



# MONROE PLANNING COMMISSION

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| <b>SUBJECT:</b> | <b><i>DISCUSSION - Proposed Code Amendments regarding Small Wireless Facilities</i></b> |
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| <b>DATE:</b> | <b>DEPT:</b>          | <b>CONTACT:</b>              | <b>PRESENTER:</b> | <b>ITEM:</b>           |
| 05/13/2019   | Community Development | Ben Swanson<br>Shana Restall | Shana Restall     | <b>Old Business #2</b> |

**Discussion:** 04/22/2019 and 05/13/2019  
**Public Hearing:**

- Attachments:**
1. Richland code chapter 23.62, Wireless Communications Facilities
  2. Richland code chapter 28.14, Small Cell Deployment – Franchise and Small Cell Facility Permits

**REQUESTED ACTION:** None, this is informational only. A public hearing on this topic will take place at a later date.

## POLICY CONSIDERATIONS

The FCC adopted a declaratory ruling and order (FCC 18-133), which became effective on January 14, 2019, regarding municipal regulation of "small wireless facilities," The Order has two main parts:

1. A new set of regulations that governs shot clocks and other limited aspects of the rollout of small wireless facilities ("small cells"); and
2. A declaratory ruling that does not enact any new regulations, but is the FCC's interpretation of how the provisions of a previous FCC order that limit state or local regulations that "effectively prohibit" the provision of wireless services [Sections 253 and 332(c)(7) of the Communications Act] should be applied. The declaratory ruling portion of the order adopts the position that a local government need only "materially inhibit" a particular small wireless facility deployment in order for its action to constitute an "effective prohibition." The declaratory ruling also provides guidance on fees that local governments may charge, and on how they may regulate ancillary rollout issues, such as tower spacing, equipment design, and other aesthetic concerns.

The FCC Order essentially makes it easier for private companies to take local governments to court if they believe municipal policies are effectively prohibiting network investment. To comply with this order, the City is proposing a new code chapter to regulate small wireless facilities.

## DESCRIPTION/BACKGROUND

The tremendous growth in personal wireless services has created an increased demand for new wireless antennas and equipment. It is expected that carriers will continue to roll out new facilities in Monroe to accommodate the rapidly growing need for increased capacity and speed. Wireless telecommunications facilities (WCF) are regulated by federal, state, and local laws. Federal law significantly limits the City's ability to regulate WCFs. Under federal law, a local agency's decisions cannot have the effect of prohibiting the provision of wireless service or unreasonably discriminating among wireless service providers. Also, under federal law, the City may not regulate the placement, construction, or modification of wireless communications facilities on the basis of the environmental effects of radio frequency (RF) emissions, so long as the facilities comply with the Federal Communications Commission (FCC) regulations concerning such emissions. Despite

federal limitations, cities historically have retained ability to regulate aesthetic issues related to telecommunications facilities, including factors such as height and property line setbacks. However, federal law developments continue to erode that ability.

The latest federal law governing WCFs was adopted in 2012 as part of the 2012 Middle Class Tax Relief and Job Creation Act. This federal legislation contained Section 6409, now referred to as the Spectrum Act, and codified at 47 U.S.C. § 1455. The Spectrum Act was intended to facilitate the telecommunication industry's rapid deployment of wireless infrastructure by requiring local governments to approve any application that seeks to modify an existing wireless telecommunication facility that does not substantially alter the existing facility.

As the Spectrum Act did not contain specific definitions, the implementation of this Section has been open to interpretation by each local government. Furthermore, while the Act states that a local government cannot deny and shall approve an eligible facility request, it provides no guidance as to the required process or time limits in which a local government has to act. As a result, the FCC promulgated rules and standards, which include necessary definitions, processing requirements, timelines, and remedies for applications that seek to modify an existing wireless telecommunication facility in accordance with the Spectrum Act. The FCC's procedural rules went into effect on April 9, 2015. However, these standards do not provide for small cell facilities.

With the evolution of wireless technology, providers are relying on a combination of both traditional, larger cell tower equipment that can carry signals and data over a greater geographic range and newer small wireless facility technology (4G and 5G service) to increase capacity. Small cell facilities contain radios and antennas, but unlike the larger cell facilities, they require a fiber optic backbone in order to transmit cellular phone and data signals. Typically, small cell facilities are attached to utility poles or light/traffic poles within public rights-of-way. To address small wireless facilities, the Federal Communications Commission (FCC) recently issued a declaratory ruling and third report and order (FCC 18-133) regarding municipal regulation of "small wireless facilities," which became effective on January 14, 2019. The FCC Order placed limitations on local governments to regulate size and location of small wireless facilities equipment.

The City's existing regulations, as well as those within the proposed Unified Development regulations (Title 22), address the traditional deployment of larger wireless facilities, which mainly include separate, standalone cell towers and other large facilities added to the tops of existing structures, such as buildings or utility poles. Based on the evolution of technology and the recent FCC Order, changes to the code are needed to define how the City regulates the deployment of small wireless facilities. To achieve compliance with the Order, staff has drafted a new code chapter to address small wireless facilities, and is bringing it forward to the Planning Commission for review and discussion.

#### **FISCAL IMPACT**

N/A

#### **TIME CONSTRAINTS**

The FCC Order became effective on January 14, 2019.

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**Chapter 23.62  
WIRELESS COMMUNICATIONS FACILITIES**

**Sections:**

- 23.62.010 Purpose.
- 23.62.020 Definitions.
- 23.62.030 Development standards for small cell facilities.
- 23.62.035 Design standards for small cell facilities.
- 23.62.040 Development standards for macrofacilities.
- 23.62.050 Development standards for monopoles and lattice towers.
- 23.62.060 Permitted zones for monopoles and lattice towers.
- 23.62.070 Special use permit criteria for monopoles and lattice towers.
- 23.62.080 Prohibited support structures.
- 23.62.090 Exemption.
- 23.62.100 Obsolescence.
- 23.62.110 Application review and approval of eligible facilities requests.

**23.62.010 Purpose.**

The wireless communications facilities chapter is to minimize the unsightly characteristics associated with wireless communications facilities and to provide for a wide range of locations and options for wireless communications providers and to encourage creative approaches in locating wireless communications facilities, which will blend in with the surroundings of such facilities.

Review of wireless communication facilities proposed by applicants shall be governed by the provisions of 47 USC 253 and 332 and other applicable statutes, regulations and case law. Applicants for wireless communication facilities shall be treated in a competitively neutral and