops or other ingress and egress points to any building appurtenant to the rights-of-way; or (F) access to any fire escape.

(7) **Utility Connections.** ~~In areas where all wireline utilities are underground, all cables and connectors for telephone, data backhaul, primary electric and other similar utilities must be routed underground in conduits large enough to accommodate future collocated wireless facilities.~~ Undergrounded cables and wires must transition directly into the pole base without any external doghouse. All cables, wires and connectors between the underground conduits and the antennas and other antenna equipment shall be routed and concealed from view within: (A) internal risers or conduits if on a concrete, composite or similar pole; or (B) a cable shroud or conduits mounted as flush to the pole as possible if on a wood pole or other pole without internal cable space. ~~The approval authority shall not approve new overhead utility lines or service drops merely because compliance with the undergrounding requirements would increase the project cost.~~

Commented [MP49]: This is excessive and speculative. Construction of additional capacity for others is a cost not directly related to the applicant's SWF.

(8) **Spools and Coils.** To reduce clutter and deter vandalism, excess fiber optic or coaxial cables shall not be spooled, coiled or otherwise stored on the pole outside equipment cabinets or shrouds.

(9) **Electric Meters.** Small wireless facilities shall use flat-rate electric service or other method that obviates the need for a separate above-grade electric meter. If flat-rate service is not available, applicants may install a shrouded smart meter, or another type of meter acceptable to the City. The approval authority shall not approve a separate ground-mounted electric meter pedestal.

(10) **Street Trees.** To preserve existing landscaping in the public rights-of-way, all work performed in connection with small wireless facilities shall not cause any street trees to be damaged or displaced. If any street trees are damaged or displaced, the applicant shall be responsible, at its sole cost and expense, to plant and maintain replacement trees at the site for the duration of the permit term.

(11) **Existing Conduit or Circuits.** Access to any conduit or circuits owned by the City is prohibited to protect the City's infrastructure, prevent interference with the City's municipal functions and protect public health and safety.

(c) **Small Wireless Facilities On Private Property.**

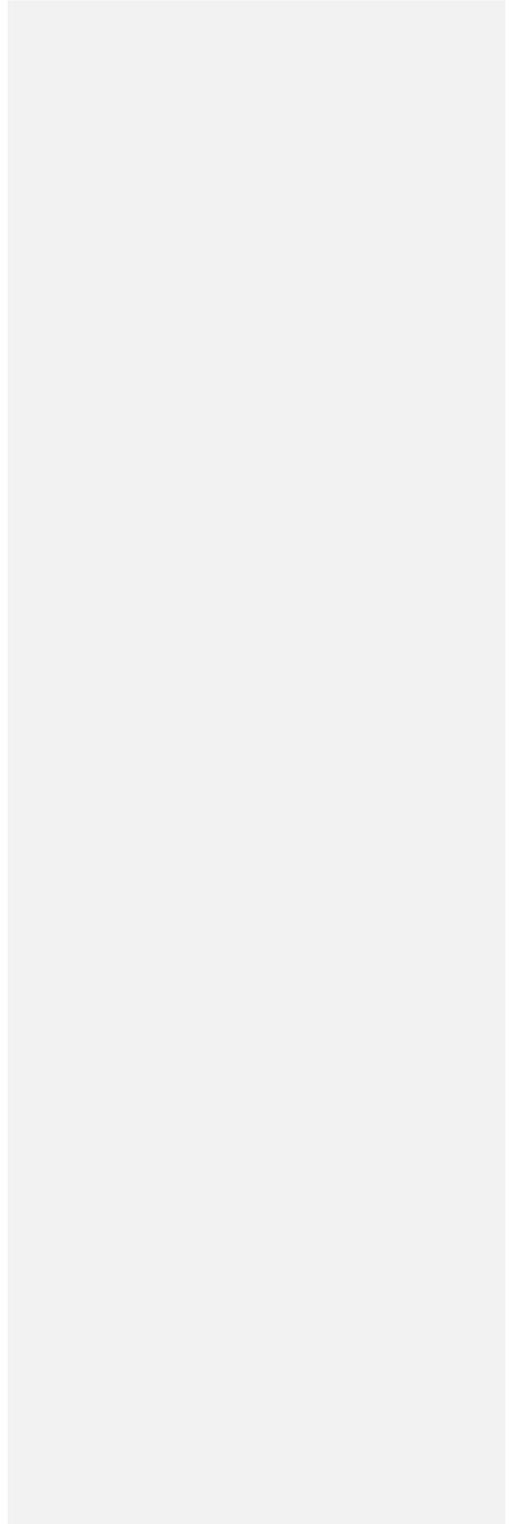
(1) For SWF installed on streetlights, utility poles, parking lot lights, or single use poles, the standards in Section 2.7.b applies.

(2) For SWF installation on all other structures, including but not limited to buildings and water towers the following standards apply:

(A) **Overall Height.** Small wireless facilities on private property shall be the minimum height needed to achieve the network objective may not exceed the applicable height limit for structures in the applicable zoning district or overlay zone.

- (B) **Setbacks.** Small wireless facilities on private property may not encroach into any applicable setback for structures in the subject zoning district.
- (C) **Parking; Access.** Any equipment or improvements constructed or installed in connection with any small wireless facilities must not reduce any parking spaces below the minimum requirement for the subject property. Whenever feasible, small wireless facilities must use existing parking and access rather than construct new parking or access improvements. Any new parking or access improvements must be the minimum size necessary to reasonably accommodate the proposed use.
- (D) **Towers, Poles and Other Freestanding Small Wireless Facilities.** All new towers, poles or other freestanding structures that support small wireless facilities must be made from a metal or composite material capable of concealing to the extent technically feasible all the accessory equipment, including cables, mounting brackets, radios, and utilities, either within the support structure or within an integrated enclosure located at the base of the support structure. All antennas must be installed above the pole in a single, canister-style shroud or radome or placed internal to or recessed into the new tower, pole, or freestanding structure. The support structure and all transmission equipment (except antennas) must be painted with flat/neutral colors that match the support structure. The pole height shall not exceed forty (40) feet. The pole diameter shall not exceed twenty four (24) inches.
- (E) **Building-Mounted Small Wireless Facilities.**
- i. **Preferred Concealment Techniques.** All applicants must propose new small wireless facilities that are completely concealed and architecturally integrated into the existing facade or rooftop features with no visible impacts from any publicly accessible areas at ground level (examples include, but are not limited to, antennas behind existing parapet walls or facades replaced with RF-transparent material and finished to mimic the replaced materials). Alternatively, if the applicant demonstrates with substantial evidence that integration with existing features is technically infeasible, the applicant may propose completely concealed new structures or appurtenances designed to mimic the support structure's original architecture and proportions (examples include, but are not limited to, steeples and chimneys).
  - ii. **Facade-Mounted Antennas and Equipment.** When small wireless facilities cannot be placed behind existing parapet walls or other existing screening elements, the approval authority may approve facade-mounted antennas and equipment in accordance with this Section 2.7(c)(6)(B). All facade-mounted antennas and equipment must be concealed behind screen walls and-or mounted flush to the

facade. The approval authority may not approve



“pop-out” screen boxes. ~~Except in industrial zones, the approval authority may not approve any exposed facade-mounted antennas, including but not limited to exposed antennas painted to match the facade.~~

- (F) **Lighting.** Antennas and antenna equipment shall not be illuminated except as required by municipal, federal or state authority, provided this shall not preclude deployment on new or replacement streetlights or parking lot lights.
- (c) **Strand Mounted Equipment:** Strand mounted small wireless facilities are permitted subject to the following criteria:
  - (A) Each strand mounted antenna shall not exceed 3 cubic feet in volume.
  - (B) Only 2 strand mounted antennas are permitted between any two existing poles.
  - (C) Strand mounted devices shall be placed as close as possible to the nearest pole and in no event more than five feet from the pole unless a greater distance is required by the pole owner.
  - (D) No strand mounted device will be located in or above the portion of the roadway open to vehicular traffic.
  - (E) Strand mounted devices must be installed with the minimum excess exterior cabling or wires (other than original stand) to meet the technological needs of the facility.
- (d) **Pre-Approved Designs.**
  - (1) **Purpose.** To expedite the review process and encourage collaborative designs among applicants and the City, the City Council authorizes the approval authority to designate one or more pre-approved designs for small wireless facilities and other infrastructure deployments. This subsection (d) sets out the process to establish or repeal a pre-approved design and the expedited review procedures and findings applicable to these applications.
  - (2) **Adoption.** The approval authority may, in the approval authority’s discretion, establish a pre-approved design when the approval authority finds that a proposed pre-approved design ~~exceeds~~ the design standards in this Policy. The approval authority shall post a public notice posted at City Hall, with the City Clerk and in a newspaper of general circulation within the City. The notice must generally describe the pre-approved design, include a photograph or photo simulation, specify whether the pre-approved design would be limited or restricted in any districts and contain a reference to the appeal procedure. The pre-approved design shall become effective 15 days from the notice

Commented [MP50]: AT&T remains concerned about this standard. Shouldn't the City be able to pre-approve a design with acceptable aesthetic impact regardless of whether it "exceeds" standards in the policy?

And, what does the City mean by "exceeds"? Better than or larger than?

required in this subsection. A decision by the approval authority not to adopt a proposed pre-approved design or the approval authority's failure to act on a request for a proposed pre-approved design is not appealable.

- (3) **Repeal.** The approval authority may repeal any pre-approved design by written notice posted at City Hall. The repeal shall be immediately effective. The approval authority's repeal, refusal to repeal or failure to act on a request to repeal a pre-approved design is not appealable.
- (4) **Modified Review Process.** ~~In nonresidential districts, a~~ applications for a pre-approved design shall not be subject to the notice requirements in section 2.4(a) ~~or any potential appeals under section 2.4(f). In residential districts, applications for a pre-approved design shall remain subject to the notice requirements in section 2.4(a) and any potential appeals under section 2.4(f).~~
- (4)
- (5) **Modified Findings.** When an applicant submits a complete application for a pre-approved design, the approval authority shall presume that the findings for approval in sections 2.4(c)(1), (c)(3) and (c)(5) are satisfied and shall evaluate the application for compliance with the findings for approval in sections 2.4(c)(2), (c)(4), (c)(6) and (c)(7).
- (6) **Nondiscrimination.** Any applicant may propose to use any pre-approved design whether the applicant initially requested that the approval authority adopt such pre-approved design or not. The approval authority's decision to adopt a pre-approved design expresses no preference or requirement that applicants use the specific vendor or manufacturer that fabricated the design depicted in the pre-approved plans. Any other vendor or manufacturer that fabricates a facility to the standards and specifications in the pre-approved design with like materials, finishes and overall quality shall be acceptable as a pre-approved design.

### SECTION 3 ADJUSTMENT TO LOCATION PREFERENCES AND STANDARDS

- 1. An applicant may obtain a deviation from these location preferences and design standards if compliance with the requirement or standard: (a) is not technically feasible; (b) impedes the effective operation of the small wireless facility; (c) impairs a desired network performance objective; (d) conflicts with pole owner requirements; or (e) otherwise materially inhibits or limits the provision of wireless service.
- 2. When requests for deviation are sought under subsections (1)(a)-(e), the request must be narrowly tailored to minimize deviation from the requirements of these design standards, and the approval authority must find the applicant's proposed design provides similar aesthetic value when compared to strict compliance with these standards.
- 3. The approval authority may also allow for a deviation from these location preferences or design standards when it finds the applicant's proposed design provides equivalent or superior aesthetic value when compared to strict compliance with these location preferences and standards.
- 4. The small wireless facility design approved under this Section 2.8 must meet the conditions of 47 C.F.R. Sec. 1.6002(l).

Commented [MP51]: AT&T suggests the City use the League of Oregon Cities deviations section, which allows for the circumstances in which an adjustment may be needed and limits the deviation (narrowly tailored/similar aesthetic value).

~~5. The approval authority will review and may approve a request for deviation to the minimum extent required to address the applicant’s needs or facilitate a superior design.~~

~~(a) **Preface.** The provisions in this Section 3 establish a procedure by which the City may grant an adjustment to the standards in this Policy but only to the extent necessary to avoid conflict with applicable federal or state law. When the applicant requests an adjustment, the approval authority shall consider the findings in Section 3.b in addition to the findings required under Section 2.4.c. Each exception is specific to the facts and circumstances in connection with each application. An exception granted in one instance shall not be deemed to create a presumption or expectation that an exception will be granted in any other instance.~~

~~(b) **Required Findings.** The approval authority shall not grant any limited exception pursuant to this Section 3 unless the approval authority finds all the following:~~

- ~~(1) the applicant has provided the approval authority with a reasonable and clearly defined technical service objective to be achieved by the proposed small wireless facility;~~

- ~~(2) the applicant has provided the approval authority with a detailed written statement that explains why: (A) a denial based on the application's non-compliance with a specific provision or requirement would violate federal law, state law or both; or (B) a provision in this Policy, as applied to the applicant, would violate any rights or privileges conferred on the applicant by federal or state law;~~
- ~~(3) the applicant has provided the approval authority with a written statement that contains a detailed and fact-specific explanation as to why the proposed small wireless facility cannot be deployed in compliance with the applicable provisions in this Policy;~~
- ~~(4) the applicant has provided the approval authority with a meaningful comparative analysis with the factual reasons why all alternative locations and/or designs identified in the administrative record (whether suggested by the applicant, the City, public comments or any other source) are not technically feasible or potentially available to reasonably achieve the applicant's reasonable and clearly defined technical service objective to be achieved by the proposed small wireless facility;~~
- ~~(5) the applicant has demonstrated that the proposed location and design is the least non-compliant configuration that will reasonably achieve the applicant's reasonable and clearly defined technical service objective to be achieved by the proposed small wireless facility, which includes without limitation a meaningful comparative analysis into multiple smaller or less intrusive facilities dispersed throughout the intended service area;~~
- ~~(6) the exception requested by the applicant does not compromise or excuse compliance any fire safety or other public safety standard; and~~
- ~~(7) the exception is narrowly tailored such that any deviation from this Policy is only to extent necessary for compliance with federal or state law.~~
- ~~(e) **Evidentiary Standard.** The applicant shall have the burden to prove to the approval authority that an exception should be granted pursuant to this Section 3. The standard of evidence shall be the same as required by applicable federal or state law for the issue raised in the applicant's request for an exception.~~
- ~~(d) **Expert Review.** Independent expert and/or consultant review will generally be appropriate when considering an exception request.~~
- ~~(e)(a) **Legal Review.** Any exception request shall require the consultation of the City Attorney as to the validity and legal justification for the exception.~~



## 40.96. Wireless Facility [ORD 4332; January 2005]

### 40.96.05. Purpose. AT&T Suggested Changes in Orange

The purpose of the wireless facility application is to ensure the review and implementation of the regulations for the construction and use of wireless communication facilities in the City of Beaverton. The section is intended to be consistent with FCC Declaratory Rulings and Orders and current federal laws, and is intended to minimize potential adverse visual, aesthetic, and safety impacts of wireless communication facilities on residential neighborhoods, and on the community as a whole by establishing review standards for the use, placement, and design of wireless communication facilities. This Section is carried out by the approval criteria listed herein. [ORD 4595; February 2013]

Commented [MP1]: AT&T does not have any comments on the City's proposed changes to the use tables preceding this section.

### 40.96.10. Applicability.

The development, installation, and modification of wireless communication facilities listed in CHAPTER 20 (Land Uses) or Section 70.03-15 (Downtown Zoning and Streets) if the site is located within the Downtown Design District, for each zoning district shall be subject to the provisions of this section.

Effective on: 1/8/2021

### 40.96.15. Application.

There are three (3) Wireless Facility applications which are as follows: Wireless Facility One, Wireless Facility Two, and Wireless Facility Three.

#### 1. Wireless Facility One.

- A. Threshold. An application for Wireless Facility One shall be required when one or more of the following thresholds apply:

[ORD 4595; February 2013]

1. In any zoning district, replacement or addition of transmission equipment (including antennas) or a collocation of a new wireless communication facility on an existing tower or structure approved as a wireless facility base station that does not constitute a "substantial increase/change" in size the physical dimensions of the tower or base station and is an "eligible facilities request" as defined by federal law in CHAPTER 90 (Definitions).
2. In any zoning district, attachment of a new wireless communication facility to existing or new buildings or structures that are not exclusively used for single-family residential or multi-family residential purposes, and that utilize stealth design.
- ~~3. In any zoning district, attachment of wireless communications facilities to existing structures, tower structures or pole structures that constitute an "eligible facilities request" as defined as defined by federal law in CHAPTER 90 (Definitions) under federal law. Not permitted on single-family dwellings.~~
4. In industrial, multiple use, or commercial zoning districts, direct-to-home satellite service having antennas greater than one (1) meter in diameter.
5. In industrial, multiple use, or commercial zoning districts, installation of up to and including two (2) ground or building roof-mounted satellite antennas greater than two

Commented [MP2]: Both 1 and 3 refer to EFRs. It's not clear why each is listed separately.

In addition, both use terminology different from the defined terms in the FCC's EFR rule. 47 CFR 1.6100. (For example, use of tower or "structure," instead of tower or "base station.")

Suggest using one reference to EFRs qualifying under 47 CFR 1.6100 in this section, using the applicable defined terms.

Commented [MP3]: EFRs include replace, addition, or removal of transmission equipment.

Commented [MP4]: Transmission equipment is more broadly defined in 47 CFR 1.6100(b), including various equipment in addition to antennas.

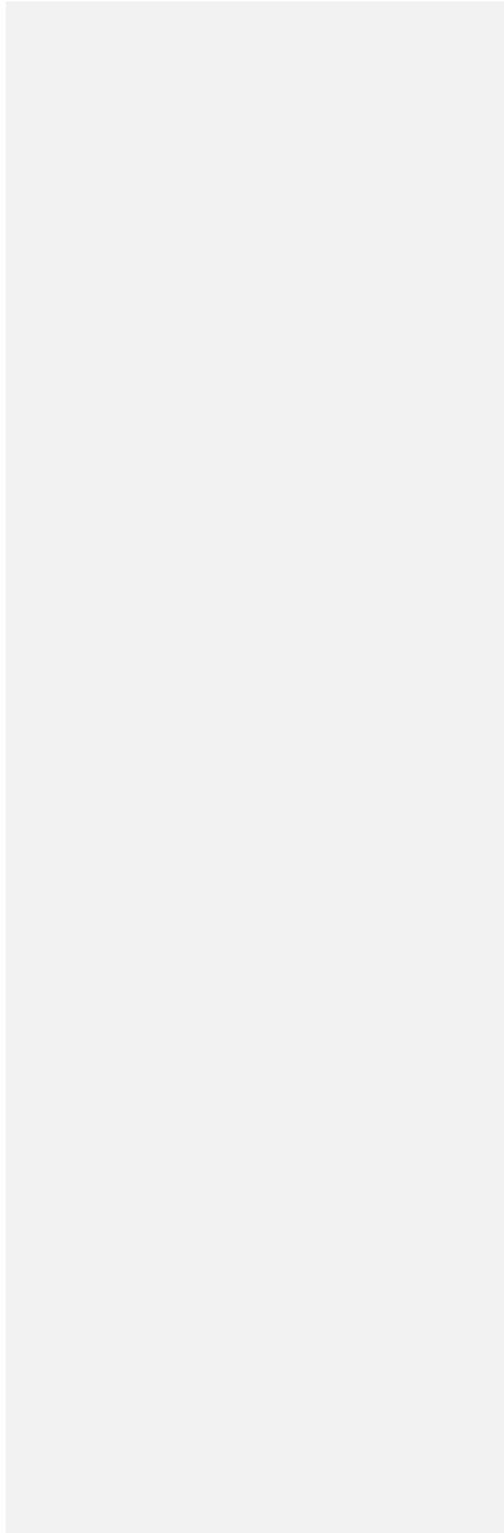
Commented [MP5]: Suggest using the applicable statutory/regulatory language here.

Commented [MP6]: See comment immediately above.



meters in size.

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Beaverton Development Code

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6. In any zoning district, installation of one (1) replacement tower ~~on a location containing for~~ an existing tower approved to support supporting one (1) carrier ~~for the purpose of providing where the replacement tower will accommodate~~ collocation opportunity while remaining consistent with previous land use approvals.
  7. In any zoning district, attachment of antennas to tower structures or pole structures other than those used for cellular phone service, street lights or traffic signals.
  8. In any zoning district, installation of new ground or roof equipment to an existing wireless communication facility or base station.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35. of this Code, shall apply to an application for Wireless Facility One. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Wireless Facility One application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Wireless Facility One application.
  2. All City application fees related to the application under consideration by the decision making authority have been submitted.
  3. The proposal contains all applicable application submittal requirements as specified in Section 50.25. 1. of the Development Code.
  4. The proposal meets all applicable Site Development Requirements of Sections 20.05., 20.10., 20.15., 20.20, and Section 70.03 15 of the Development Code unless the applicable provisions are subject to an Adjustment, Planned Unit Development, or Variance application which shall be already approved or considered concurrently with the subject proposal. [ORD 4584; June 2012]
  5. The proposal complies with all applicable provisions in CHAPTER 60 (Special Regulations).
  6. The proposal is an "eligible facilities request" that does not "substantially change" the physical dimensions of such tower or base station. [ORD 4595; February 2013]
  7. The proposal does not conflict with any existing City approval, except the City may modify prior approvals through the WCF process to comply with federal, state and local laws. [ORD 4595; February 2013]
  8. The proposal is not on or within any right-of-way. [ORD 4702; January 2017]
  9. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Wireless Facility One shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Wireless Facility One application shall be accompanied by the information required by the application form, by Section 60.70.50 (Required Studies and Information) and by Section 50.25. (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Wireless Facility One application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

Commented [MP7]: By definition, an EFR/6409 change will not meet ALL of the listed criteria (such as meeting all of the City's site development requirements listed in item #4, etc.).

Suggest listing meeting EFR criteria (#6) in the alternative in this subsection.



Beaverton Development Code

Proposed new language is underlined.

Proposed deleted language is ~~stricken~~.

2. **Wireless Facility Two.**

A. Threshold. An application for Wireless Facility Two shall be required when one or more of the following thresholds apply:

1. In all industrial zoning districts, construction of a new wireless communication facility tower. ~~proposed to be set back at least fifty (50) feet from abutting residential or multiple use zoning districts.~~
2. In residential zoning districts, direct-to-homes satellite service having antennas greater than one (1) meter in diameter.
3. In industrial zoning districts, attachment of a wireless communication facility to an existing or new building or structure, other than an existing tower or base station, not utilizing stealth design.
4. In industrial, multiple use, or commercial zoning districts, installation of three (3) and up to five (5) ground or building roof-mounted satellite antennas greater than two (2) meters in size.
5. In any zoning district, the collocation of a new wireless communication facility transmission equipment on an existing tower which when the size of the tower proposal constitutes as a "substantial increasechange" as defined in by federal law, CHAPTER 90 of this Code
6. ~~In any zoning district, installation of wireless communication facilities on streetlights or utility poles within the right-of-way of designated Freeways and Arterial streets. [ORD 4702; January 2017]~~

Commented [MP8]: For more consistency with EFR terminology.

B. Procedure Type. The Type 2 procedure, as described in Section 50.40. of this Code, shall apply to an application for Wireless Facility Two. The decision making authority is the Director.

C. Approval Criteria. In order to approve a Wireless Facility Two application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

[ORD 4404; October 2006]

1. The proposal satisfies the threshold requirements for a Wireless Facility Two application.
2. All City application fees related to the application under consideration by the decision making authority have been submitted.
3. The size, dimensions, configuration, and topography of the site and natural and man-made features on the site can reasonably accommodate the proposal.
4. The proposal will not obstruct any existing or approved vehicular, pedestrian, or bicycle connection identified in the Comprehensive Plan.
5. That the development has been designed to, where possible, incorporate and preserve existing trees and vegetation of significant size and species.
6. That grading of the site shall take place with particular attention to minimizing the possible adverse effect of grading on the natural vegetation and physical appearance of the site.
7. That the quality, location, size and aesthetic design of walls, fences, berms, hedges, screen planting and landscape areas have minimal adverse effect on existing or approved abutting land uses.
8. All critical facilities and services related to the development have, or can be improved to have, adequate capacity to serve the proposal at the time of its completion.



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Proposed deleted language is ~~stricken~~.

9. The proposal is consistent with all applicable Site Development Requirements of Sections 20.05., 20.10., 20.15, 20.20, and Section ~~70.03-15~~ of the Development Code unless the applicable provisions are subject to an Adjustment, Planned Unit Development, or Variance which shall be already approved or considered concurrently with the subject proposal. [ORD 4584; June 2012]
10. The proposal is consistent with all applicable provisions of CHAPTER 60 (Special Requirements) and that all improvements, dedications, or both required by the applicable provisions of CHAPTER 60 (Special Requirements) are provided or can be provided in rough proportion to the identified impact(s) of the proposal.
11. The proposal does not conflict with any existing City approval, except the City may modify prior approvals through the WCF process to comply with federal laws. [ORD 4595; February 2013]
12. ~~The proposal is not on or within any right-of-way.~~
- 12.13. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1. of the Development Code.
- 13.14. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Wireless Facility Two shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Wireless Facility Two application shall be accompanied by the information required by the application form, by Section 60.70.50 (Required Studies and Information) and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference. [ORD 4702; January 2017]
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Wireless Facility Two application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.70.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.
3. **Wireless Facility Three.**
  - A. Threshold. An application for Wireless Facility Three shall be required when the following threshold applies:
    1. In all zoning districts, except industrial, construction of a wireless communication facility tower.
    2. In Industrial zoning districts, construction of a wireless communication facility tower proposed to be set back less than fifty (50) feet from abutting residential, or multiple use zoning districts.
    3. In any zoning districts except Industrial, attachment of a new wireless communication facility to an existing or new building or structure that does not utilize stealth design.
    4. In industrial, multiple use, or commercial zoning districts, more than five (5) satellite antennas greater than two (2) meters in diameter on one (1) lot.
    5. ~~In any zoning district, installation of wireless communication facilities on streetlights or utility poles within or adjacent to the right-of-way of designated Collector Streets, Neighborhood Route Streets or Local Streets. [ORD 4702; January 2017]~~



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- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Wireless Facility Three. The decision making authority is the Planning Commission.
- C. Approval Criteria. In order to approve a Wireless Facility Three application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Wireless Facility Three application.
  2. All City application fees related to the application under consideration by the decision making authority have been submitted.
  3. In relationship to the existing surroundings and future allowed uses, the location, size, shape, height, spatial and visual arrangement of the use and structure is compatible.
  4. The size, dimensions, configuration, and topography of the site and natural and man-made features on the site can reasonably accommodate the proposal.
  5. The proposal will not obstruct any existing or approved vehicular, pedestrian, or bicycle connection identified in the Comprehensive Plan.
  6. That the development has been designed to, where possible, incorporate and preserve existing trees and vegetation of significant size and species.
  7. That grading of the site shall take place with particular attention to minimizing the possible adverse effect of grading on the natural vegetation and physical appearance of the site.
  8. That the quality, location, size and aesthetic design of walls, fences, berms, hedges, screen planting and landscape areas have minimal adverse effect on existing or approved abutting land uses.
  9. All critical facilities and services related to the development have, or can be improved to have, adequate capacity to serve the proposal at the time of its completion.
  10. The proposal is consistent with all applicable Site Development Requirements of Sections 20.05, 20.10, 20.15, 20.20, and Section ~~70.03-15~~ of the Development Code unless the applicable provisions are subject to an Adjustment, Planned Unit Development, or Variance which shall be already approved or considered concurrently with the subject proposal. [ORD 4584; June 2012]
  11. The proposal is consistent with all applicable provisions of CHAPTER 60 (Special Requirements) and that all improvements, dedications, or both required by the applicable provisions of CHAPTER 60 (Special Requirements) are provided or can be provided in rough proportion to the identified impact(s) of the proposal.
  12. The proposal does not conflict with any existing City approval, except the City may modify prior approvals through the WCF process to comply with federal, laws. [ORD 4595; February 2013]
  13. ~~The proposal is not on or within any right-of-way.~~
  - 13.14. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1. of the Development Code.
  - 14.15. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.  
[ORD 4404; October 2006]



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- D. Submission Requirements. An application for a Wireless Facility Three shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Wireless Facility Three application shall be accompanied by the information required by the application form, by Section 60.70.50 (Required Studies and Information) and by Section 50.25. (Application Completeness) and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Wireless Facility Three application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.70.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.



## **DEVELOPMENT CODE OF THE CITY OF BEAVERTON**

### **CHAPTER 60 - SPECIAL REQUIREMENTS**

#### **60.70. Wireless Communications Facilities**

##### **60.70.05. Purpose.**

1. The purpose of these regulations is to ensure that Wireless Communications Facilities (WCF) are regulated in a manner that:
  - A. Conforms to the current federal, state, local laws and with FCC Declaratory Rulings and Orders to date.[ORD 4596; February 2013]
  - B. Promotes universal communication service to all City residents, businesses and visitors.
  - C. Establishes clear and objective standards for the placement, design and continuing maintenance of WCF.
  - D. Minimizes the adverse visual, aesthetic and structural safety impacts of WCF on residential neighborhoods and on the community as a whole.
  - E. Encourages the design of WCF to be as aesthetically and architecturally compatible as possible with the surrounding natural and built environments.
  - F. Encourages collocation of WCF on existing support structures to minimize the number of new facilities required.
  - G. Ensures that regulations do not constitute a barrier to entry and apply to providers on a competitively neutral basis.

##### **60.70.10. Applicability.**

1. The regulations contained within this section shall apply to the construction or installation or modification of Wireless Communication Facilities (WCF) within the municipal limits of the City of Beaverton.
2. Regulations contained in this section shall apply to wireless communication facilities used for essential public communication services conducted by police, fire, and other public safety or emergency networks.
3. Compliance with the regulations contained within this section shall be required in addition to any other applicable standards and regulations contained within the Code.

##### **60.70.15. Federal and State Compliance.**

1. In addition to compliance with the regulations in this section, the applicant shall be responsible for the identification of and compliance with all applicable federal and state regulations pertaining to WCF.
2. Permanent alterations to previously City reviewed and approved WCF resulting from the adoption of new or updated federal and/or state regulations shall be reviewed through the City's development review process prior to the making of such alterations, unless local review and approval is exempted by federal or state statute or regulation.



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**60.70.20. Exemptions.**

- 1. All of the following are exempt from the regulations contained in this section of the Code:
  - A. Emergency or routine repairs, or maintenance of existing facilities and of transmitters, antennas or other components of existing facilities that do not increase the size, footprint, or bulk of such facilities, and which otherwise comply with City, state and federal regulations.
  - B. Federally-authorized industrial, scientific and medical equipment operating at frequencies designated for that purpose by the Federal Communications Commission (FCC) in Part 18 of Title 47 of the Code of Federal Regulations (CFR).
  - C. Amateur radio facility antennas, or a combination of antennas and support structures seventy (70) feet or less in height as measured from the base of the support structure consistent with ORS 221.295. This includes antennas attached to towers capable of telescoping or otherwise being extended by mechanical device to a height greater than 70 feet so long as the amateur radio facility is capable of being lowered to 70 feet or less. This exemption applies only to the Beaverton Development Code and does not apply to other applicable city, state, and federal regulations. Amateur radio facilities not meeting the requirements of this exemption are considered non-exempt, and must comply with Section 60.70.45.
  - D. Military and civilian radar equipment, operating within the regulated frequency ranges, for the purpose of national, state or local defense or aircraft safety.
  - E. Antennas and associated equipment completely located within the interior of an existing or proposed structure with no associated exterior equipment, the purpose of which is to enhance or facilitate communication functions within the structure or other structures on the site.
  - F. Satellite antennas up to and including two (2) meters in diameter in Commercial, Industrial, and Multiple Use zoning districts. [ORD 4584; June 2012]
  - G. Direct-to-home satellite service and satellite antennas up to and including one (1) meter in diameter located in Residential zoning districts. [ORD 4584; June 2012]
  - H. AM or FM radio broadcast towers and equipment, or television broadcast towers and equipment, as regulated by the Federal Communications Commission (FCC).
  - I. Antennas installed by a public agency for the purpose of emergency communications that are less than 30-inches in diameter affixed to existing structures with associated equipment completely located within the interior of an existing or proposed structure. [ORD 4397; August 2006]
  - J. All small wireless facilities reviewed through under the City's Small Wireless Facility application Policy.

Commented [MP9]: Suggest referring to the City's new SWF Policy document, which is intended to govern SWF review.

**60.70.25. Nonconforming Use Status for Existing Wireless Communication Facilities.**

- 1. WCF and associated equipment and site improvements in existence as of May 8, 2003 that are nonconforming as to the use or development standards contained in this Code section shall be subject to the provisions of CHAPTER 30 (Nonconforming Uses) except:
  - A. A proposal to collocate new antennas on existing nonconforming structures shall comply with the standards of this Section.
  - B. Abandoned facilities shall not be considered nonconforming uses and shall comply with Section 60.70.65.
  - C. If the owner, operator or both propose a permanent alteration of an existing nonconforming WCF, the use, structure, or both shall lose its nonconforming status and shall comply with the



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provisions of this section. For the purposes of this Code, a permanent alteration shall consist of the removal of an existing tower support structure, except as modified by Section 60.70.25.1.D-E.

- D. ~~For purposes of collocation, or routine maintenance, the removal and replacement of existing transmitters, existing antennas, existing equipment shelters, and existing on-site improvements, including but not limited to, landscaping, fencing, paving, shall not be considered permanent alterations unless the removal and replacement of any or all of the above results in a substantial increase, as defined under CHAPTER 90 of this Code, existing on-site developed area beyond the previous land use approval. The expansion of a previously approved existing on-site developed areawireless communication facility, that is considered a "substantial change," as defined by federal law, shall result in the loss of nonconforming status and shall require compliance with the provisions of this SectionSection 60.70. [ORD 4596; Feb 21032013]~~
- E. For satellite antennas not exempted by this Code, the removal and replacement of these stations shall not be considered a permanent alteration, provided that the diameter of the replacement satellite antennas shall be no more than fifty (50) percent greater or four (4) meters greater, whichever is less, of the existing diameter of the satellite antenna. The installation of replacement satellite antennas greater than fifty (50) percent or more than four (4) meters of the existing station diameter shall result in the loss of nonconforming status and shall require compliance with the provisions of this Section.
- F. The addition of new WCF antennas, or equipment shelters, or on-site improvements shall not be considered permanent alterations to an existing nonconforming WCF, but shall be reviewed under applicable provisions of this Section.

Commented [MP10]: Suggest allowing a "substantial change" that does not increase the nonconformity under City code, in order to encourage collocation consistent with the usual regulation of legally nonconforming structures.

**60.70.30. Permit Process.**

Applicants shall refer to CHAPTER 20 (Land Uses) or CHAPTER 70 (Downtown District) of this Code to determine whether a proposed WCF is a Permitted Use, a Conditional Use or a Prohibited Use within a specific underlying zoning district. The different permit types and associated thresholds are specified in CHAPTER 40 (Applications). The procedures for the review and approval of applications are contained in CHAPTER 50 (Procedures) of this Code.

Effective on: 1/8/2021

**60.70.35. Development Standards for WCF.**

Development standards applicable to all zoning districts. Except as noted in Section 60.70.35.18., the following development standards shall apply to all wireless communication facilities (WCF), excluding satellite antennas in all zoning districts. Refer to Section 60.70.40. for development standards for satellite antennas:

- 1. **General.**
  - A. Lattice tower support structures are prohibited.
  - B. Guyed tower support structures are prohibited.
  - C. "Top hat" antenna arrays are prohibited.
  - D. Collocation of new WCF antennas on existing lattice tower support structures, or guyed tower support structures is allowed.



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- E. The attachment of WCF and associated equipment on single-family dwellings or to any tree is prohibited.
- F. WCF attachments to historic, decorative, or ornamental streetlight poles are prohibited.
- G. WCF attachments to traffic signal poles are prohibited.
- H. WCF, with exception to small wireless facilities, are prohibited in the public right of way.
- I. Small wireless facilities ~~within the public right-of-way, evaluated through a separate process and standards pursuant to the City's Small Wireless Policy~~ are exempt from the requirements of Section 60.70.

Commented [MP11]: We believe the new SWF policy is intended to govern SWF no matter where they are located. Suggest this change for consistency.

2. **Height.**

- A. The maximum height of any new WCF tower, WCF antenna collocation, or both shall conform to the maximum height standards specified in the site development requirements in CHAPTER 20 (Land Uses) for Residential, Commercial, Industrial, and Multiple Use zoning districts. [ORD 4584; June 2012] Adjustments and Variances to the height standards for any new WCF tower shall be authorized through the Adjustment and Variance provisions specified in Chapter 40 (Applications).
- B. The height of any type of WCF shall include the support structure and any attached antennas. A lightning rod that is up to and including ten (10) feet tall and any required lighting by the Federal Aviation Administration (FAA) shall not be included within the calculation of the maximum height.
- C. For collocation proposals that are eligible facilities requests without substantial change, the height of the antennas WCF may exceed the maximum height allowed in the zoning district. The maximum height permitted is determined by the regulations in Title 47 of the Code of Federal Regulations (47 CFR) 6.1000).

Commented [MP12]: For greater consistency with federal terminology.

Commented [MP13]: Suggest including the full citation for ease of reference.

- 3. **Lighting.** The installation of light fixtures to a WCF tower is prohibited except for lighting required by the Federal Aviation Administration (FAA) or the Oregon Department of Aviation (ODA). A maximum of one (1) motion-sensitive or permanently shielded light fixture attached at or near the entrance door to the at-grade equipment shelter shall be allowed.

4. **Signage.**

- A. For new WCF towers and/or proposed collocation of WCF on existing towers one (1) non-illuminated sign having a maximum sign face of three (3) square feet and comprised of a white background with black lettering shall be provided and shall be permanently affixed to the entrance gate of the required fence. The sign shall identify the name of the WCF provider(s) and shall specify an emergency contact telephone number. For proposed collocation actions, the applicant for collocation shall be responsible for the production and installation of a required sign for the existing WCF service provider(s) if not already present at the site.
- B. No additional signage including logos and advertisements shall be allowed on any new or existing WCF towers, at grade equipment shelters or required fencing.

- 5. **At-Grade Equipment Screening.** All at-grade equipment shall be fully screened from the public view. Screening shall be accomplished by the following methods:

- A. **Sight Obscuring Fencing.** A sight-obscuring fence that is a minimum of six (6) feet high shall prohibit public access to WCF towers, or shall screen all at grade equipment shelters, or both. Sight-obscuring fencing shall consist of chain link with slats, vinyl, wood, masonry, or brick.
- B. **Equipment Shelters.** All at-grade equipment shall be enclosed within equipment shelters constructed of wood, metal, or masonry. Building materials shall be stained or painted in a



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color that is consistent and compatible with surrounding development and then sealed for weather protection. Roofing and other architectural treatments proposed for the material shall also be consistent compatible with surrounding development

- C. Screening Landscaping. At-grade equipment shelters shall be screened with evergreen shrubs installed immediately outside of the required fencing on all sides. The portion of the fenced enclosure used as an access gate shall feature wooden slats or other sight-obscuring material in lieu of landscaping. Evergreen shrubs shall:
  - 1. Be planted with a minimum height of four (4) feet.
  - 2. Be spaced evenly apart to create adequate screening density, provided that the maximum spacing shall be thirty-six (36) inches on center.
  - 3. Be of a species that attains a minimum mature height of ten (10) feet.
  - 4. Be comprised of a minimum of three (3) varieties of evergreen shrub species.

[ORD 4596; February 2013]

- 6. **Evergreen Trees.** In addition to the at grade equipment screening landscaping requirements specified in Section 60.70.35.5.C, the decision-making authority may require the planting of evergreen trees when a new WCF tower is located on property within or immediately abutting Residential or Multiple Use zoning districts. When required, evergreen trees shall: [ORD 4584; June 2012]
  - A. Be placed immediately outside of a required fenced enclosure on all sides within or abutting the same planting area for the required evergreen shrubs.
  - B. Be planted with a minimum height of ten (10) feet.
  - C. Be planted a maximum of thirty (30) feet on center.

[ORD 4596; February 2013]

- 7. **Required Plantings.** Required landscaping shall be planted and maintained in a manner to achieve 100% survival rate within the first year of planting. All landscaped areas shall be:
  - A. Irrigated by a sprinkler, drip irrigation system or hand watered throughout the landscape establishment period.
  - B. Demonstrate a regular scheduled watering and maintenance program which will be provided throughout the landscape establishment period after the first year of planting through a signed maintenance agreement by the property owner or authorized individual.
  - C. Maintained by regular weeding and pruning.
  - D. Replaced if dead or dying.

[ORD 4596; February 2013]

- 8. **Visual Impacts.** The decision-making authority shall identify whether new WCF towers shall either be left in a non-reflective metal finish or shall be painted based on the characteristics of the surrounding terrain in which the parent parcel is located, unless required by the FAA to be painted in an alternating red-and-white striped pattern.
- 9. **Noise.** Noise-generating equipment shall be sound-buffered by means of baffling or structural barriers to reduce the sound level measured at the property line abutting Residential or Multiple Use zoning districts. [ORD 4584; June 2012]
- 10. **Stealth Design.** Specific WCF threshold in [CHAPTER 40](#) of this Code provide for stealth design to be utilized. [CHAPTER 90](#) of this Code defines stealth design. The purpose of stealth design is to minimize



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the visibility of wireless communications facilities by disguising, concealing, or camouflaging these facilities. Acceptable methods of stealth design include, but are not limited to:

- A- Disguised as Other Structures or Elements of Physical Environment. WCF support structures, antennas and associated equipment that are disguised to look like another structure including but not limited to a flagpole or church cross or are made to appear part of the natural environment such as an evergreen tree. Disguised WCF facilities shall not contain any visible exterior attributes of a WCF support structure, antenna and associated equipment.
  - B- Concealed Roof-Mounted Antennas. WCF antenna array installed on a building roof shall be concealed from the ground level of abutting public streets and adjacent properties. Acceptable types of screening are placement behind the roof parapet, within or on the mechanical penthouse or on a roof-mounted building element such as a chimney, exhaust pipe, cupola, bell tower or flagpole.
  - C- Camouflaged Roof-Mounted Equipment Shelters. Roof-mounted equipment shelters shall be camouflaged from the ground level of abutting public streets and adjacent properties. Acceptable types of screening are placement within the interior of the building or the structure, behind the roof parapet, within a mechanical penthouse or completely within a roof-mounted element such as a chimney, exhaust pipe, cupola or bell tower.
11. **Allowable Height for Building-Roof-Mounted Antennas.** Antennas mounted on building roofs shall not extend beyond the maximum height for buildings of the underlying zoning district or in the case of existing buildings which are non-conforming in height, shall not extend beyond the existing height of the building. The antenna height shall be measured from the existing height of the building roofline. All roof-mounted antennas shall comply with the stealth design requirements of Section 60.70.35.10. [ORD 4596; Feb. 2013]
12. **Building-Wall-Mounted Antennas.** Any WCF antennas mounted to the roof edge or sidewall elevation of a building shall be completely covered with the same exterior finish and painted the same color as the exterior of the building or structure.
13. **Structure-Mounted Antennas.** Any WCF antennas mounted to a structure that is not a building shall comply with the following standards:
- A- Antennas shall not extend beyond the maximum height for structures of the underlying zoning district.
  - B- Antennas on existing tower structures or pole structures, other than those used for cellular phone service shall extend a maximum of ten (10) feet above the existing structure height as measured from its tallest point.
  - C- Antennas on water reservoir tanks shall extend a maximum of five (5) feet above the existing structure height as measured from its tallest point.
  - D- Antennas on structures shall be painted the same color as the structure. [ORD 4596; February 2013]
14. **Setbacks.** All new WCF towers, antenna arrays, and ground and/or roof-mounted equipment shelters shall comply with the setbacks established in the underlying zoning district. These standards shall also apply to WCF collocation proposals:
- A- In all underlying zoning districts, building wall-mounted antennas and at-grade equipment shelters shall comply with all setbacks contained in the underlying zoning district. For the purposes of this Code, the setback shall be measured from the portion of the at-grade equipment shelter or building wall-mounted antennas that extend outward towards the property line to the greatest extent.



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- B. New WCF towers shall be set back from all property lines by a distance equal to the height of the tower plus five (5) additional lineal feet ~~\_, except that the decision-making authority may authorize an Adjustment or Variance to this standard, if the applicant can demonstrate that such an Adjustment or Variance would reduce the visual impacts of the tower on adjacent property because of vegetation, topography, intervening buildings, or other site-specific factors.~~ Adjustments and Variances shall be authorized through the Adjustment and Variance provisions specified in CHAPTER 40 (Applications).
- C. New WCF towers located on commercially or industrially zoned property shall meet the setback of the underlying zone where the new WCF tower is more than the height of the tower plus five (5) feet from a Residential or Multiple Use zoning district. ~~The decision-making authority may authorize an Adjustment or Variance to this standard, if the applicant can demonstrate that such an Adjustment or Variance would reduce the visual impacts of the tower on adjacent property because of vegetation, topography, intervening buildings, or other site-specific factors.~~ Adjustments and Variances shall be authorized through the Adjustment and Variance provisions specified in CHAPTER 40 (Applications). [ORD 4659; June 2015]
- ~~C.D.~~ For collocation proposals that are eligible facilities requests without substantial change, the setback of the antennas WCF may be less than the minimum required and are is determined by the original approval.

Commented [MP14]: For greater consistency with federal terminology.

- 15. **Parking.** A minimum of one (1) readily accessible parking space shall be provided to serve new WCF towers or collocated WCF for the purpose of regular maintenance or emergency repairs. The decision-making authority may waive the minimum-parking requirement. Waivers may be authorized if the applicant can demonstrate that there is existing on-site parking, on-street parking, leased parking, or parking on separate adjacent property authorized for use by a written agreement.
- 16. **Clustering of Towers.** Clustering of towers shall be prohibited in all Residential and Multiple Use zoning districts. Proposals for the clustering of towers in Commercial and Industrial zoning districts shall comply with all development standards of this Section, and other applicable sections of the Development Code.
- 17. **Collocation Capacity.** New WCF towers and associated site area shall be designed to accommodate a minimum of one (1) additional future service. Collocation capacity shall be reserved through all of the following methods:
  - A. Construction of a tower of sufficient height to accommodate a minimum of two (2) antenna arrays; and,
  - B. Installation of a foundation of adequate size and structural bearing capacity to accommodate a tower with a minimum of two (2) antenna arrays; and,
  - C. Provision of a fenced enclosure of sufficient size to accommodate the equipment shelters for a minimum of two (2) antenna arrays.
- 18. **Specific Development Standards in Multiple Use Zoning Districts.** The following standards are specific to WCF on lots in Multiple Use zoning districts and are in addition to the other development standards specified in this section of the Code:
  - A. Equipment for new WCF towers or new attached WCF or incorporated WCF shall either be placed underground, entirely within an existing building, on a screened rooftop, or entirely within a new above ground structure constructed solely for the purpose of housing this equipment. This enclosed building shall be architecturally treated to blend in with the surrounding built environment. Acceptable types of architectural treatments include but are



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not limited to painted metal roofs, faux windows, awnings, canopies, brick, or colored or textured masonry.

- B. Cables and other connection devices between equipment shelters and new WCF towers or new attached WCF or incorporated WCF shall be placed entirely underground, or shall be placed above-ground in a completely enclosed structure. If placed above-ground, the completely enclosed structure shall be compatible in scale, design, and materials to the above-ground equipment shelter, and the surrounding built environment.
- C. For new WCF towers located on a lot that because of physical site constraints, tower related site design, or lease or ownership restrictions cannot be developed for any other Permitted Use while the tower is in operation, property perimeter structural bearing walls having a minimum height of ten (10) feet and composed of brick or colored and textured masonry or a combination of brick and colored and textured masonry shall be installed along all property lines for the portion of the lot being developed for WCF, abutting public streets. Required perimeter walls shall have architectural treatments including but not limited to faux windows, or awnings, covering a minimum of fifty (50) percent of each wall elevation; provided, the Director may determine a different type of perimeter treatment along property lines not abutting public streets for compatibility with the current uses of abutting properties.
- D. For new WCF towers located on property that could be developed for another use concurrent with the tower operation, the tower and, if applicable, above-ground equipment building shall be placed on the lot so as to not preclude future development of the remaining portion of the site and to allow for conformance to site design, parking and other applicable standards. Any lot area not proposed for WCF development that is disturbed by site development activity shall be landscaped. The decision-making authority shall determine the type of landscaping based on the existing landscaped nature of the lot and abutting lots.
- E. For WCF towers located on property occupied by an existing use, the tower and, if applicable, above grade equipment building, shall be located on the site so as to not preclude future redevelopment of the remaining portion of the site or future compliance with code requirements for a different use of the site. [ORD 4462; January 2008]

19. ~~Specific Development Standards for WCF in Public Road Right-of-Way. The following standards are specific to the installation of New or Collocation of WCF within the right-of-way and are in addition to the other applicable development standards specified in the Beaverton Development Code: [ORD 4702; January 2017]~~

- A. ~~Installation of WCF on structures within the public road right-of-way shall not jeopardize the physical integrity or shorten the lifespan of these structures.~~
- B. ~~Antennas shall be Stealth Design, interior mounted, flush-mounted or otherwise designed not exceed the existing diameter of the structure at the mounting point for the antennas. No mounted arm antennas are permitted.~~
- C. ~~Antennas mounted on a structure shall not extend beyond the permitted height of the underlying zoning district.~~
- D. ~~Collocates to poles that existed on or before the date of adoption of this text amendment or replacement of poles, inclusive of antennas and any mounting devices, may extend above the maximum permitted height listed under Sections 20.05.15, 20.10.15, 20.15.15, 20.20.15, and 70.03 up to and including ten (10) feet above the height of the existing pole unless separately authorized through an adjustment or variance application.~~
- E. ~~Antennas shall be painted to match the color of the structure.~~



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- F. ~~Noise Levels. Noise levels shall meet the numerical standards established by the State of Oregon Department of Environmental Quality, measured to property lines abutting or within 500 feet of Residential or Multiple Use zoning districts, as stated in Section 60.50.25.11 and 60.70.35.9.~~
- G. ~~Vibration. No vibration discernible without instruments at the nearest property line, other than that caused by highway vehicles, trains and/or aircraft, shall be permitted.~~
- H. ~~Odors. Emission of odorous gasses or matter that is readily detectable at the nearest property line is prohibited. Measures and controls shall be taken that are intended to prevent offensive fumes and odor. Air quality shall also meet the standards established by the State of Oregon Department of Environmental Quality as stated in Section 60.50.25.12.~~
- I. ~~Replacement of the existing structure, tower or pole may be authorized, provided that the replacement structure fully contains antennas and associated equipment and no higher than permitted under Sections 20.05.15, 20.10.15, 20.15.15, 20.20.15 and 70.03.~~
- J. ~~The maximum diameter of any new or replacement tower or pole shall be 24 inches.~~
- K. ~~Attachments to historic or ornamental streetlight poles shall not be permitted.~~
- L. ~~Attachments to traffic signal poles shall not be permitted.~~
- M. ~~Equipment cabinets shall be placed completely within underground vaults. No at-grade or pole-mounted equipment cabinets, equipment in the public right-of-way, or on any equipment on private property (above or below grade) abutting the structure is permitted. The mounting of equipment to the structures shall conform to the following:~~
  - 1. ~~The smallest antennas, equipment, and equipment cabinets to satisfy engineering requirements and service objectives shall be utilized.~~
  - 2. ~~All cabling and wiring shall be placed completely underground or on the interior of the structure, tower or pole. Collocates to poles that existed on or before the date of adoption of this text amendment, that cannot accommodate cabling run on the interior, may have cables attached to the exterior, provided that they are painted to match the color of the structure.~~
  - 3. ~~Mounting hardware and accessory equipment shall be painted to match the color of the structure, tower or pole.~~

~~{ORD 4702; January 2017}~~

#### 60.70.40. Development Standards for Satellite Antennas.

The following development standards shall apply to all satellite antennas in all zoning districts, except for satellite antennas and direct-to-home satellite services exempted by Section 60.70.20.1.F.-.G.:

1. New satellite antennas shall be mounted on the ground or on building roofs only.
2. New satellite antennas shall not be mounted on lattice towers or guyed tower support structures.
3. New ground-mounted satellite antennas shall be screened from view from abutting properties, or public right-of-way, or both in a manner that does not detract from the function of the antennas. Screening shall be done through one of more methods listed in Sections 60.70.35.5-7 on all directions, except for the direction that the antenna is oriented for sending, receiving, or both. The decision-making authority shall determine the appropriate type and height of screening based on the area proposed for development, the nature of the surrounding development, and the proximity of the development area to this surrounding development. [ORD 4596; February 2013]



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4. New building roof-mounted satellite antennas shall be screened from view from abutting properties, or public right-of-way, or both in a manner that does not detract from the function of the antennas. Screening shall be done through the placement of the antennas behind parapet walls or other permanent architectural features.
4. Satellite antennas mounted on building roofs shall not extend beyond the maximum height for buildings of the underlying zoning district or, in the case of existing buildings which are non-conforming in height, shall not extend beyond the existing height of the building. The satellite antenna height shall be measured from the height of the building roofline. [ORD 4596; February 2013]

#### **60.70.45. Requirements for Non-Exempt Amateur Radio Facilities.**

1. Non-exempt amateur radio facilities may not be erected until a valid building permit has been obtained from the City of Beaverton.
2. Notwithstanding [CHAPTER 30](#) of the Development Code, the following rules apply to non-exempt amateur radio facilities in existence on or before May 8, 2003:
  - A. Facilities constructed before May 8, 2003 under building permits validly issued on the date of construction are not subject to these regulations.
  - B. Exempt facilities that are proposed to be modified to become a non-exempt facility, shall acquire a new building permit from the City.
  - C. Facilities without permits from the City of Beaverton, Washington County, or Multnomah County shall acquire a building permit from the City.

#### **60.70.50. Required Studies and Information.**

The following requirements for studies and information shall be provided in addition to the submittal requirements specified in the application checklist to be provided by the Director: [ORD 4702; January 2017]

1. For new WCF towers or poles, the following information is required to be submitted at time of application:
  - A. A visual impact report prepared by an Oregon licensed engineer or Oregon licensed architect shall be submitted. For purposes of this section of the Code, the extent of the adjacent area to be analyzed in this report shall be determined by the Director at the time of pre-application based on the type of tower proposed and the nature of the surrounding development. The visual impact report shall be comprised of:
    1. A written summary of the findings of the visual impact analysis.
    2. A to-scale (engineer scale measurement) vicinity map identifying in plan-view the location of the proposed WCF tower.
    3. A to-scale (engineer scale measurement) aerial plan showing in plan view the location of the proposed WCF tower and the location and type of adjacent development.
    4. A to-scale (engineer scale measurement) elevation drawing indicating the height, dimensions, type, design, materials and color of the tower and any on-ground associated equipment.



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5. A visual graphic (photo) simulation of the proposed WCF tower from northern, southern, western and eastern orientations inclusive of adjacent buildings, structures, natural features and public or private streets.
6. Recommended methods to mitigate the visual impacts of the proposed WCF tower on adjacent properties.
- B. For a new WCF tower, a coverage analysis report prepared by an Oregon licensed professional engineer with demonstrated experience in the preparation of coverage analysis reports specifying the search ring within which service is proposed inclusive of the location, height and frequency of existing and approved WCF, and addressing the quality of existing wireless service and new wireless service within the search ring.
- C. All WCF applications abutting or within Residential, or Multiple Use zoning districts proposing exterior at-grade equipment shelters shall be accompanied by the equipment manufacturer's written noise specifications if these specifications are proposed to be followed. [ORD 4397; August 2006]
- D. Copy of the license application or received license from the Federal Communications Commission (FCC) or documentation that a license is not required. A copy of an approved license, or evidence of exemption shall be provided to the Planning Division prior to the issuance of a building permit.
- E. Copy of the permit application or received permit from the Federal Aeronautics Administration (FAA), if applicable. A copy of an approved permit shall be provided to the Planning Division prior to the issuance of a building permit.
- F. Copy of written authorization from the Oregon Department of Aviation, if applicable. A copy of the written authorization, if applicable, shall be provided to the Community Development Department prior to the issuance of a building permit.
- G. Copies of all environmental reports and assessments required to be submitted to the FCC or FAA for proposed WCF shall be provided to the City at their time of filing with these agencies. It is the applicant's responsibility to conform to all requirements of these agencies resulting from the submittal of the environmental assessments.
- ~~H. Copy of an approved and signed City of Beaverton franchise/utility license.~~
- H. Noise Study: If applicable, provide a noise study prepared by a licensed Oregon acoustical engineer in accordance with Section 60.50.25.11
- ~~J. For all WCF located within the right-of-way, proposed to replace a street light pole, provide plans for LED street lights. (Illumination levels to be evaluated per Section 450.4 of the City Engineering Design Manual, Option C requirements unless otherwise approved by the City Public Works Director).~~
- ~~K. For all City owned poles within the right of way any studies requested by the Public Works Director required to ensure the safety and integrity of city owned and maintained property, including but not limited to structural calculations.~~
- L. New poles located within 10-feet of a roadway without a curb and gutter shall include a vehicle impact study and protective devices such as bollards.
- ~~M. For all WCF located within the right of way, signed approval from the Public Works Director.~~

[ORD 4702; January 2017]

**60.70.55. Temporary Uses.**



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1. The Director may authorize a temporary WCF inclusive of needed equipment shelters and on-site improvements to facilitate continuity in service during the initial construction, repair, maintenance and/or replacement of permanent equipment. Temporary WCF shall be authorized through temporary use permit provisions specified in CHAPTER 40 (Applications). The authorization of temporary WCF shall be subject to the following criteria:
  - A. A temporary WCF facility shall be permitted to operate a maximum of ninety (90) days from the date of temporary permit authorization.
  - B. At the discretion of the Director a time extension not to exceed a maximum of ninety (90) days may be granted to facilitate continuity in service provided that a written request letter is submitted a minimum of thirty (30) calendar days prior to the expiration of the initial temporary use authorization.
  - C. The written request letter shall be submitted by an authorized representative of the service provider, shall specify the amount of the additional time request and shall explain the reason(s) for the additional time request.
  - D. Failure to submit the additional temporary use authorization request within the specified timeframe stated herein may result in a denial of the additional temporary use timeframe request.
  - E. All temporary WCF facilities shall be removed a maximum of fourteen (14) calendar days from the expiration of the initial or extended temporary use authorization.

#### **60.70.60. Collocation Protocol.**

1. Purpose. The purpose of this requirement is to create a process that will allow providers to equitably share publicly available, non-proprietary information among themselves, with interested persons and agencies, and with the City. This collocation protocol is designed to increase the likelihood that all reasonable opportunities for collocation of wireless communication antennas on existing towers have been investigated and the appropriate information has been shared among providers. The City recognizes that collocation is preferable, where technologically feasible and visually desirable, as a matter of public policy, but that collocation is not always feasible for technical or business reasons. However, if all licensed providers are made aware of any pending tower or antenna permit requests, such disclosure will allow providers to have the maximum amount of time to consider possible collocation opportunities, and will also assure the City that all reasonable accommodations for collocation have been investigated. The Code creates strong incentives for collocation because proposals for collocation qualify for a less rigorous approval process in almost all zones within the City.
2. Applicability. Requirements for the collocation protocol apply only to new WCF towers constructed after May 8, 2003.
3. The applicant shall show proof satisfactory to the City that it has made reasonable inquiries at potential sites for collocation that would otherwise meet the applicant's need for signal coverage.

#### **60.70.65. Abandoned Facilities.**

1. Criteria for Removal of Abandoned WCF Facilities. Abandoned wireless communication facilities inclusive of antennas and at-grade equipment shelters that are not operated for a continuous period of six (6) months shall be removed by the owner of the property on which the WCF is located or by the owner or lessee of the WCF within a maximum of ninety (90) day from the date of a written notice letter from the City. Failure to remove abandoned WCF within this timeframe is hereby declared a nuisance, and shall be subject to abatement under the provisions of local or state law.



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2. Multiple WCF Providers. If there are two or more WCF providers collocated on an abandoned tower, Section 60.70.65.A. shall not become effective until all providers cease using the WCF for a continuous period of six (6) months.
3. Time Extension. Prior to the expiration of the ninety (90) day period stated in Section 60.70.65.A., the property owner and/or the WCF owner may request a temporary use permit for an additional ninety (90) day extension to provide time to find another user.



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## **DEVELOPMENT CODE OF THE CITY OF BEAVERTON**

### **CHAPTER 90 - DEFINITIONS**

The following words and phrases shall be construed to have the specific meanings assigned to them by definition.

Words used in present tense include the future tense, and the singular includes the plural, unless the context clearly indicates the contrary.

The term "shall" is always mandatory and the words "may" and "should" are permissive.

The masculine gender includes the feminine and neuter. [ORD 4224; September 2002] [ ORD 4659; June 2015]

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**Antenna.** [ORD 4248; May 2003] A device commonly in the form of a metal rod, wire panel or dish used for transmitting or receiving electro-magnetic radiation. An antenna is typically mounted on a supporting tower, pole, mast or building.

**Antenna. (Wireless Communications Facilities)** As defined in 47 C.F.R. § 1.6002(b), as may be amended or superseded, 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 service and any commingled information services.

**Antenna Facility (Wireless Communications Facilities).** As defined in 47 C.F.R. § 1.6002(b), as may be amended or superseded, means an antenna and associated antenna equipment.

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**Base Station (Wireless Communications Facilities).** [ORD 4595; February 2013] A station at a specified site authorized to communicate with mobile stations or a land station in the land mobile service. As defined in 47 C.F.R. § 1.6002-1.6100(b), as may be amended or superseded, means a structure or equipment at a fixed location that enables Commission-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in this subpart or any equipment associated with a tower.

Commented [MP15]: Correction of citation.

- (i) The term includes, but is not limited to, equipment 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.
- (ii) The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks).
- (iii) The term includes any structure other than a tower that, at the time the relevant application is filed with the State or local government under this section, supports or houses equipment described in paragraphs (b)(1)(i) through (ii) of this section that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.
- (iv) The term does not include any structure that, at the time the relevant application is filed with the State or local government under this section, does not support or house equipment described in paragraphs (b)(1)(i)-(ii) of this section.



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**Collocation (Wireless Communications Facilities)**. ~~[ORD 4248; May 2003] The location of two or more antenna systems operated by the same or separate FCC licensees ("providers") on a tower dedicated solely to this use.~~ For purposes of an Eligible Facilities Request, as defined in 47 C.F.R. § 1.6100(b), as may be amended or superseded, means the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

For other WCF purposes, as defined in 47 C.F.R. § 1.6002, as may be amended or superseded, means

(1) Mounting or installing an antenna facility on a pre-existing structure; and/or

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

\*\*\*

**Decorative Pole (Wireless Communications Facilities)**. Any pole that includes decorative or ornamental features, design elements and/or materials intended to enhance the appearance of the pole.

\*\*\*

**Eligible Facilities Request (Wireless Communication Facilities)**. ~~[ORD 4595; February 2013] As defined in 47 C.F.R. § 1.6100(b), as may be amended or superseded, means any~~Any request for modification of an existing wireless tower or base station that involves:

1. Collocation of new transmission equipment;
2. Removal of transmission equipment; or
3. Replacement of transmission equipment

**Eligible Support Structure (Wireless Communications Facilities)**. As defined in 47 C.F.R. § 1.6100(b), as may be amended or superseded, means any tower or base station as defined in this section, provided that it is existing at the time the relevant application is filed with the State or local government under this section

\*\*\*

**Equipment Shelter (Wireless Communications Facilities)**. [ORD 4248; May 2003] A non-staffed structure used to house and protect the equipment necessary for processing wireless communications signals, which may include air conditioning equipment and emergency generators.

\*\*\*

**Pole (Wireless Communications Facilities)**. A type of structure that is or may be used in whole or in part by or for wireline communications, electric distribution, lighting, traffic control, signage, or similar function, or for collocation of small wireless facilities; provided, such term does not include a tower, building or electric transmission structures.

\*\*\*

**Replacement Wireless Communication Facility Tower (Wireless Communications Facilities)**. [ORD 4248; April 2003] A wireless communication facility tower capable of supporting collocated antennas that is intended to replace an existing tower that is not capable of supporting collocated antennas. See "Eligible Facilities Request" and "Substantial ~~Increase~~Change" for replacement standards. [ORD 4595; February TA2021-0001 Small Wireless Facilities TA

**Commented [MP16]:** Collocation has two FCC definitions, depending on the context.

This code change proposes to add the one that only narrowly applies to Section 6409/EFR applications. (For instance, "eligible support structure," referenced in the definition, applies only to EFRs.)

"Collocation" is used in the BDC much more broadly, and AT&T suggests expressly adopting both FCC definitions to minimize confusion.



**Beaverton Development Code**

Proposed new language is underlined.  
Proposed deleted language is ~~stricken~~.

2013]

\*\*\*

Right-of-Way. (Wireless Communications Facilities). Local, collector, neighborhood route, arterial, principal arterial, and freeways identified in the City's Comprehensive Plan, Transportation Element to, the space in, upon, above, along, across, over or under these streets.. -

\*\*\*



**Beaverton Development Code**

Proposed new language is underlined.

Proposed deleted language is ~~stricken~~.

Small Wireless Facility (Wireless Communications Facilities). means the same as defined by the FCC in 47 C.F.R. § 1.6002(l), as may be amended or superseded, means facilities that ,-

\*\*\*

**Stealth Design (Wireless Communications Facilities).** ORD 4248; May 2003] The design of wireless communications facilities in a manner that camouflages, or conceals, or disguises the facilities as described below:

1. **Camouflage.** The use of shape, color, and texture to cause an object to appear to become a part of something else, usually a structure, such as a building, wall or roof. "Camouflage" does not mean invisible, but rather appearing as part of or exactly like the structure used as a mount.
2. **Concealment.** Fully hidden from view. For example, a Wireless Communication Facility (WCF) is concealed when it is completely hidden or contained within a structure, such as a building, wall, or roof.
3. **Disguised.** A Wireless Communication Facility (WCF) that has been changed to appear to be something other than what it really is. For example, WCFs are sometimes disguised to appear as trees or flagpoles.

\*\*\*

Structure (Wireless Communications Facilities). As defined in 47 C.F.R. § 1.6002(m), as may be amended or superseded, which defines that term as a pole, tower, or base station, whether or not it has an existing antenna facility, that is used or to be used for the provision of personal wireless service (whether on its own or comingled with other types of service).

\*\*\*

Substantial IncreaseChange (Wireless Communications Facilities). As defined in 47 C.F.R. § 1.6100(b), as may be amended or superseded, means {ORD 4595; February 2013}-a modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:Relates to the collocation of any Wireless Communications Facilities. Substantial increase in the size of the "tower" occurs if:

- 1.—~~The mounting of the proposed antenna on the tower would increase the existing 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 twenty-feet (20'), whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to avoid interference with existing antennas; or~~
- 2.—~~The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four (4), or more than one new equipment shelter; or~~
- 3.—~~The mounting of the proposed antenna would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty-feet (20'), or more than the width of the tower structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from the inclement weather or to connect the antenna to the tower via cable; or~~
- 4.—~~The mounting of the proposed antenna would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.~~



### Beaverton Development Code

Proposed new language is underlined.

Proposed deleted language is ~~stricken~~.

- (i) For towers other than towers 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 twenty feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten feet, whichever is greater;
  - (A) 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.
- (ii) For towers other than towers 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 twenty 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 six feet;
- (iii) 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 four 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;
- (iv) It entails any excavation or deployment outside of 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;
- (v) It would defeat the concealment elements of the eligible support structure; or
- (vi) 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 § 1.400016100(b)(7)(i) through (iv).

\*\*\*

**Support Structure (Wireless Communications Facilities).** A "structure" as defined by the FCC in 47 C.F.R. § 1.6002, as may be amended or superseded, means a pole, tower, base station, or other building, whether or not it has an existing antenna facility, that is used or to be used for the provision of personal wireless service (whether on its own or comingled with other types of services).

\*\*\*

**Top-Hat Antenna Array (Wireless Communications Facilities).** [ORD 4248; May 2003] A horizontal platform or enclosed framework of metal pipes attached to a wireless communication facility tower, or other building or structure, that is usually triangular in shape on which antennas are mounted. This type of antenna array is used to facilitate an omni-directional or 360-degree signal receipt. May also be referred to as a "Crow's Nest".

Commented [MP17]: For correction of citation.

# AT&T and Small Cells

Enhancing our network to meet consumer demand today while preparing for the technologies and innovations of tomorrow.

May 26, 2021

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## What is a Small Cell?



## A New Network Architecture is Needed

Small cells are **flexible, targeted** network solutions that cover a radius up to 250 – 1,000 feet and can be readily deployed to specific locations, including:

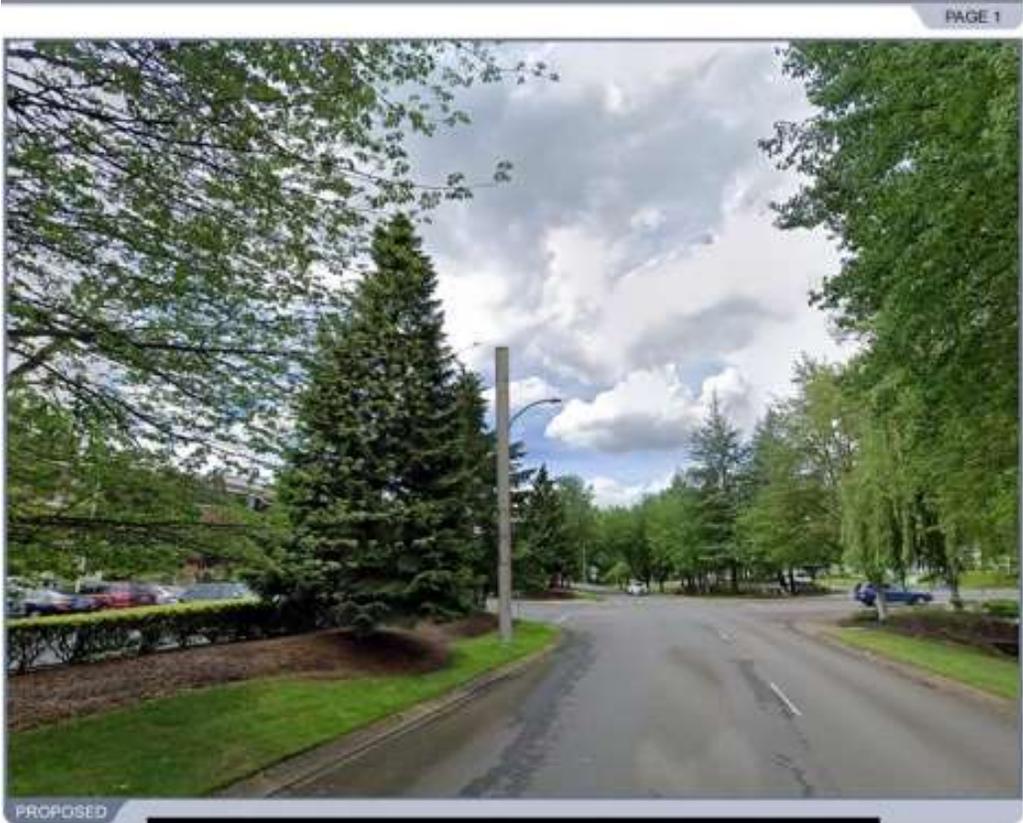
- Where customers are prone to experience connectivity issues
- Heavily populated areas that need more network density
- Areas that can't effectively be served by a traditional macro cell

This allows us to provide a better LTE experience today while also allowing us to prepare for the technologies of the future such as 5G, smart cities and new developments in the Internet of Things (IoT)

This illustration depicts an example of what a small cell could look like. Actual size, shape and dimensions may vary by location.

# Photo Simulation

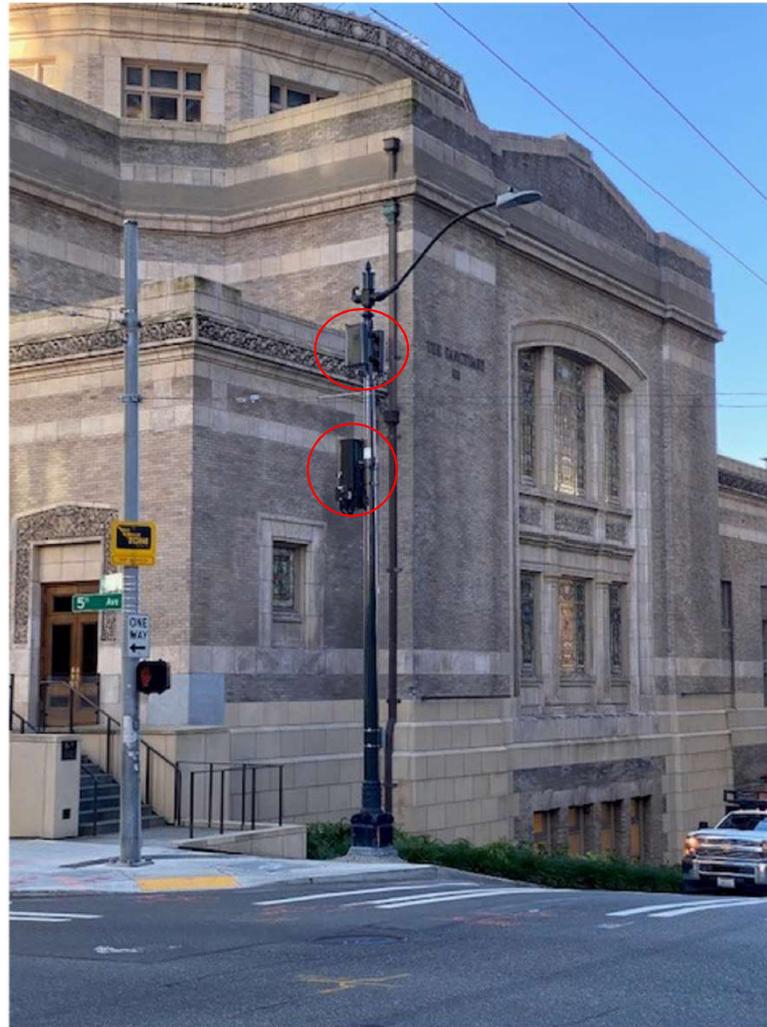
## AT&T “SmartStack” Design with 20-inch Diameter



Salem, OR



# Seattle, WA



Eugene, OR  
pole-top  
attachment

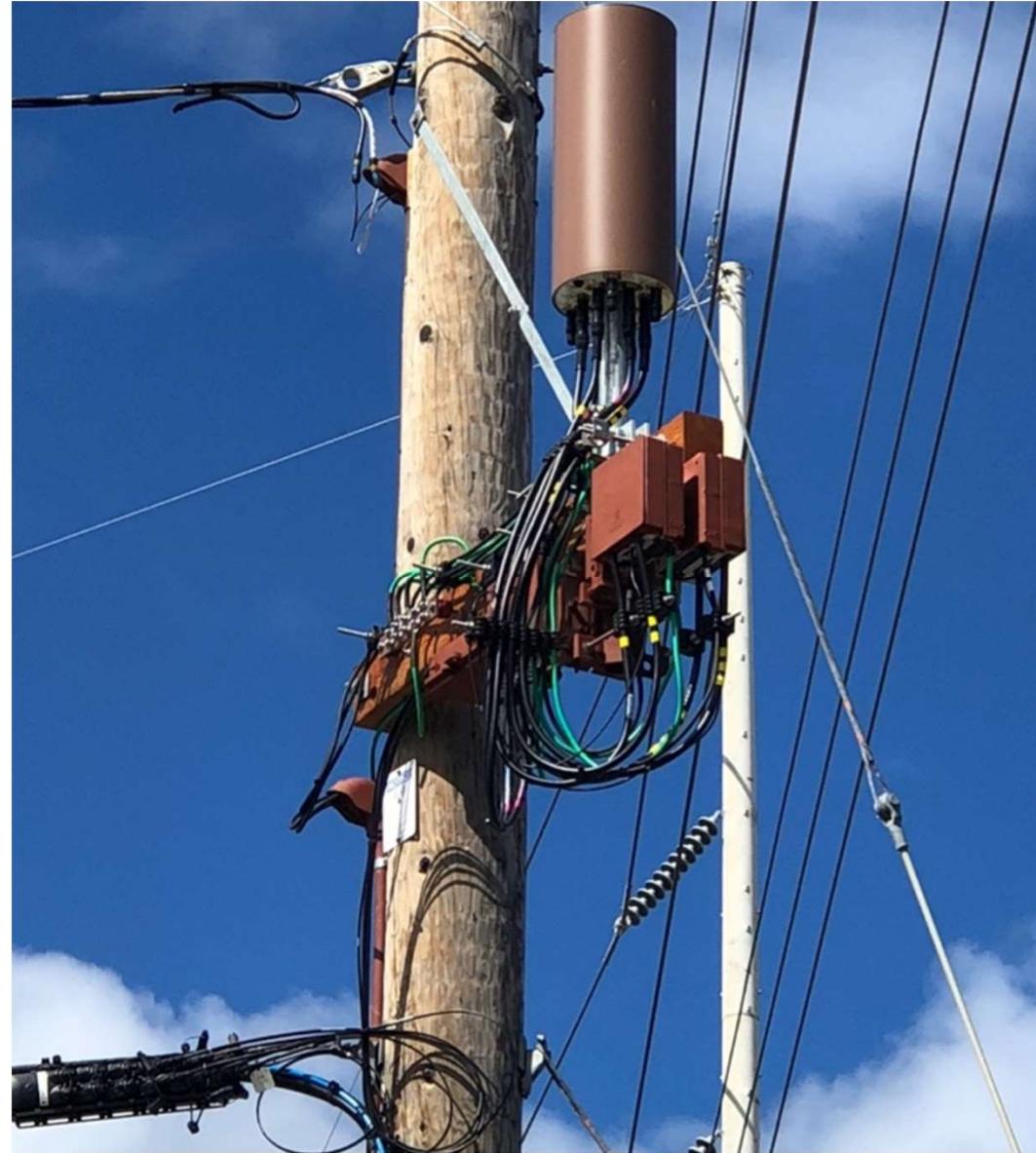


Eugene, OR  
mid-pole  
attachment



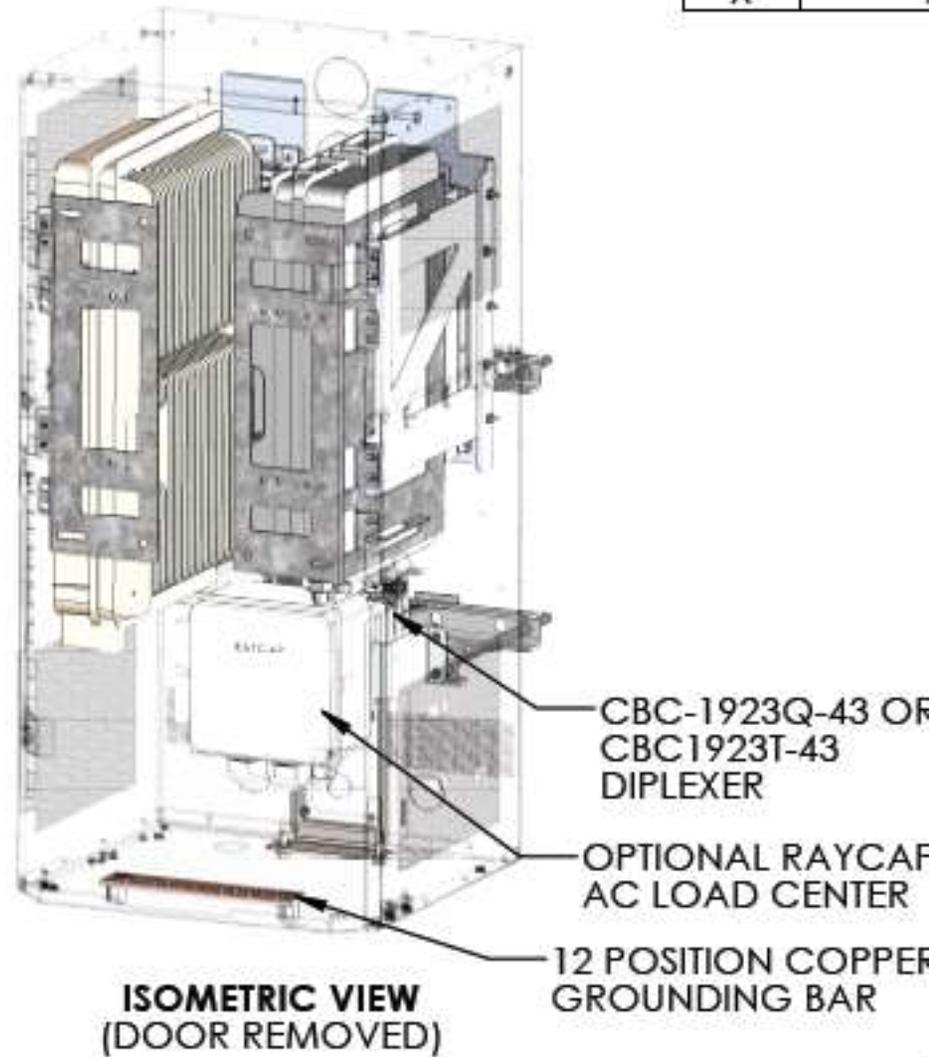
Equipment without concealment of cabinet –

The equipment is relatively small in volume, but an equipment cabinet can play an important role in consolidating and concealing the wiring and separate components.



REV.	
A	

Equipment Cabinet Detail –  
 Provides concealment of wiring and components, but it leaves some unused space that the proposed SWF policy will count against total equipment volume.





**AT&T**



Via Email to [mailboxCEDDplanning@beavertonoregon.gov](mailto:mailboxCEDDplanning@beavertonoregon.gov)

May 24, 2021

Terry Lawler, Chair  
Beaverton Planning Commission  
City of Beaverton  
12725 SW Millikan Way  
Beaverton, OR 97005

Re: T-Mobile Comments on Beaverton's Proposed Small Wireless Facilities Regulations

Dear Chair Lawler and Commissioners,

I write on behalf of T-Mobile West, LLC ("T-Mobile") regarding the City of Beaverton's (the "City") proposed regulations governing Small Wireless Facilities (the "Proposed Regulations"). T-Mobile appreciates the opportunity to review the Proposed Regulations and provide feedback.

As you know, T-Mobile provides wireless communication services across the City to its residents, business community, and visitors. Like the City, we are constantly striving to provide the services our customers, and your constituents, expect while also responding to the ever-changing demands and expectations placed on wireless infrastructure in the 21st century. As individuals become ever more reliant on wireless services exclusively and their data demands continue to grow, this new infrastructure becomes increasingly important. It is also critically important to the deployment of 5G. As a result, T-Mobile actively encourages jurisdictions to put measures in place that will enable wireless providers to densify their networks using a range of technologies to achieve the coverage, capacity, and performance their networks need. This densification will require the deployment of, and upgrades to, traditional macro sites and the deployment of new infrastructure (e.g., small cells).

T-Mobile recognizes that the City has engaged with representatives across the wireless industry to ensure these regulations are balanced and in accordance with federal law. While T-Mobile appreciates the City's desire to consider ways to improve and clarify its existing small wireless facility requirements, and supports the removal of small wireless facilities from the zoning process, we do want to flag some provisions which may still serve to prohibit or limit the deployment of that small wireless infrastructure. Specifically, T-Mobile would like to highlight the following concerns:

**Antenna and Accessory Equipment Volume:** In several provisions, the City limits small wireless facility equipment volume to limits below those set by the FCC. For example, Sec. 2.7(b)(3)(A)(1)(d)(i) restricts total cabinet volume stating, it "shall not exceed 17 cubic feet in volume." While T-Mobile often deploys small wireless equipment that is significantly smaller in





total volume, we would note that this limitation is inconsistent with federal law. 47 CFR § 1.6002(L)(2) and (3) defines small wireless facilities as those where (i) each antenna is less than 3 cubic ft.; and (ii) all other wireless equipment does not exceed 28 cubic ft. T-Mobile encourages restrictions and limitations which align with this federal definition.

**Design Standards and Concealment:** Sec. 2.7(b)(2) and (3) of the Proposed Regulations includes certain requirements for equipment placement on different types of structures and poles. The FCC has required, and the 9<sup>th</sup> Circuit affirmed, that aesthetic requirements be “reasonable.” To be reasonable, those requirements must also be technically feasible. Furthermore, what is “technically feasible” is dictated by the performance characteristics that the Provider chooses, and a local government may not dictate the design of a Provider’s network.

We are concerned certain portions on the provisions discussing concealment and design may not align with T-Mobile’s deployments. For example, Sec. 2.7(b)(3)(A) indicates the preference is that, for a small wireless facility on a streetlight pole, accessory equipment be located underground. Furthermore, the Proposed Regulations are not clear on the standard by which such designs will be evaluated (e.g. when less-preferred installations may be permitted).

T-Mobile may, and often does, deploy a single side-mounted cabinet containing all equipment and antennas (the “Unified Enclosure”). This Unified Enclosure ensures, amongst other considerations, proximity between T-Mobile radios and antennas to achieve the desired performance. We would be concerned that deployment of this Unified Enclosure would require a showing that all other “more preferred” configurations are technically infeasible. T-Mobile would be happy to engage with the City further regarding the Unified Enclosure design to ensure T-Mobile can achieve its desired network performance while balancing the City’s aesthetic considerations.

**Location Preferences:** Section 2.6 addresses location preferences for both minor and major facilities. T-Mobile is concerned with this approach. The City cannot require a provider to demonstrate that a more preferred location is “technically infeasible or unavailable.”

First, such a requirement impermissibly places the City in the position of adjudicating the existence of an effective prohibition of service—and does so based on a “least intrusive means” or “significant gap” test the FCC has explicitly rejected. Furthermore, this requirement materially inhibits a provider’s ability to design its network to its own technical and service standards, and thus violates federal law. As the FCC has stated, a regulation that materially inhibits a provider’s ability to densify its network, introduce new services, or otherwise improve service capabilities is unlawful.

Even if such a standard were permitted, T-Mobile is concerned that the method of evaluating whether a provider has satisfied the location criteria is unclear. The Proposed Regulations do not





articulate what justifications are sufficient, and who determines if that justification meets the required standard.

**Height:** Section 2.7(b)(1) states that “[s]mall wireless facilities are not to exceed a height of 40 feet or 10 percent taller than the existing pole whichever is greater.” While T-Mobile believes that most of its small wireless facilities can and are located on poles that meet this height requirement, we are concerned that this limitation is inconsistent with federal law. 47 CFR § 1.6002(L)(1) defines a small wireless facility as, amongst other items, facilities: (i) mounted on structures 50 feet or less in height including their antennas; (ii) mounted on structures no more than 10 percent taller than other adjacent structures; or (iii) that the facilities do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater. T-Mobile encourages the City to adopt standards that align directly with federal law.

**Exception Process:** Section 3 outlines the exception process whereby a Provider may seek an “Adjustment to Standards.” While T-Mobile encourages such waiver processes to ensure compliance with applicable state and federal law, we are concerned the process, as drafted, is overly burdensome. It is unclear who will be the arbiter of whether a “meaningful comparative analysis” has been provided. T-Mobile encourages the City to adopt a waiver and exception process similar to that drafted in the joint industry and League of Cities process in 2019. That framework provides carriers with flexibility while preserving City authority regarding aesthetics.

In conclusion, T-Mobile appreciates the opportunity to provide comment and assist the City in its efforts. While the above comments highlight critical issues in the Proposed Regulations, we would be happy to engage with the City further on additional clarifications and/or revisions. Please feel free to contact me at [timothy.halinski1@t-mobile.com](mailto:timothy.halinski1@t-mobile.com).

Sincerely,

*Tim Halinski*

Tim Halinski  
Siting Advocacy Manager





May 24, 2021

Terry Lawler, Chair  
 Beaverton Planning Commission  
 City of Beaverton  
 12725 SW Millikan Way  
 Beaverton, OR 97005  
 Via email to – [mailboxCEDDplanning@beavertonoregon.gov](mailto:mailboxCEDDplanning@beavertonoregon.gov)

Re: ***Small Wireless Facilities Design Standards (the “Policy”)***

Dear Commissioners:

On behalf of Verizon Wireless, please accept this feedback on the proposed policy of standards allowing the installation of small wireless facilities (“SWFs”). We appreciate the opportunity to engage with the city and we hope to continue providing meaningful input as the process moves forward. With the continuing pandemic, robust and reliable wireless networks are more important than ever to families and businesses that find themselves working from home and relying on the wireless network for virtual meetings, online learning, telemedicine and ordering goods and services. First responders rely on the wireless network to process calls and transmit data in real time. The Policy, as currently proposed, is a disincentive to deployment and may materially inhibit the ability to continue to provide fast and reliable wireless service in Beaverton.

In 2016, the City adopted interim standards for wireless facilities in the right-of-way. Wireless carriers raised concerns at the time regarding the interim standards but understood that more permanent standards would be adopted later. Many things have changed regarding SWFs in the intervening four years, but Beaverton’s proposed Policy remains unworkable. Further, in 2018 the Federal Communications Commission (“FCC”) Order issued an Order addressing SWFs,<sup>1</sup> and some of Beaverton’s requirements per the Policy conflict with that Order. The FCC also issued orders clarifying some of the questions regarding Eligible Facilities requests and the shot clock, and the proposed development code amendments have not addressed these issues.

---

<sup>1</sup> *Accelerating Wireless and Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, Declaratory Ruling and Third Report and Order, 33 FCC Rcd 9088 (2018)(*FCC Order*).

DENVER      SAN FRANCISCO      LOS ANGELES      SEATTLE      PORTLAND

May 24, 2021

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In June 19, 2020, the League of Oregon Cities (“LOC”) released a model code and design standard for SWF development pursuant to the FCC Order. These models were prepared through a sixteen month collaboration among the LOC’s city members, including Beaverton staff, and industry representatives of Verizon Wireless, AT&T, and T-Mobile. The LOC models, and in particular the model design standards, were a compromise that protected local community aesthetic values while providing a workable path forward for SWF installations. The proposed Policy is far more restrictive than the LOC model code and will inhibit deployment of this new technology in the Beaverton community. We urge the city to incorporate sections of the model code, rather than some of the limitations outlined below that create issues of technical infeasibility.

To that end, Verizon has submitted the attached redline of the proposed Policy to the city staff and would ask that the Commission support the requested changes to bring the Policy into compliance with federal law and provide a technically feasible path forward to provide seamless and enhanced wireless service to the residents and businesses of Beaverton.

The areas of most concern are as follows:

- The proposed SWF Policy has design standards that are technically infeasible, especially with respect to equipment volume. The 9 cubic foot volume limitation for equipment on right of way installations in residential zones is too small to accommodate Verizon's current equipment cabinet requirement of 12 cubic feet. The FCC’s definition of a “small wireless facility” provides for up to 28 cubic feet in equipment volume. This one restriction has the effect of prohibiting Verizon's deployment of SWF's in residential zones where they are greatly needed to bring the signal closer to where people are using their cell phones most--in their homes.
- In order to deploy a larger cabinet, Verizon would need an adjustment from standards under the Policy or to obtain a pre-approved design. Unfortunately, the adjustment process in Section 3 contains criteria that can never be met which require the applicant to identify the unforeseen circumstances that warrant the adjustment. Verizon already knows that the volume allotment for equipment in residential zones is not sufficient and an adjustment from standards would be needed for every single installation. This would not comply with this criterion. Verizon requests that the city adopt the adjustment from standards process from the League of Oregon Cities model design standards, which is outlined in the attached redline.
- In the preapproved design process in Section 2.7(d), there is a requirement that the proposed alternate design exceed the applicable design standards. Verizon's motivation to seek a preapproved design would be to approve a design that meets the

May 24, 2021

Page 3

goals and intent of the Policy but in a manner that might not meet every requirement of the standards, usually because they are not technically feasible. The process should apply to all alternative designs that meet or exceed the intent of the applicable design standards.

- The Policy's requirements that antennas be shrouded or internal to the pole creates a situation of technical infeasibility for millimeter wave antennas that cannot be placed in a shroud or internal to the pole. Verizon requests that this requirement be amended to apply only if technically feasible.

We remain committed to working with City staff on the pending wireless code change and are available to answer any questions you might have.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kim Allen', with a long horizontal stroke extending to the right.

Kim Allen, Wireless Policy Group  
Representative for Verizon Wireless

cc: Sambo Kirkman, Senior Planner

“pop-out” screen boxes. Except in industrial zones, the approval authority may not approve any exposed facade-mounted antennas, including but not limited to exposed antennas painted to match the facade.

- (F) **Lighting.** Antennas and antenna equipment shall not be illuminated except as required by municipal, federal or state authority, provided this shall not preclude deployment on new or replacement streetlights or parking lot lights.
- (c) **Strand Mounted Equipment:** Strand mounted small wireless facilities are permitted subject to the following criteria:
  - (A) Each strand mounted antenna shall not exceed 3 cubic feet in volume.
  - (B) Only 2 strand mounted antennas are permitted between any two existing poles.
  - (C) Strand mounted devices shall be placed as close as possible to the nearest pole and in no event more than five feet from the pole unless a greater distance is required by the pole owner.
  - (D) No strand mounted device will be located in or above the portion of the roadway open to vehicular traffic.
  - (E) Strand mounted devices must be installed with the minimum excess exterior cabling or wires (other than original stand) to meet the technological needs of the facility.
- (d) **Pre-Approved Designs.**
  - (1) **Purpose.** To expedite the review process and encourage collaborative designs among applicants and the City, the City Council authorizes the approval authority to designate one or more pre-approved designs for small wireless facilities and other infrastructure deployments. This subsection (d) sets out the process to establish or repeal a pre-approved design and the expedited review procedures and findings applicable to these applications.
  - (2) **Adoption.** The approval authority may, in the approval authority’s discretion, establish a pre-approved design when the approval authority finds that a proposed pre-approved design exceeds the design standards in this Policy. The approval authority shall post a public notice posted at City Hall, with the City Clerk and in a newspaper of general circulation within the City. The notice must generally describe the pre-approved design, include a photograph or photo simulation, specify whether the pre-approved design would be limited or restricted in any districts and contain a reference to the appeal procedure. The pre-approved design shall become effective 15 days from the notice

Commented [KA5]: Does this mean the design is larger than what is allowed by the standards or that it provides aesthetic value that exceeds the standards?

required in this subsection. A decision by the approval authority not to adopt a proposed pre-approved design or the approval authority's failure to act on a request for a proposed pre-approved design is not appealable.

- (3) **Repeal.** The approval authority may repeal any pre-approved design by written notice posted at City Hall. The repeal shall be immediately effective. The approval authority's repeal, refusal to repeal or failure to act on a request to repeal a pre-approved design is not appealable.
- (4) **Modified Review Process.** In nonresidential districts, applications for a pre-approved design shall not be subject to the notice requirements in section 2.4(a) or any potential appeals under section 2.4(f). In residential districts, applications for a pre-approved design shall remain subject to the notice requirements in section 2.4(a) and any potential appeals under section 2.4(f).
- (5) **Modified Findings.** When an applicant submits a complete application for a pre-approved design, the approval authority shall presume that the findings for approval in sections 2.4(c)(1), (c)(3) and (c)(5) are satisfied and shall evaluate the application for compliance with the findings for approval in sections 2.4(c)(2), (c)(4), (c)(6) and (c)(7).
- (6) **Nondiscrimination.** Any applicant may propose to use any pre-approved design whether the applicant initially requested that the approval authority adopt such pre-approved design or not. The approval authority's decision to adopt a pre-approved design expresses no preference or requirement that applicants use the specific vendor or manufacturer that fabricated the design depicted in the pre-approved plans. Any other vendor or manufacturer that fabricates a facility to the standards and specifications in the pre-approved design with like materials, finishes and overall quality shall be acceptable as a pre-approved design.

### SECTION 3 ADJUSTMENT TO STANDARDS

1. **An applicant may obtain a deviation from these location preferences and design standards if compliance with the requirement or standard: (a) is not technically feasible; (b) impedes the effective operation of the small wireless facility; (c) impairs a desired network performance objective; (d) conflicts with pole owner requirements; or (e) otherwise materially inhibits or limits the provision of wireless service.**
2. **When requests for deviation are sought under subsections (1)(a)-(e), the request must be narrowly tailored to minimize deviation from the requirements of these design standards, and the approval authority must find the applicant's proposed design provides similar aesthetic value when compared to strict compliance with these standards.**
3. **The approval authority may also allow for a deviation from these location preferences or design standards when it finds the applicant's proposed design provides equivalent or superior aesthetic value when compared to strict compliance with these location preferences and standards.**
4. **The small wireless facility design approved under this Section 2.8 must meet the conditions of 47 C.F.R. Sec. 1.6002(l).**

Commented [KA6]: The Model language from the League of Oregon Cities provides greater clarity and protection for the city when application of a standard would materially inhibit deployment in violation of federal law.

**5. The approval authority will review and may approve a request for deviation to the minimum extent required to address the applicant's needs or facilitate a superior design.**

(1)

- (b) **Evidentiary Standard.** The applicant shall have the burden to prove to the approval authority that an exception should be granted pursuant to this Section 3. The standard of evidence shall be the same as required by applicable federal or state law for the issue raised in the applicant's request for an exception.
- (c) **Expert Review.** Independent expert and/or consultant review will generally be appropriate when considering an exception request.
- (d) **Legal Review.** Any exception request shall require the consultation of the City Attorney as to the validity and legal justification for the exception.

**Deleted: <#>Preface.** The provisions in this Section 3 establish a procedure by which the City may grant an adjustment to the standards in this Policy but only to the extent necessary to avoid conflict with applicable federal or state law. When the applicant requests an adjustment, the approval authority shall consider the findings in Section 3.b in addition to the findings required under Section 2.4.c. Each exception is specific to the facts and circumstances in connection with each application. An exception granted in one instance shall not be deemed to create a presumption or expectation that an exception will be granted in any other instance.

**Required Findings.** The approval authority shall not grant any limited exception pursuant to this Section 3 unless the approval authority finds all the following:

the applicant has provided the approval authority with a reasonable and clearly defined technical service objective to be achieved by the proposed small wireless facility;

the applicant has provided the approval authority with a detailed written statement that explains why: (A) a denial based on the application's noncompliance with a specific provision or requirement would violate federal law, state law or both; or (B) a provision in this Policy, as applied to the applicant, would violate any rights or privileges conferred on the applicant by federal or state law;

**<object>**the applicant has provided the approval authority with a written statement that contains a detailed and fact-specific explanation as to why the proposed small wireless facility cannot be deployed in compliance with the applicable provisions in this Policy;

the applicant has provided the approval authority with a meaningful comparative analysis with the factual reasons why all alternative locations and/or designs identified in the administrative record (whether suggested by the applicant, the City, public comments or any other source) are not technically feasible or potentially available to reasonably achieve the applicant's reasonable and clearly defined technical service objective to be achieved by the proposed small wireless facility;

the applicant has demonstrated that the proposed location and design is the least non-compliant configuration that will reasonably achieve the applicant's reasonable and clearly defined technical service objective to be achieved by the proposed small wireless facility, which includes without limitation a meaningful comparative analysis into multiple smaller or less intrusive facilities dispersed throughout the intended service area;

the exception requested by the applicant does not compromise or excuse compliance any fire safety or other public safety standard; and

the exception is narrowly tailored such that any ... [1]

(1)

<b>CITY OF BEAVERTON</b>	<b>Policy No. [reserved]</b>
<b>CITY COUNCIL POLICY</b>	Adopted: [date] Revised:
<b>GENERAL SUBJECT: SMALL WIRELESS FACILITIES</b>	

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## SECTION 1. GENERAL PROVISIONS

### SECTION 1.1. PURPOSE AND INTENT

- (a) On September 27, 2018, the Federal Communications Commission (“FCC”) adopted a *Declaratory Ruling and Third Report and Order*, FCC 18-133 (the “*Small Cell Order*”), in connection with two informal rulemaking proceedings entitled *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, WT Docket No. 17-79, and *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84. The regulations adopted in the *Small Cell Order* significantly curtail the local authority over wireless and wireline communication facilities reserved to State and local governments under sections 253 and 704 in the federal Telecommunications Act. Numerous legal challenges to the *Small Cell Order* were raised, but its regulations became effective while such challenges are pending. On August 12, 2020, the United States Court of Appeals for the Ninth Circuit invalidated many aesthetic restrictions in the *Small Cell Order* but largely upheld the other restrictions. *Portland v. United States*, 969 F.3d 1020 (9th Cir. 2020). The court specifically invalidated the requirements that aesthetic regulations be objective and no more burdensome than those applied to other infrastructure deployments. See *id.* at 1039–42. Although municipalities may exercise reasonable discretion over small wireless facilities, they must do so on an expedited basis to meet the short shot clock limits. Importantly, the Ninth Circuit’s decision remains subject to further appeals that could stretch well into 2021 and even into 2022. Although the City of Beaverton opposes the *Small Cell Order* and the FCC’s blatant overreach, the City recognizes the practical reality in establishing clear and concise processes and standards to address how installation of these facilities are to occur within the City. Accordingly, the City Council adopts this Policy as a means to accomplish such ~~try to achieve~~ compliance that can be quickly amended or repealed by resolution in the future without the need to amend the City’s municipal code. This policy document is to address small wireless facilities within the City’s public rights-of-way and on private property.
- (b) The City of Beaverton intends this Policy to establish reasonable, uniform and comprehensive standards and procedures for small wireless facilities deployment, construction, installation, collocation, modification, operation, relocation and removal within the City’s territorial boundaries, consistent with and to the extent permitted under federal and Oregon state law. The standards and procedures contained in this Policy are intended to, and should be applied to, protect and promote public health, safety and welfare, and balance the benefits that flow from robust, advanced wireless services with the City’s local values, which include without limitation the aesthetic character of the City, its neighborhoods and community. This Policy is also intended to reflect and promote the community interest by: (1) ensuring that the balance between public and private interests is maintained; (2) protecting the City’s visual character from potential adverse impacts and/or visual blight created or exacerbated by small wireless facilities and

related communications infrastructure; (3) protecting and preserving the City's environmental resources; (4) protecting and preserving the City's public rights-of-way and municipal infrastructure located within the City's public rights-of-way; and (5) promoting access to high-quality, advanced wireless services for the City's residents, businesses and visitors.

- (c) This Policy is not intended to, nor shall it be interpreted or applied to: (1) prohibit or effectively prohibit any personal wireless service provider's ability to provide personal wireless services; (2) prohibit or effectively prohibit any entity's ability to provide any telecommunications service, subject to any competitively neutral and nondiscriminatory rules, regulations or other legal requirements for rights-of-way management; (3) unreasonably discriminate among providers of functionally equivalent services; (4) deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such wireless facilities comply with the FCC's regulations concerning such emissions; (5) prohibit any collocation or modification that the City may not deny under federal or Oregon state law; (6) impose any unreasonable, discriminatory or anticompetitive fees that exceed the City's objectively reasonable and actual cost to provide the services for which the fee is charged; or (7) otherwise authorize the City to preempt any applicable federal or Oregon law.

#### SECTION 1.2. GENERAL DEFINITIONS

- (a) **Undefined Terms.** Undefined phrases, terms or words in this section will have the meanings assigned to them in 47 U.S.C. § 153 as may be amended or superseded, and, terms that still remain undefined will have their ordinary meanings. If any definition assigned to any phrase, term or word in this section conflicts with any federal or state-mandated definition, the federal or state-mandated definition will control.
- (b) **Defined Terms.**
- (1.) **"Antenna"** means the same as defined in 47 C.F.R. § 1.6002(b), as may be amended or superseded. (ADD FCC HPERLINK)
- (2.) **"Antenna Equipment"** means the same as defined 47 C.F.R. § 1.6002(c), as may be amended or superseded. (ADD FCC HPERLINK)
- (3.) **"Antenna Facility"** means the same as defined in 47 C.F.R. § 1.6002(d), as may be amended or superseded. (ADD FCC HPERLINK)
- (X) **"approval authority"** means the City official responsible for reviewing applications for small wireless facilities permits and vested with the authority to approve, conditionally approve or deny such applications as provided in this Policy. The approval authority for applications in connection with small wireless facilities shall be the Director or their designee.

- (X) **“arterial”** means a roadway designed to interconnect and support principal arterials and freeways. They link major commercial, residential, industrial, and employment areas. Arterials are typically spaced about one mile apart to assure access to through routes and to reduce the incidence of traffic using collectors or local streets in lieu of a well-placed arterial street. The term “arterial” as used in this Policy is defined in the City of Beaverton Comprehensive Plan, Transportation Element.
- (X) **“batched application”** means more than one application submitted at the same time.
- (X) **“collector”** means a roadway designed to balance access and circulation within residential, commercial, and industrial areas. Collectors differ from arterials in that they provide circulation within the city and distribute trips onto neighborhood routes and local streets. The term “collector” as used in this Policy is defined in the City of Beaverton Comprehensive Plan, Transportation Element.
- (X) **“collocate”** means the same as defined by the FCC in 47 C.F.R. § 1.6002(g), as may be amended or superseded. (ADD FCC HPERLINK)
- (X) **“concealed”** or **“concealment”** means camouflaging techniques that integrate the transmission equipment into the surrounding natural and/or built environment such that the average, untrained observer cannot directly view the equipment but would likely recognize the existence of the wireless facility or concealment technique. Camouflaging concealment techniques include but are not limited to: (1) facade or rooftop mounted pop-out screen boxes;(2) antennas mounted within a radome above a streetlight; (3) equipment cabinets painted or wrapped to match the background; and (4) an isolated or standalone faux-tree.
- (X) **“decorative pole”** means any pole that includes decorative or ornamental features, design elements and/or materials intended to enhance the appearance of the pole or the public rights-of-way in which the pole is located.
- (X) **“FCC”** means the Federal Communications Commission or its duly appointed successor agency.
- (X) **“FCC Shot Clock”** means the presumptively reasonable time frame within which the City generally must act on a given wireless application, as defined by the FCC and as may be amended or superseded.
- (X) **“local streets”** are designed to have the sole function of providing access to adjacent land. Local street design deliberately discourages through traffic and is important to neighborhood identity. The term “local streets” as used in this Policy is defined in the City of Beaverton Comprehensive Plan, Transportation Element.
- (X) **“ministerial permit”** means any City-issued non-discretionary permit required to commence or complete any construction or other activity subject to the City's jurisdiction. Ministerial permits may include, without limitation, any building permit, construction permit, electrical permit, encroachment permit, excavation permit, traffic control permit and/or any similar over-the- counter approval issued by the City's departments.

- (X) “**neighborhood routes**” are designed to be longer than local streets and provide connectivity to collectors or arterials. Because they have greater connectivity, they generally have more traffic than local streets and are used by residents to get into and out of their neighborhoods. The term “neighborhood routes” as used in this Policy is defined in the City of Beaverton Comprehensive Plan, Transportation Element.
- (X) “**personal wireless services**” means the same as defined in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended or superseded. (ADD FCC HPERLINK)
- (X) “**personal wireless service facilities**” means the same as defined in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended or superseded. (ADD FCC HPERLINK)
- (X) “**Pole**” means a type of structure that is or may be used in whole or in part by or for wireline communications, electric distribution, lighting, traffic control, signage, or similar function, or for collocation of small wireless facilities; provided, such term does not include a tower, building or electric transmission structures.
- (X) “**principal arterial**” means streets that are designed to serve to connect neighboring cities and urban areas. They are of regional significance and often of statewide importance as well. The term “principal arterial” as used in this Policy is defined in the City of Beaverton Comprehensive Plan, Transportation Element.
- (X) “**Rights-of-Way (ROW)**” means and includes, the space in, upon, above, along, across, over or under a street identified as a local, collector, neighborhood route, arterial, principal arterial, or freeway in the City’s Comprehensive Plan, Transportation Element.
- (X) “**RF**” means radio frequency or electromagnetic waves.
- (X) “**Section 6409**” means Section 6409(a) of the Middle-Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156, codified as 47 U.S.C. § 1455(a), as may be amended or superseded. (ADD FCC HPERLINK)
- (X) “**small wireless facility**” or “**small wireless facilities**” means the same as defined by the FCC in 47 C.F.R. § 1.6002(l), as may be amended or superseded. (ADD FCC HPERLINK)
- (X) “**Strand Mounted**” means small wireless antenna(s) and equipment attached directly to the wire hanging between two utility poles.
- (X) “**Structure**” means the same as defined in 47 C.F.R. § 1.6002(m), as may be amended or superseded, which defines that term as a pole, tower, or base station, whether or not it has an existing antenna facility, that is used or to be used for the provision of personal wireless service (whether on its own or comingled with other types of service).
- (X) “**support structure**” means a “structure” as defined by the FCC in 47 C.F.R. § 1.6002(m), as may be amended or superseded.

- (X) **“tower”** means a structure, tower, pole or mast solely dedicated to support one or more wireless communication antenna systems, including but not limited to, guyed towers, lattice towers and monopoles; provided, such term does not include a pole as defined within this Policy, a building or electric transmission structures.
  
- (X) **“Wireless Communication Facility”** A non-staffed facility for the transmission of radio frequency (RF) signals, usually consisting of an equipment shelter, cabinet or other enclosed structure housing electronic equipment; a support structure; and antenna systems or other transmission and reception devices. This includes cellular towers, cellular antennas, satellite dishes, and microwave dishes.

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## SECTION 2.SMALL WIRELESS FACILITIES

### SECTION 2.1. APPLICABILITY; REQUIRED PERMITS AND APPROVALS

#### (a) Applicable Facilities.

- (1) The development, installation, and modification of the following uses are subject to the provision set forth in this policy:
    - (A) Collocation of a small wireless facility; and
    - (B) Modification of an existing pole to be used for a small wireless facility that does not result in the replacement of the pole.
    - (C) Replacement of an existing pole that is required to accommodate a small wireless facility.
    - (D) Placement of a new pole to be used for a small wireless facility.
  - (2) **Small Wireless Facilities.** Except as expressly provided otherwise in this Policy, the provisions in this Policy shall be applicable to all existing small wireless facilities and all applications and requests for authorization to construct, install, attach, operate, collocate, modify, reconstruct, relocate, remove or otherwise deploy small wireless facilities within the public rights-of-way or on private property within the City's jurisdictional and territorial boundaries.
- (b) **Small Cell Permit.** A "small cell permit," subject to the approval authority's prior review and approval, is required for any small wireless facility proposed on an existing, new or replacement structure.
- (c) **Request for Approval Pursuant to Section 6409.** Notwithstanding anything in the Policy to the contrary, requests for approval to collocate, replace or remove transmission equipment on an existing wireless tower or base station submitted pursuant to Section 6409 will be subject to the current FCC rules and regulations for "eligible facilities requests" as defined by FCC and as may be amended or superseded.
- (d) **Other Permits and Approvals.** In addition to a small cell permit, the applicant must obtain all other permits and regulatory approvals as may be required by any other federal, state or local government agencies prior to submittal-construction of a small wireless facility application.

## SECTION 2.2. SMALL CELL PERMIT APPLICATION REQUIREMENTS

- (a) **Small Cell Permit Application Contents.** All applications for a small wireless facility proposed must include all the information and materials required in this Section 2.2(a).
- (1) **Application Form.** The applicant shall submit a complete, duly executed small cell permit application on the then-current form that includes a checklist of required materials to be provided with the application form.
  - (2) **Application Deposit.** The applicant shall submit the applicable small cell permit application deposit established by City Council resolution. Batched applications must include the applicable small cell permit application deposit for each small wireless facility in the batch.
  - (3) **Construction Drawings.** The applicant shall submit true and correct construction drawings, prepared, signed and stamped by an Oregon licensed or registered engineer, that depicts all the existing and proposed improvements, equipment and conditions related to the proposed project, which includes without limitation any and all poles, posts, pedestals, traffic signals, towers, streets, sidewalks, pedestrian ramps, driveways, curbs, gutters, drains, handholes, manholes, fire hydrants, equipment cabinets, antennas, cables, trees and other significant landscape features. The construction drawings must:
    - (i) contain cut sheets identifying the technical specifications for all existing and proposed antennas and antenna equipment, which includes without limitation the manufacturer, model number and physical dimensions;
    - (ii) If the applicant is asserting that the proposal's height is allowed due to the height of adjacent structures, for projects within the right-of-way or a private street, identify all structures in the right-of-way within 500 lineal feet from the proposed small wireless facility and call out such structures' overall height aboveground level
    - (iii) for projects on private property, identify all structures within 50 feet of the property line
    - (iv) depict the applicant's plan for electric and data backhaul utilities, which shall include the locations for all conduits, cables, wires, handholes, junctions, transformers, meters, disconnect switches, and points of connection to the extent that applicant will be constructing these elements; and
    - (v) demonstrate that proposed project will be in full compliance with all applicable health and safety laws, regulations or other rules, which includes without limitation all building codes, electric codes, local street standards and specifications, and public utility regulations and orders.
  - (4) **Site Survey.** The applicant shall submit a survey prepared, signed and

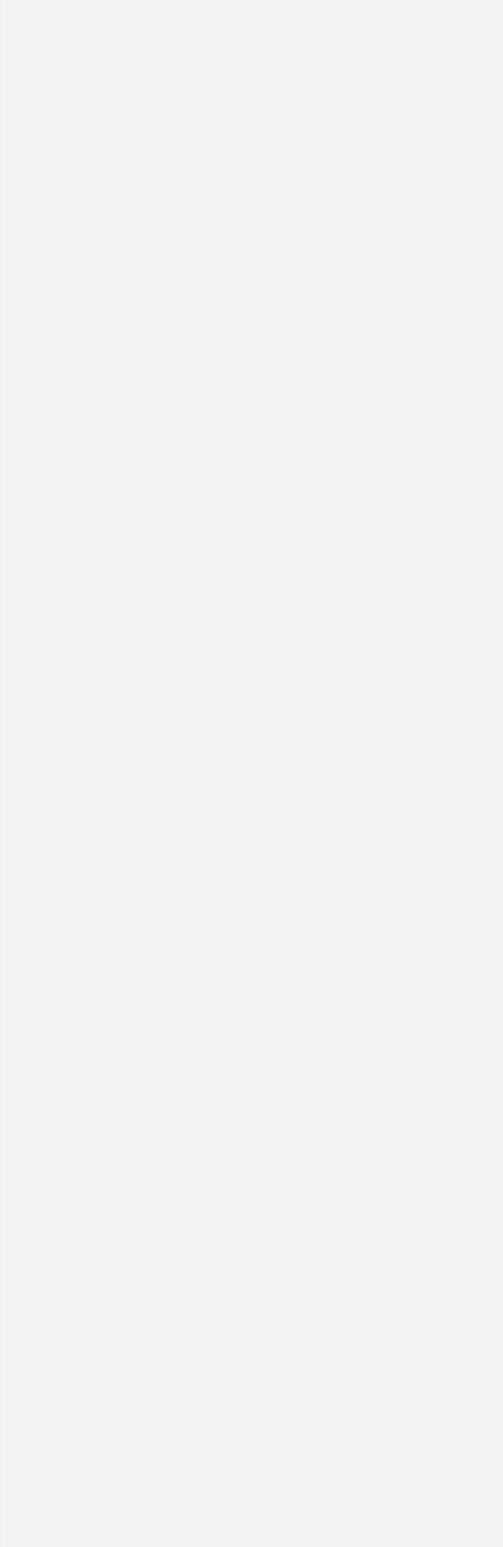
stamped by an Oregon licensed or registered engineer. The survey must identify and depict all existing boundaries, encroachments and other structures

within 75 feet from the proposed facility location, which includes without limitation all: (i) traffic lanes; (ii) all private properties and property lines; (iii) above and, in the event that excavation is proposed, below-grade utilities, and related structures and encroachments;

(iv) fire hydrants, roadside call boxes and other public safety infrastructure; (v) streetlights, decorative poles, traffic signals and permanent signage; (vi) sidewalks, driveways, parkways, curbs, gutters and storm drains; (vii) benches, trash cans, mailboxes, kiosks and other street furniture; and (viii) existing trees, planters and other landscaping features.

- (5) **Photo Simulations.** The applicant shall submit site photographs and photo simulations that show the existing location and proposed small wireless facility in context from at least two vantage points within the public streets or other publicly accessible spaces, together with a vicinity map that shows the proposed site location and the photo location for each vantage point. At least one simulation must depict the small wireless facility from a vantage point approximately less than 50 feet from the proposed support structure or location.
- (6) **Project Narrative and Justification.** The applicant shall submit a written statement that explains in plain factual detail whether and why the proposed wireless facility qualifies as a “small wireless facility” as defined by the FCC in 47 C.F.R. § 1.6002(l). A complete written narrative analysis will state the applicable standards in this policy and all the facts that allow the City to conclude the standards will be met—bare conclusions not factually supported do not constitute a complete written analysis. As part of the written statement the applicant must also include: (i) whether and why the proposed support is a “structure” as defined by the FCC in 47 C.F.R. § 1.6002(m); and (ii) whether and why the proposed wireless facility meets each required finding for a small cell permit as provided in Section 2.4(c).
- (7) **RF Compliance Report.** The applicant shall submit an RF exposure compliance report that certifies that the proposed small wireless facility, as well as any collocated wireless facilities, will comply with applicable federal RF exposure standards and exposure limits. The RF report must be prepared and certified by an RF engineer or qualified employee of the applicant acceptable to the City. The RF report must include the actual frequency and power levels (in watts effective radiated power) for all existing and proposed antennas at the site and exhibits that show the location and orientation of all transmitting antennas and the boundaries of areas with RF exposures in excess of the uncontrolled/general population limit (as that term is defined by the FCC) and also the boundaries of areas with RF exposures in excess of the controlled/occupational limit (as that term is defined by the FCC). Each such boundary shall be clearly marked and identified for every transmitting antenna at the project site.
- (8) **Regulatory Authorization.** The applicant shall submit evidence of the applicant's regulatory status under federal and Oregon law to provide the services and construct the small wireless facility proposed in the application.

(9) **Site License Agreement.** For any small wireless facility proposed to be installed



on any structure owned or controlled by the City and located within the public rights-of-way, the applicant shall submit a partially-executed site license agreement on a form prepared by the City that states the terms and conditions for such non-exclusive use by the applicant, or otherwise complies with the applicant's master license agreement. ~~No changes shall be permitted to the City's form site license agreement except as may be indicated on the form itself. Any unpermitted changes to the City's form site license agreement shall be deemed a basis to deem the application incomplete. Refusal to accept the terms and conditions in the City's site license agreement shall be an independently sufficient basis to deny the application.~~

Commented [MP1]: The SLA form for AT&T's installations is attached to its MLA.

(10) **Owner's Authorization.** Any small wireless facility proposed to be installed on any real property outside of the right of-way is subject to the provisions for owner authorization in BDC. If the owner is a public or other utility or joint pole association, the applicant may submit authorization reasonably acceptable to the Director.

(b) **Additional Requirements.** The City Council authorizes the approval authority to develop, publish and from time to time update or amend permit application requirements, forms, checklists, guidelines, informational handouts and other related materials that the approval authority finds necessary, appropriate or useful for processing any application governed under this Policy that is subject to the approval authority's review. All such requirements and materials must be in written form and publicly stated to provide all interested parties with prior notice.

**SECTION 2.3 SMALL CELL PERMIT APPLICATION SUBMITTAL AND COMPLETENESS REVIEW**

(a) **Requirements for a Duly Filed Application.** Any application for a small cell permit will not be considered duly filed unless submitted in accordance with the requirements in this Section 2.3(a).

(1) **Pre-Submittal Conferences.** The City strongly encourages, but does not require, potential applicants to schedule and attend a pre-submittal conference with the approval authority for all proposed projects that involve small wireless facilities. A voluntary pre-submittal conference is intended to streamline the review process through informal discussion between the potential applicant and staff that includes, without limitation, the appropriate project classification and review process; any latent issues in connection with the proposed project, including compliance with generally applicable rules for public health and safety; potential concealment issues or concerns (if applicable); coordination with other City departments responsible for application review; and application completeness issues. To mitigate unnecessary delays due to application incompleteness, potential applicants are encouraged (but not required) to bring any draft applications or other materials so that City staff may provide informal feedback and guidance about whether such draft applications or other materials may be incomplete or unacceptable. The approval authority shall use reasonable efforts to provide the potential applicant with an appointment within five working days after receiving a written request and any applicable fee or deposit to reimburse the City for its reasonable costs to provide the services rendered in the pre-submittal conference.

(b) **Application Completeness Review.** Staff will evaluate the application submittal

to determine if all the required materials are provided. If the application is determined to be incomplete, staff will notify the applicant no more than 10 days from the submittal of the application of the materials needed to complete the application or as required by the FCC. If the applicant is notified that the application is incomplete on its initial submittal, then the FCC shot clock restarts on the date the supplemental submission is provided to the City. After the first supplemental submission, the FCC shot clock will toll if the supplemental submission did not provide the information requested in the City's original notification that the application was incomplete.

- (c) **Applications Deemed Withdrawn.** To promote efficient review and timely decisions, and to mitigate unreasonable delays or barriers to entry caused by chronically incomplete applications, any application governed under this Policy will be automatically deemed withdrawn by the applicant when the applicant fails to tender a substantive response to the approval authority within 60 calendar days after the approval authority deems the application incomplete in a written notice to the applicant. The approval authority, in the approval authority's discretion, may grant a written extension for up to an additional 30 calendar days when the applicant submits a written request prior to the 60th day that shows good cause to grant the extension. Good cause for an extension shall include, without limitation, delays due to circumstances outside the applicant's reasonable control. The cost of City staff review time, or \$100, whichever is greater will be assessed against the deposit provided by the applicant, and the remainder of the deposit refunded. As used in this Section 2.3(c), a "substantive response" must include the materials identified as incomplete in the approval authority's notice.
- (d) **Batched Applications.** Applicants may submit batched applications; provided, however, that the batch must contain all the required elements for a complete application for each facility included in the batch.
- (e) **Additional Procedures.** The City Council authorizes the approval authority to establish other reasonable rules and regulations for duly filed applications subject to the approval authority's review, which may include without limitation regular hours for appointments with applicants, as the approval authority deems necessary or appropriate to organize, document and manage the application intake process. All such rules and regulations must be in written form and publicly stated to provide all interested parties with prior notice.

#### SECTION 2.4. APPROVALS AND DENIALS; NOTICES

- (a) **Public Notice.** Prior to ~~any approval, conditional approval or denial~~ construction, public notice shall be mailed to all properties and record owners of properties within 3500 feet from the project site measured laterally in both directions and on both sides of the street.
  - (1) The notice must contain the following:
    - i. Case file number for the application
    - ii. General project description including location;

- ~~iii. The applicant's identification and contact information for receiving comments as provided on the application submitted to the City;~~
- ~~iv.iii. contact information for the approval authority;~~
- ~~v. A statement that the approval authority will act on the application without a public hearing but will accept written public comments that evaluate the application for compliance with the findings in Section 2.4.c and standards in Section 2.6 and Section 2.7; and~~
- ~~vi.iv. A statement that the FCC Orders and Rulings requires the City to act on small cell permit applications, which includes any administrative appeals, in 60 days for attachments to existing structures and 90 days for new structures, unless the applicant voluntarily agrees to toll the timeframe for review. Notice is to be mailed approximately seven (7) days once the submittal package is deemed complete prior to construction.~~
- ~~vii. A statement that interested parties can submit written comments, but, to be considered, the City must receive those comments no later than the comment closing date, which is a specific date established by the Director and which is approximately twenty eight (28) calendar days from the date the application is determined to be or deemed complete. The comment closing date shall be listed in boldface type.~~
- ~~viii. A statement that the decision shall be made after the comment closing date.~~

- (2) Projects to be placed on a preferred location utilizing a pre-approved design are exempt from Section 2.4.a.1. However, prior to construction of the facility the applicant shall conduct public outreach to include the following:
- (i) Comment period will be a minimum of two weeks and must occur prior to construction.
  - (ii) The notification will be on applicant's letterhead.
  - (iii) The applicant will mail the notification to all properties and owners of properties within 3500' of the proposed site at least 3 days prior to the comment period.
  - (iv) The notification will contain a deadline for comments, description of the installation, a map of the location labeled with street names, and before and after photo simulations of the site.
  - (v) The notification will include the name, direct telephone number, and email address of an applicant contact. The notification will direct the public to submit or direct any comments to the applicant contact. The applicant contact must be an employee of the applicant and must be available to answer questions, orally and in writing, from the public. The applicant may designate a consultant knowledgeable with the project to answer questions so long as the employee is copied on written communications.
  - (vi) Within 2 months of installation, a consolidated log of received comments and complaints must be submitted to the City.
  - (vii) Documentation of the outreach process must be kept for one year after construction of the site and must be made available upon City request.

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- (b) **Administrative Review.** Not less than 10 calendar days after the public notice required in Section 2.4(a), the approval authority shall approve, conditionally approve or deny a complete and duly filed small cell permit application without a public hearing.
- (c) **Required Findings.** The approval authority may approve or conditionally approve a complete and duly filed application for a small cell permit when the approval authority finds:
- (1) the proposed project meets the definition for a “small wireless facility” as defined by the FCC or the design criteria for a strand-mounted facility in this Policy;
  - (2) the proposed project would be in the most preferred location within 25500 feet from the proposed facility location in any direction or the applicant has demonstrated with substantial evidence in the written record that no other, more preferred location(s) within 25500 feet would be technically feasible or that no other, more preferred location within 25500 feet is available;
  - (3) the proposed project involves a lesser-preferred design for the pole, antenna, or antenna equipment, the applicant has demonstrated with substantial evidence in the written record that no other preferred design would be technically feasible or available based on the surrounding area and the requirements of the carrier;
  - (4) the proposed project does not materially and demonstrably interfere with the safe operation of traffic control equipment;
  - ~~(5) the proposed project, including without limitation its appearance and operation, would not be materially adverse to public peace, health, safety, comfort or general welfare;~~
  - ~~(6)(5) the proposed project is consistent with any applicable City plan, and would not be materially detrimental to the use of surrounding properties or improvements;~~
  - ~~(7) The proposed project will not unreasonably impact visual and aesthetic continuity among other like facilities, and it can be made reasonably compatible with and have a minimal impact on livability and appropriate use and development of properties in the surrounding area.~~
  - ~~(6)~~
  - ~~(8)(7)~~ the proposed project does not materially and demonstrably interfere with sight lines or clear zones for transportation or pedestrians;
  - ~~(9)(8)~~ the proposed project does not materially fail to comply with the Americans with Disabilities Act or similar federal, state, or local laws, standards and regulations regarding pedestrian access or movement;

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~~(10)~~(9) the proposed project would not be located on a prohibited support structure identified in this Policy;

~~(11)~~(10) the proposed project complies with all applicable design standards in this Policy;

~~(12)~~(11) the applicant has demonstrated that the proposed project will be in planned compliance with all applicable FCC regulations and guidelines for human exposure to RF emissions.; and

~~(13)~~(12) all public notices required for the application have been given.

- (d) **Conditional Approvals; Denials without Prejudice.** Subject to any applicable federal or Oregon laws, nothing in this Policy is intended to limit the approval authority's ability to conditionally approve or deny without prejudice any small cell permit application as may be necessary or appropriate to ensure compliance with this Policy.
- (e) **Decision Notices.** The approval authority shall notify the applicant by written notice of its decision on the small cell permit application within five calendar days after its decision, or before the FCC Shot Clock expires, whichever occurs first. If the approval authority denies the application (with or without prejudice), the written notice must contain the reasons for the decision.
- (f) **Appeals.** Decision by the approval authority shall be subject to an administrative appeal to the City Manager.

#### SECTION 2.5. STANDARD CONDITIONS OF APPROVAL

- (a) **General Conditions.** In addition to all other conditions adopted by the approval authority for a small cell permit, all small cell permits issued under this Policy shall be automatically subject to the conditions in this Section.
  - (1) **Post-Installation Certification.** Within 60 calendar days after the permittee commences full, unattended operations of a small wireless facility approved or deemed-approved, the permittee shall provide the approval authority with documentation reasonably acceptable to the approval authority that the small wireless facility has been installed and/or constructed in strict compliance with the approved construction drawings and photo simulations. Such documentation shall include without limitation as-built drawings, GIS data and site photographs.
  - (2) **Build-Out Period.** This small cell permit will automatically expire 12 months from the approval date (the "build-out period") unless construction of the small cell facility is complete; provided that, the post installation certification that is required in subsection 2.5(a)(3). The City may agree to extend the build-out period for one 6-month period if good cause is determined. If the does not extend the build-out period, and if it expires, the permittee must resubmit a complete application, including all application fees, for the same or substantially

similar project and obtain a second approval before beginning construction.

~~(3) **Site Maintenance.** The permittee shall keep the site, which includes without limitation any and all improvements, equipment, structures, access routes, fences and landscape features, in a neat, clean and safe condition in accordance with the approved construction drawings and all conditions in this small cell permit. The permittee shall keep the site area free from all litter and debris at all times. The permittee, at no cost to the City, shall remove and remediate any graffiti or other vandalism at small wireless facility within 72 hours after the permittee receives notice or otherwise becomes aware that such graffiti or other vandalism occurred. The permittee will provide the City with annual updates of their active small wireless facility sites within the City. The documentation shall be in the form of a GIS data layer.~~

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~~(4)~~**(3) Compliance with Laws.** The permittee shall maintain compliance at all times with all federal, state and local statutes, regulations, orders or other rules that carry the force of law ("laws") applicable to the permittee, the subject property, the small wireless facility or any use or activities in connection with the use authorized in this small cell permit, which includes without limitation any laws applicable to human exposure to RF emissions. The permittee expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve or otherwise lessen the permittee's obligations to maintain compliance with all laws. No failure or omission by the City to timely notice, prompt or enforce compliance with any applicable provision in the Beaverton Municipal Code, this Policy any permit, any permit condition or any applicable law or regulation, shall be deemed to relieve, waive or lessen the permittee's obligation to comply in all respects with all applicable provisions in the Beaverton Municipal Code, this Policy, any permit, any permit condition or any applicable law or regulation.

~~(5)~~**(4) Adverse Impacts on Other Properties.** The permittee shall not perform or cause others to perform any construction, installation, operation, modification, maintenance, repair, removal or other work that involves heavy equipment or machines except during normal construction work hours authorized by the Beaverton Code. The approval authority may issue a stop work order for activities that violate this condition in whole or in part.

~~(6)~~**(5) Permit Revocation.** Any permit granted under this Policy may be revoked in accordance with the provisions and procedures in Beaverton Code 4.15.

~~(7)~~**(6) Record Retention.** Throughout the permit term, the permittee must maintain a complete and accurate copy of the written administrative record, which includes without limitation the small cell permit application, small cell permit, the approved plans and photo simulations incorporated into this approval, all conditions associated with this approval, any ministerial permits or approvals issued in connection with this approval and any records, memoranda, documents, papers and other correspondence entered into the public record in

connection with the small cell permit (collectively, "records"). If the permittee does not maintain such records as required in this condition, any ambiguities or uncertainties that would be resolved by inspecting the missing records ~~will be construed against the permittee~~ may be demonstrated by the applicant by other means. ~~The permittee shall protect all records from damage from fires, floods and other hazards that may cause deterioration. The permittee may keep records in an electronic format; provided, however, that hard copies or electronic records kept in the City's regular files will control over any conflicts between such City-controlled copies or records and the permittee's electronic copies, and complete originals will control over all other copies in any form. The requirements in this condition shall not be construed to create any obligation to create or prepare any records not otherwise required to be created or prepared by other applicable laws. Compliance with the requirements in this condition shall not excuse the permittee from any other similar record retention obligations under applicable law.~~

~~(8)~~**(7) Abandoned Wireless Facilities.** The small wireless facility authorized under this small cell permit shall be deemed abandoned if not operated for any continuous six-month period. Within 90 days after a small wireless facility is abandoned or deemed abandoned, the permittee and/or owner shall completely remove the small wireless facility and all related improvements and shall restore all affected areas to a condition compliant with all applicable laws, which includes without limitation the Beaverton Code. In the event that neither the permittee nor the owner complies with the removal and restoration obligations under this condition within said 90-day period, the City shall have the right (but not the obligation) to perform such removal and restoration with or without notice, and the permittee and owner shall be jointly and severally liable for all costs and expenses incurred by the City in connection with such removal and/or restoration activities.

~~(8)~~**(8) Landscaping.** The permittee shall replace any significant landscape features damaged or displaced by the construction, installation, operation, maintenance or other work performed by the permittee or at the permittee's direction on or about the site. If any trees are damaged or displaced, the permittee shall hire and pay for a licensed arborist to select, plant and maintain replacement landscaping in an appropriate location for the species. Any replacement tree must be substantially the same size as the damaged tree.

~~(9)~~**(9)** ~~The permittee shall, at all times, be responsible to maintain any replacement landscape features.~~

~~(10)~~**(9) Cost Reimbursement.** The permittee acknowledges and agrees that (i) the permittee's request for authorization to construct, install and/or operate the small wireless facility will cause the City to incur costs and expenses; (ii) the permittee shall be responsible to reimburse the City for all reasonable and actual costs incurred in connection with the permit, which includes without limitation costs related to application review, permit issuance, site inspection and any other costs reasonably related to or caused by the request for authorization to construct, install and/or operate the wireless facility; (iii) any

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application fees required for the application may not cover all such reimbursable costs and that the

permittee shall have the obligation to reimburse City for all such costs 30 days after a written demand for reimbursement and reasonable documentation to support such costs; and (iv) the City shall have the right to withhold any permits or other approvals in connection with the wireless facility until and unless any outstanding costs have been reimbursed to the City by the permittee. The City shall refund to the applicant any unused application deposit funds within 30 days of its issuance of the permit.

- (b) **Conditions for Small Wireless Facilities in the Public Rights-of-Way.** In addition to all conditions in subsection (a), all small cell permits for small wireless facilities in the public rights-of-way issued under this Policy shall be automatically subject to the conditions in this Section 2.5(b) and the requirements in BC 4.15.
- (1) **Future Undergrounding Programs.** Notwithstanding any term remaining on any small cell permit, but subject to any applicable laws, if other utilities or communications providers in the public rights-of-way underground their facilities in the segment of the public rights-of-way where the permittee's small wireless facility is located, the permittee must also underground its equipment, if technically feasible, at approximately the same time. This undergrounding requirement excludes the antennas, radios and any approved electric meter. ~~Antenna equipment such as radios and computers that require an environmentally controlled underground vault to function shall not be exempt from this condition.~~ Small wireless facilities installed on wood utility poles that will be removed pursuant to the undergrounding program may be reinstalled on a streetlight that complies with the City's standards and specifications. Such undergrounding shall occur at the permittee's sole cost and expense except as may be reimbursed through tariffs approved by the state public utilities commission for undergrounding costs.
- ~~(2) **Electric Meter Upgrades.** If the commercial electric utility provider adopts or changes its rules obviating the need for a separate or ground-mounted electric meter and enclosure, the permittee on its own initiative and at its sole cost and expense shall remove the separate or ground-mounted electric meter and enclosure. Prior to removing the electric meter, the permittee shall apply for any encroachment and/or other ministerial permit(s) required to perform the removal. Upon removal, the permittee shall restore the affected area to its original condition that existed prior to installation of the equipment.~~
- (c) **Modified Conditions.** The City Council authorizes the approval authority to modify, add or remove conditions to any small cell permit as the approval authority deems necessary or appropriate to: (1) protect and/or promote the public health, safety and welfare; (2) tailor the standard conditions to the particular facts and circumstances associated with the deployment; and/or (3) memorialize any changes to the proposed deployment needed for compliance with the Beaverton Municipal Code, this policy, generally applicable health and safety requirements and/or any other applicable laws. To the extent required by applicable FCC regulations, the approval authority shall take care to ensure that any different conditions applied to small wireless facilities are no more burdensome than those

applied to other infrastructure deployments.

#### SECTION 2.6. LOCATION PREFERENCES

- (a) All small wireless facilities shall be located to avoid any physical or visual obstruction to pedestrian or vehicle traffic, or in any manner create safety hazards to pedestrians, bicyclist or motorists.
- (b) All small wireless facilities shall be positioned to not encroach or effectively narrow the clear path of any pedestrian, bicycle or roadway facility unless approved by the City Engineer.
- (c) All small wireless facilities are prohibited on historic or ornamental streetlight poles and traffic signal poles.
- (d) With exception to small wireless facilities, all other Wireless Communication Facilities are prohibited in the public rights-of-way

**Preface to Location Preferences.** This subsection (a) provides guidance as to how to interpret and apply the location preferences in this Section 2.6. To better assist applicants and decisionmakers understand and respond to the community's aesthetic preferences and values, subsections d) and e) set out listed preferences for locations and support structures to be used in connection with small wireless facilities in ordered hierarchies. Applications that involve lesser-preferred locations or structures may be approved so long as the applicant demonstrates by substantial evidence in the written record that either: (1) no more preferred locations or structures exist within 25500 feet from the proposed site; or (2) any more preferred locations or structures within 25500 feet from the proposed site would be technically infeasible or unavailable. Subsection (d) identifies "prohibited" support structures on which the City shall not approve any small cell permit application for any competitor or potential competitor.

- (e) **Locations in the Public Rights-of-Way.** The City prefers small wireless facilities in the public rights-of-way to be installed in locations, ordered from most preferred to least preferred, as follows:
  - (1) locations within commercial, multiple use or industrial districts on or along principal arterials and arterials;
  - (2) locations within commercial, multiple use or industrial districts on or along collectors;
  - (3) locations within commercial, multiple use or industrial districts on or along neighborhood routes;
  - (4) locations within commercial, multiple use or industrial districts on or along local streets;
  - (5) locations within residential districts on or along principal arterials and

arterials;

- (6) locations within residential districts on or along collectors;
- (7) locations within residential districts on or along neighborhood routes;
- (8) locations within residential districts on or along local streets; and
- (9) locations within the City's Historic or Preservation Districts or Overlay Districts

(f) **Locations Outside the Public Rights-of-Way.** The City prefers small wireless facilities outside the public rights-of-way to be installed in locations, ordered from most preferred to least preferred, as follows:

- (1) Utility easements (for which setbacks do not apply);
- (2) City- owned / public agency- owned property;
- (3) Parcels within industrial zones;
- (4) Parcels within commercial zones.
- (5) Parcels within multiple-use zones.
- (6) Parcels within residential zones.

(g) **Support Structures in the Public Rights-of-Way.** The City prefers small wireless facilities to be installed on support structures in the public rights-of-way, ordered from most preferred to least preferred, as follows:

- (1) existing or replacement streetlight poles;
- (2) existing or replacement wood utility poles;
- (3) new, non-replacement streetlight poles;
- (4) new, non-replacement poles for small wireless facilities;
- (5) other street furniture, such as signs and bus shelters.

(h) **Support Structures Outside the Public Rights-of-Way.** The City prefers small wireless facilities to be installed on support structures outside the public rights-of-way, ordered from most preferred to least preferred, as follows:

- (1) existing towers that do not require replacement.
- (2) existing buildings or other non-tower structures previously approved for use

as a support structure for wireless communications facilities;

- (3) other existing or replacement buildings, utility poles, parking lot light standards, or non-tower structures;
  - (4) replacement towers;
  - (5) new, non-replacement towers for small wireless facilities;
- (i) **Prohibited Support Structures.** The City prohibits small wireless facilities to be installed on the following support structures, whether located in the public rights-of-way or not:
- (1) decorative poles;
  - (2) traffic signals, signs, poles, cabinets and related devices;
  - (3) any utility pole scheduled for removal or relocation within 12 months from the time the approval authority acts on the small cell permit application;
  - (4) new, non-replacement wood poles.
- (j) **Additional Placement Requirements.** In addition to all other requirements in this Policy, small wireless facilities, other infrastructure deployments and all related equipment and improvements shall to the extent feasible:
- (1) When installing a new pole or other non-replacement support structure, be placed as close as possible to the property line between two parcels that abut the public rights-of-way;
  - (2) not be placed directly in front of any ground-level door;
  - (3) not be placed directly in front of any first- or second-story window;
  - (4) not be placed within any sight distance triangles at any intersections;
  - (5) not be placed in any location that obstructs views of any traffic signs or signals;
  - (6) not be placed in any location that obstructs illumination patterns for existing streetlights;
  - (7) for new, non-replacement small wireless facility, must be placed at least 10 feet away from any driveway or established pedestrian pathway between a residential structure and the public rights-of-way; and
  - (8) for new, non-replacement small wireless facility, must be placed at least 50 feet away from any driveways for police stations, fire stations or other emergency

responder facilities.

- (k) **Replacement Pole Locations.** All replacement poles must be: (1) located as close to the removed pole's location as feasible; (2) reasonably aligned with the other existing poles along the public rights-of-way; and (3) compliant with all applicable standards and specifications issued by the Director, which may include, without limitation, requirements related to aesthetics, materials and safety.

## SECTION 2.7. DESIGN STANDARDS

### (a) General Standards.

~~(1) **Concealment.** All small wireless facilities must be designed to resemble something other than a wireless facility whenever technically feasible and concealed to the maximum extent feasible with design elements and techniques that mimic or blend with the underlying support structure, surrounding environment and adjacent uses.~~

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~~(2)(1) **Noise.** Small wireless facilities and all antenna equipment and transmission equipment must comply with all applicable noise control standards and regulations in Beaverton Code Chapter 5.15, as either may be amended or superseded, and shall not exceed, either on an individual or cumulative basis, the noise limit in the applicable district.~~

~~(3)(2) **Lights.** Small wireless facilities shall not include any lights that would be visible from publicly accessible areas, except as may be required under Federal Aviation Administration, FCC, other applicable regulations for health and safety. All equipment with lights (such as indicator or status lights) must be installed in locations and within enclosures that mitigate illumination impacts visible from publicly accessible areas. The provisions in this subsection shall not be interpreted or applied to prohibit installations on streetlights or luminaires installed on new or replacement poles as may be required under this Policy. Any light beacons or lightning arresters shall be included in the overall height calculation.~~

~~(4)(3) **Landscape Features.** Small wireless facilities shall not displace any existing landscape features unless:~~

(A) Such displaced landscaping is replaced with native and/or drought-resistant plants, trees or other landscape features approved by the approval authority and

~~(B) For projects within the right of way and private streets, the applicant submits and adheres to a landscape maintenance plan. The landscape plan must include existing vegetation, and vegetation proposed to be removed or trimmed, and the landscape plan must identify proposed landscaping by species type, size and location. Where applicable, landscape maintenance must be performed in accordance Beaverton Code Sections 5.05.101 and~~

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~~5.05.102, as may be amended or superseded. In addition, all landscaping shall be maintained in a neat and clean condition and kept well manicured and sufficiently watered. Dead vegetation and litter shall not be allowed to gather. The replacement of dead trees and other vegetation shall be made in conformance with the approved landscaping plan within a reasonable period.~~

(C)(B) For project on private property, the applicant submits and adheres to a landscape maintenance plan consistent with the standards established in Section 60.05.25 of the Beaverton Development Code.

(5)(4) **Site Security Measures.** To prevent unauthorized access, theft, vandalism, attractive nuisance or other hazards, reasonable and appropriate security measures, such as locks, removable climbing pegs and anti-climbing devices, may be approved. Security measures shall be designed and implemented in a manner that enhances or contributes to the overall concealment, and the approval authority may condition approval on additional concealment elements to mitigate any aesthetic impacts, which may include, without limitation, additional landscape features. The approval authority shall not approve barbed wire, razor ribbon, electrified fences or any similar security measures. Cabinets and equipment shrouds must be kept secured to prevent unauthorized access. Alarm systems shall not include any audible sirens or other sounds.

(6)(5) **Signage; Advertisements.** All small wireless facilities must include signage that accurately identifies the site owner/operator, the owner/operator's site name or identification number and a 24-hour emergency toll-free number to the owner/operator's network operations center. Small wireless facilities may not bear any other signage or advertisements unless expressly approved by the City, required by law or recommended under FCC, Occupational Safety and Health Administration or other United States governmental agencies for compliance with RF emissions regulations. No other advertising, branding or other signage is allowed unless approved by the Director.

(7)(6) **Secondary Power Sources.** The approval authority may approve secondary or backup power sources on a case-by-case basis. The approval authority shall not approve any permanent diesel generators within the public rights-of-way or at any other location or within 200 feet from any residence; provided, however, the approval authority may approve sockets or other connections used for temporary backup generators.

(8)(7) **Street Parking.** Small wireless facilities and any associated antenna equipment or other improvements shall not reduce any street parking spaces within the public rights-of-way.

(9)(8) **Fire Safety.** All small wireless facilities shall include (A) a power shut off immediately accessible to fire service personnel, through a Knox box or similar rapid-access system approved by Tualatin Valley Fire & Rescue (TVF&R)], upon arrival at the scene of a fire and/or anticipated power surge due to power being turned off or on for any reason; (B) surge protection devices capable of

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mitigating a direct or partial direct lightning discharge; (C) surge protection devices capable of mitigating significant electrical disturbances that may enter the small wireless facility via conductive cables; (D) at least one-hour fire resistant interior surfaces to be used in the composition of all structures; and (E) monitored automatic fire notification and extinguishing systems for all small wireless facilities as approved by TVF&R or applicable building code standards.

~~(10)~~(9) **Compliance with Health and Safety Regulations.** All small wireless facilities shall be designed, constructed, operated and maintained in compliance with all generally applicable health and safety regulations, which includes without limitation all applicable regulations for human exposure to RF emissions and compliance with the federal Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 *et seq.*).

**(b) Small Wireless Facilities in the Public Right-of-Way.**

(1) **Overall Height.** Small wireless facilities are not to exceed a height of 40 feet or 10 percent taller than the existing pole whichever is greater. Exceptions to this height restriction require documentation from the pole owner showing the additional height is required for safety regulations or internal practices.

**(2) Antennas.**

(A) **Concealment.** All antennas and associated mounting equipment, hardware, cables or other connectors must be completely concealed either placed internal to the pole or within an opaque antenna shroud or radome, if technically feasible. The antenna shroud or radome must be painted or otherwise colored in a flat, non-reflective color to match the underlying support structure.

(B) **Antenna Volume.** Each individual antenna or antenna enclosure may not exceed three cubic feet in volume. The total maximum number of antennas permitted on the small cell facility are based on the pole type and the mounting of the antennas.

(C) **Mounting Requirements.** The mounting requirements are based on the following pole types, preferences ordered from most preferred to least preferred:

1. Streetlight

a. Radomes or shrouds for pole-top antennas shall not exceed more than 36 inches or 2.5 times the diameter of the base of the pole, whichever is less.

b. Antennas shall be placed internal to the pole, recessed into the pole or affixed to the top of the pole. Mounting arms affixing the antenna to the side of the pole are prohibited, unless approved as part of a pre-approved design under this Policy.

c. ~~All wires connecting the antennas to the pole shall be placed~~

internal to the supporting pole or shrouded.

- d. Antennas within line of sight of one another must be of a substantially similar configuration, design and finish to promote visual and aesthetic continuity among streetlights in the public rights-of-way, if technically feasible.

Commented [KA2]: Different carriers use different equipment which will look different carrier by carrier.

## 2. Wood Utility Pole

- a. For antennas affixed to the top of the pole, radomes or shrouds for pole-top antennas shall not exceed more than 36 inches or 2.5 times the diameter of the base of the pole, whichever is less.
- b. Antennas that are mounted on the pole shall be mounted as flush to the pole as technically feasible and allowed by the pole owner; however, no portion of the antenna shall extend more than 3 feet from the pole. Each bracket or extension arm shall be used for only one antenna.
- c. Side-mounted antennas on a stand-off bracket or extension arm must be concealed within one or more shrouds that cover the antenna, mounting hardware and cables.
- d. If the applicant demonstrates that additional separation is required for compliance with applicable health and safety regulations the approval authority may permit the additional spacing. Any modification shall be narrowly tailored to meet the minimum requirements under such health and safety regulations.
- e. No more than five antennas shall be permitted on one utility pole by one carrier.
- f. antennas within line of sight of one another must be of a substantially similar configuration, design and finish to promote visual and aesthetic continuity among wood utility poles in the public rights-of-way, if technically feasible.

## 3. Other Structures. Structures other than streetlights, utility poles, and single-use poles:

- a. For antennas affixed to the side of a structure not identified above, the mounting arms are not to exceed 12-inches and shall be used for only one antenna.
- b. The antenna and antenna mount connecting the antenna to the structure shall be placed within a shroud or designed to match or be compatible with the supporting structure.
- c. All wires connecting the antennas to supporting equipment and supporting structure shall be placed internal to the structure or shall be placed

## 4. Single-Use Pole

- a. Antennas and its mounting shall not exceed the diameter of the supporting structure.
- b. Antennas shall be placed internal to the pole, recessed into the pole or affixed to the top of the pole.

Commented [KA3]: This will require a larger pole diameter.

- c. Mounting arms affixing the antenna to the side of the pole are prohibited, unless approved as part of a pre-approved design under this Policy.
- d. All equipment and wires connecting the antennas shall be placed internal to the supporting pole.

**(3) Antenna Equipment.**

(A) **Installation Preferences.** The installation preference of all non-antenna equipment is based on the following pole types, with antenna equipment preferences ordered from most preferred to least preferred. The following are specific design standards based on pole type:

1. Streetlight

- a. Underground: Size restriction based on ROW space available.
- b. Internal to the pole: size restricted only by the available space internal to the pole.
- c. Integrated into base of the pole
  - i. Height of base not to exceed 6 feet (excluding any decorative transition between the base enclosure and the pole).
  - ii. Width of the base shall not exceed 24 inches and shall provide a transition from the base to the pole.
  - iii. Base to match in color and material to the pole unless a different color or decoration is approved by the Director.
- d. External to the pole: Only if it is determined by the City Engineer the location of the facility requires a breakaway pole, then equipment is permitted on the exterior of the pole, when the following standards are met:
  - i. Total cabinets installed shall not exceed 17 cubic feet in volume.
  - ii. Cabinets shall be mounted no further than 6-inches from the supporting structure. The width or depth of the cabinet shall not exceed 36 inches.
  - iii. Minimum clearance of seven (7) feet from the existing grade or as required by the pole owner whichever is greater.
  - iv. All cables not placed in equipment cabinet shall be placed in conduits located no further than 6-inches from the supporting structure and colored to match the supporting structure.

2. Wood Utility Pole

- a. Underground: Size restriction based on ROW space available.
- b. On the pole: All antenna equipment, excluding cabling connecting the antenna to the antenna equipment, shall be placed within cabinets and meet the following:

- i. Total cabinets installed shall not exceed 129 cubic feet in residential areas and 187 cubic feet in non-residential areas in volume.
  - ii. Cabinets shall be mounted no further than 6-inches from the supporting structure. The width or depth of the cabinet shall not exceed 36 inches)
  - iii. Minimum clearance of seven (7) feet from the existing grade or as required by the pole owner whichever is greater.
  - iv. All cables not placed in equipment cabinet shall be placed in conduits located no further than 6-inches from the supporting structure and colored to match the supporting structure.
- c. Ground mounted equipment is permitted in the industrial zone if adequate ROW is available and the location does not adversely affect pedestrian, bicycle, and vehicle circulation.
  - d. All wires connecting the antennas, antenna equipment and the supporting pole shall be placed in conduit and match in color to the supporting pole.

Commented [KA4]: 12 CF is the smallest Verizon can go.

3. Single-Use Pole

- a. Underground: Size restriction based on ROW space available.
- b. Internal to the pole: size restricted only by the available space internal to the pole.
- c. Integrated into base of the pole
  - i. Height of base not to exceed 6 feet (excluding any decorative transition between the base enclosure and the pole).
  - ii. Width of the base shall not exceed 24 inches and shall provide a transition from the base to the pole.
  - iii. Base to match in color and material to the pole unless a different color or decoration is approved by the Director.
- d. External to the pole: Only if it is determined by the City Engineer the location of the facility requires a breakaway pole, then equipment is permitted on the exterior of the pole, when the following standards are met:
  - i. Total cabinets installed shall not exceed 17 cubic feet in volume.
  - ii. Cabinets shall be mounted no further than 6-inches from the supporting structure or the minimum necessary to comply with safety standards and pole owner requirements. The width or depth of the cabinet shall not exceed 36 inches)
  - iii. Minimum clearance of seven (7) feet from the existing grade or as required by the pole owner whichever is greater.
  - iv. All cables not placed in equipment cabinet shall be placed

in conduits located no further than 6-inches from the supporting structure or the minimum necessary to comply with safety standards and pole owner requirements and colored to match the supporting structure.

4. Other Structures
    - a. Underground: Size restriction based on ROW space available.
    - b. Internal to the pole: size restricted only by the available space internal to the pole.
    - c. Integrated into base of the pole
      - i. Height of base not to exceed 65 feet
      - ii. Width of the base shall not exceed 240-inches and shall provide a transition from the base to the pole.
      - iii. Base to match in color and material to the pole.
    - d. On the pole: All antenna equipment, excluding cabling connecting the antenna to the antenna equipment, shall be placed within cabinets and meet the following:
      - i. Total cabinets installed shall not exceed 17 cubic feet in volume.
      - ii. Cabinets shall be mounted no further than 6-inches from the supporting structure. The width or depth of the cabinet shall not exceed 36 inches)
      - iii. Minimum clearance of seven (7) feet from the existing grade or as required by the pole owner whichever is greater.
      - iv. All cables not placed in equipment cabinet shall be placed in conduits located no further than 6-inches from the supporting structure and colored to match the supporting structure.
    - e. Ground mounted is permitted in the industrial zone if adequate ROW available and the location does not affect pedestrian, bicycle, and vehicle circulation.
- (B) **Undergrounded Antenna equipment.** All undergrounded antenna equipment must be installed in an environmentally controlled vault that is load-rated to meet the City's standards and specifications. Underground vaults located beneath a sidewalk must be constructed with a slip-resistant cover. Vents for airflow shall be flush-to-grade when placed within the sidewalk and may not exceed two feet above grade when placed off the sidewalk. Applicants shall not be permitted to install an underground vault in a location that would cause any existing tree to be materially damaged or displaced.
- (C) **Pole-Mounted Antenna equipment.** All pole-mounted antenna equipment must be installed no more than 6-inches from the pole or the minimum necessary to comply with safety standards and pole owner requirements. Equipment may be placed in more cabinets or shrouds to minimize the

overall visual profile if the total maximum size allowed per pole is not exceeded and provided that the disconnect switch or other equipment for which access is needed for safety purposes, need not be enclosed. If any applicable health and safety regulations require a greater distance between the pole and antenna equipment, the maximum offset permitted between the antenna equipment and the pole shall be the minimum offset required by such regulations. Documentation shall be provided identifying the additional offset. All pole-mounted equipment and required or permitted signage must be placed and oriented away from adjacent sidewalks and structures. Pole-mounted equipment may be installed behind street, traffic or other signs to the extent that the installation complies with applicable public health and safety regulations. All cables, wires and other connectors must be routed through conduits within the pole, and all conduit attachments, cables, wires and other connectors must be concealed from public view. To the extent that cables, wires and other connectors cannot be routed through the pole, applicants shall route them through a single external conduit or shroud that has been finished to match or be compatible with the underlying support structure.

- (D) **Base-Mounted Antenna equipment.** All base-mounted antenna equipment must be installed within a shroud, enclosure or pedestal integrated into the base of the support structure. All cables, wires and other connectors routed between the antenna and base-mounted equipment must be concealed from public view.
- (E) **Ground-Mounted Antenna equipment.** On collector roads, neighborhood routes and local roads, the City prefers ground-mounted antenna equipment to be concealed as follows: (i) within a landscaped parkway, median or similar location, behind or among new/existing landscape features and painted or wrapped in flat natural colors to blend with the landscape features; and (ii) if landscaping concealment is not technically feasible, disguised as other street furniture adjacent to the support structure, such as, for example, mailboxes, benches, trash cans and information kiosks. On arterial roads outside underground districts, proposed ground-mounted antenna equipment should be completely shrouded or placed in a cabinet substantially similar in appearance to existing ground-mounted antenna equipment cabinets. To promote and protect public health and safety and prevent potential hazards hidden behind large equipment cabinets, no individual ground-mounted antenna equipment cabinet may exceed 4.5 feet in height or 2.5 feet in width. Ground-mounted and base-mounted equipment cabinets shall not have any horizontal flat surfaces greater than 1.5 square inches to prevent litter or other objects left on such surfaces.
- (F) **Antenna equipment Volume.** All antenna equipment associated with a small wireless facility installed above ground level or mounted to a pole shall not cumulatively exceed: (i) ~~nine (9)~~twelve (12) cubic feet in volume if installed in a residential district; or (ii) 17 cubic feet in volume if installed in a non-

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residential district. The volume calculation shall not include any shroud, cabinet or other concealment device used in connection with the non-antenna equipment. The volume calculation shall not include any equipment or other improvements placed underground.

**(4) Small Cell Facility Pole Types**

- (A) Pole installations are based on the following pole types, preferences ordered from most preferred to least preferred:
- (B) **Streetlights.** Installation of a small wireless facilities on an existing streetlight must remove and replace the existing streetlight with one substantially similar to the City's standards and specifications but designed to accommodate wireless antennas and antenna equipment. The design shall include the following:
1. The maximum diameter of the pole to support the light fixture and small cell facility shall be ~~24~~16-inches.
  2. Maximum height of the SWF shall not exceed six feet above the existing pole not to exceed meet the maximum height of 40 feet, or 10 feet above the existing pole height, whichever is greater.
  3. Antennas must be installed above the pole within a single, canister style shroud or radome that tapers to the pole, placed internal to the pole or recessed into the pole.
  4. Unless internal to the pole the antenna or antennal enclosure and associated fixture shall be colored to match or be compatible with the pole.
  5. To the extent technically feasible, sStreetlights within line of-sight of other streetlights must be a common configuration/design and similar material or as approved by the Director.
  6. Include a luminaire at substantially the same height and distance from the pole as the luminaire on the removed pole. If the luminaire is significantly relocated, a lighting plan shall be provided showing City standards are met.
  7. The pole is to be designed to break away in the event of a collision. If determined by the City Engineer the street classification and the location of the pole within the ROW are such that the breakaway design is not warranted, the request is exempt from this standard.
- (C) **Wood Utility Poles.** Applicants that propose to install small wireless facilities on an existing/replacement wood utility pole must meet the following requirements:
1. Antennas shall be placed above the pole unless the applicant demonstrates that mounting the antennas above the pole would be technically infeasible as supported by substantial evidence in the written record.
  2. All cables, wires and other connectors must be concealed within a sleeve covering the side-arm mount or extension arm or conduits to

- match the existing pole color.
3. Pole may be replaced with a taller pole provided the replacement pole does not exceed 40 feet or 10 feetpercent taller than the existing pole whichever is greater. Exceptions to this height restriction require documentation from the pole owner showing the additional height is required for safety regulations and/or internal practices. --
- (D) **New, Non-Replacement Poles.** Applicants that propose to install small wireless facilities on a new, non-replacement pole must install a new streetlight substantially similar to the City's standards and specifications but designed to accommodate wireless antennas and antenna equipment located immediately adjacent to the proposed location. If there are no existing streetlights in the immediate vicinity or the addition of a new streetlight is determined by the City as not a feasible location, the applicant may install a metal or composite pole capable of concealing all the antenna equipment either within the pole or within an integrated enclosure located at the base of the pole. The pole diameter shall not exceed twenty-four (24) inches. All antennas, whether on a new streetlight or other new pole, must be installed above the pole within a single, canister style shroud or radome, or internal to or recessed into the pole.
1. Maximum pole diameter: 24-inches
  2. Height compatible to streetlights or other utility poles in close proximity not to exceed 40 feet or 10 feet above existing pole height, whichever is greater.
  3. New pole (wireless facility only) the location shall be a minimum of 2550 feet from an existing pole (including streetlights and utility poles).
  4. To the extent technically feasible, pPoles within line of-sight of other streetlights or utility poles must be a common configuration/ design and similar material or as approved by the City Engineer with the following preference: 1) Streetlight 2) Utility poles.
- (5) **Encroachments over Private Property.** Small wireless facilities may not encroach onto or over any private or other property outside the public rights-of-way without the owner's express written consent.
- (6) **Obstructions; Public Safety.** Small wireless facilities and any associated equipment or improvements shall not physically interfere with or impede access to any: (A) worker access to any above-ground or underground infrastructure for traffic control, streetlight or public transportation, including without limitation any curb control sign, parking meter, vehicular traffic sign or signal, pedestrian traffic sign or signal, barricade reflectors; (B) access to any public transportation vehicles, shelters, street furniture or other improvements at any public transportation stop; (C) worker access to above-ground or underground infrastructure owned or operated by any public or private utility agency; (D) fire hydrant or water valve; (E) access to any doors, gates, sidewalk doors, passage doors, stoops or other ingress and egress points to any building appurtenant to

the rights-of-way; or (F) access to any fire escape.

(7) **Utility Connections.** All cables and connectors for telephone, data backhaul, primary electric and other similar utilities must be routed underground in conduits large enough to accommodate future collocated wireless facilities. Undergrounded cables and wires must transition directly into the pole base without any external doghouse. All cables, wires and connectors between the underground conduits and the antennas and other antenna equipment shall be routed and concealed from view within: (A) internal risers or conduits if on a concrete, composite or similar pole; or (B) a cable shroud or conduits mounted as flush to the pole as possible if on a wood pole or other pole without internal cable space. ~~The approval authority shall not approve new overhead utility lines or service drops merely because compliance with the undergrounding requirements would increase the project cost.~~

(8) **Spools and Coils.** To reduce clutter and deter vandalism, excess fiber optic or coaxial cables shall not be spooled, coiled or otherwise stored on the pole outside equipment cabinets or shrouds.

~~(9) **Electric Meters.** Small wireless facilities shall use flat-rate electric service or other method that obviates the need for a separate above-grade electric meter. If flat rate service is not available, applicants may install a shrouded smart meter, or another type of meter acceptable to the City. The approval authority shall not approve a separate ground-mounted electric meter pedestal.~~

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~~(10)~~(9) **Street Trees.** To preserve existing landscaping in the public rights-of-way, all work performed in connection with small wireless facilities shall not cause any street trees to be damaged or displaced. If any street trees are damaged or displaced, the applicant shall be responsible, at its sole cost and expense, to plant ~~and maintain~~ replacement trees at the site for the duration of the permit term.

~~(11)~~(10) **Existing Conduit or Circuits.** Access to any conduit or circuits owned by the City is prohibited to protect the City's infrastructure, prevent interference with the City's municipal functions and protect public health and safety.

(c) **Small Wireless Facilities On Private Property.**

(1) For SWF installed on streetlights, utility poles, parking lot lights, or single use poles, the standards in Section 2.7.b applies.

(2) For SWF installation on all other structures, including but not limited to buildings and water towers the following standards apply:

(A) **Overall Height.** Small wireless facilities on private property shall be the minimum height needed to achieve the network objective may not exceed the applicable height limit for structures in the applicable zoning district or overlay zone.

- (B) **Setbacks.** Small wireless facilities on private property may not encroach into any applicable setback for structures in the subject zoning district.
- (C) **Parking; Access.** Any equipment or improvements constructed or installed in connection with any small wireless facilities must not reduce any parking spaces below the minimum requirement for the subject property. Whenever feasible, small wireless facilities must use existing parking and access rather than construct new parking or access improvements. Any new parking or access improvements must be the minimum size necessary to reasonably accommodate the proposed use.
- (D) **Towers, Poles and Other Freestanding Small Wireless Facilities.** All new towers, poles or other freestanding structures that support small wireless facilities must be made from a metal or composite material capable of concealing all the accessory equipment, including cables, mounting brackets, radios, and utilities, either within the support structure or within an integrated enclosure located at the base of the support structure. All antennas must be installed above the pole in a single, canister-style shroud or radome, recessed into the pole or placed internal to the new tower, pole, or freestanding structure. The support structure and all transmission equipment, other than antennas must be painted with flat/neutral colors that match the support structure. The pole height shall not exceed forty (40) feet. The pole diameter shall not exceed twenty four (24) inches.
- (E) **Building-Mounted Small Wireless Facilities.**
- i. **Preferred Concealment Techniques.** All applicants must propose new non-tower small wireless facilities that are completely concealed and architecturally integrated into the existing facade or rooftop features with no visible impacts from any publicly accessible areas at ground level (examples include, but are not limited to, antennas behind existing parapet walls or facades replaced with RF-transparent material and finished to mimic the replaced materials). Alternatively, if the applicant demonstrates with substantial evidence that integration with existing features is technically infeasible, the applicant may propose completely concealed new structures or appurtenances designed to mimic the support structure's original architecture and proportions (examples include, but are not limited to, steeples and chimneys).
  - ii. **Facade-Mounted Antennas and Equipment.** When small wireless facilities cannot be placed behind existing parapet walls or other existing screening elements, the approval authority may approve facade-mounted equipment in accordance with this Section 2.7(c)(6)(B). All facade-mounted equipment must be concealed behind screen walls and mounted flush to the facade. The approval

authority may not approve

“pop-out” screen boxes. Except in industrial zones, the approval authority may not approve any exposed facade-mounted antennas, including but not limited to exposed antennas painted to match the facade.

- (F) **Lighting.** Antennas and antenna equipment shall not be illuminated except as required by municipal, federal or state authority, provided this shall not preclude deployment on new or replacement streetlights or parking lot lights.

(c) **Strand Mounted Equipment:** Strand mounted small wireless facilities are permitted subject to the following criteria:

- (A) Each strand mounted antenna shall not exceed 3 cubic feet in volume.
- (B) Only 2 strand mounted antennas are permitted between any two existing poles.
- (C) Strand mounted devices shall be placed as close as possible to the nearest pole and in no event more than five feet from the pole unless a greater distance is required by the pole owner.
- (D) No strand mounted device will be located in or above the portion of the roadway open to vehicular traffic.
- (E) Strand mounted devices must be installed with the minimum excess exterior cabling or wires (other than original stand) to meet the technological needs of the facility.

(d) **Pre-Approved Designs.**

- (1) **Purpose.** To expedite the review process and encourage collaborative designs among applicants and the City, the City Council authorizes the approval authority to designate one or more pre-approved designs for small wireless facilities and other infrastructure deployments. This subsection (d) sets out the process to establish or repeal a pre-approved design and the expedited review procedures and findings applicable to these applications.
- (2) **Adoption.** The approval authority may, in the approval authority’s discretion, establish a pre-approved design when the approval authority finds that a proposed pre-approved design exceeds the design standards in this Policy. The approval authority shall post a public notice posted at City Hall, with the City Clerk and in a newspaper of general circulation within the City. The notice must generally describe the pre-approved design, include a photograph or photo simulation, specify whether the pre-approved design would be limited or restricted in any districts and contain a reference to the appeal procedure. The pre-approved design shall become effective 15 days from the notice

Commented [KA5]: Does this mean the design is larger than what is allowed by the standards or that it provides aesthetic value that exceeds the standards?

required in this subsection. A decision by the approval authority not to adopt a proposed pre-approved design or the approval authority's failure to act on a request for a proposed pre-approved design is not appealable.

- (3) **Repeal.** The approval authority may repeal any pre-approved design by written notice posted at City Hall. The repeal shall be immediately effective. The approval authority's repeal, refusal to repeal or failure to act on a request to repeal a pre-approved design is not appealable.
- (4) **Modified Review Process.** In nonresidential districts, applications for a pre-approved design shall not be subject to the notice requirements in section 2.4(a) or any potential appeals under section 2.4(f). In residential districts, applications for a pre-approved design shall remain subject to the notice requirements in section 2.4(a) and any potential appeals under section 2.4(f).
- (5) **Modified Findings.** When an applicant submits a complete application for a pre-approved design, the approval authority shall presume that the findings for approval in sections 2.4(c)(1), (c)(3) and (c)(5) are satisfied and shall evaluate the application for compliance with the findings for approval in sections 2.4(c)(2), (c)(4), (c)(6) and (c)(7).
- (6) **Nondiscrimination.** Any applicant may propose to use any pre-approved design whether the applicant initially requested that the approval authority adopt such pre-approved design or not. The approval authority's decision to adopt a pre-approved design expresses no preference or requirement that applicants use the specific vendor or manufacturer that fabricated the design depicted in the pre-approved plans. Any other vendor or manufacturer that fabricates a facility to the standards and specifications in the pre-approved design with like materials, finishes and overall quality shall be acceptable as a pre-approved design.

### SECTION 3 **ADJUSTMENT TO STANDARDS**

**1. An applicant may obtain a deviation from these location preferences and design standards if compliance with the requirement or standard: (a) is not technically feasible; (b) impedes the effective operation of the small wireless facility; (c) impairs a desired network performance objective; (d) conflicts with pole owner requirements; or (e) otherwise materially inhibits or limits the provision of wireless service.**

**2. When requests for deviation are sought under subsections (1)(a)-(e), the request must be narrowly tailored to minimize deviation from the requirements of these design standards, and the approval authority must find the applicant's proposed design provides similar aesthetic value when compared to strict compliance with these standards.**

**3. The approval authority may also allow for a deviation from these location preferences or design standards when it finds the applicant's proposed design provides equivalent or superior aesthetic value when compared to strict compliance with these location preferences and standards.**

**4. The small wireless facility design approved under this Section 2.8 must meet the conditions of 47 C.F.R. Sec. 1.6002(l).**

Commented [KA6]: The Model language from the League of Oregon Cities provides greater clarity and protection for the city when application of a standard would materially inhibit deployment in violation of federal law.

**5. The approval authority will review and may approve a request for deviation to the minimum extent required to address the applicant's needs or facilitate a superior design.**

- (a) ~~**Profaco.** The provisions in this Section 3 establish a procedure by which the City may grant an adjustment to the standards in this Policy but only to the extent necessary to avoid conflict with applicable federal or state law. When the applicant requests an adjustment, the approval authority shall consider the findings in Section 3.b in addition to the findings required under Section 2.4.c. Each exception is specific to the facts and circumstances in connection with each application. An exception granted in one instance shall not be deemed to create a presumption or expectation that an exception will be granted in any other instance.~~
- (b) ~~**Required Findings.** The approval authority shall not grant any limited exception pursuant to this Section 3 unless the approval authority finds all the following:~~
- (1) ~~the applicant has provided the approval authority with a reasonable and clearly defined technical service objective to be achieved by the proposed small wireless facility;~~

- ~~(2) the applicant has provided the approval authority with a detailed written statement that explains why: (A) a denial based on the application's noncompliance with a specific provision or requirement would violate federal law, state law or both; or (B) a provision in this Policy, as applied to the applicant, would violate any rights or privileges conferred on the applicant by federal or state law;~~
- ~~(3) the applicant has provided the approval authority with a written statement that contains a detailed and fact-specific explanation as to why the proposed small wireless facility cannot be deployed in compliance with the applicable provisions in this Policy;~~
- ~~(4) the applicant has provided the approval authority with a meaningful comparative analysis with the factual reasons why all alternative locations and/or designs identified in the administrative record (whether suggested by the applicant, the City, public comments or any other source) are not technically feasible or potentially available to reasonably achieve the applicant's reasonable and clearly defined technical service objective to be achieved by the proposed small wireless facility;~~
- ~~(5) the applicant has demonstrated that the proposed location and design is the least non-compliant configuration that will reasonably achieve the applicant's reasonable and clearly defined technical service objective to be achieved by the proposed small wireless facility, which includes without limitation a meaningful comparative analysis into multiple smaller or less intrusive facilities dispersed throughout the intended service area;~~
- ~~(6) the exception requested by the applicant does not compromise or excuse compliance any fire safety or other public safety standard; and~~
- ~~(7)(1) the exception is narrowly tailored such that any deviation from this Policy is only to extent necessary for compliance with federal or state law.~~

~~(e)(b) **Evidentiary Standard.** The applicant shall have the burden to prove to the approval authority that an exception should be granted pursuant to this Section 3. The standard of evidence shall be the same as required by applicable federal or state law for the issue raised in the applicant's request for an exception.~~

~~(d)(c) **Expert Review.** Independent expert and/or consultant review will generally be appropriate when considering an exception request.~~

~~(e)(d) **Legal Review.** Any exception request shall require the consultation of the City Attorney as to the validity and legal justification for the exception.~~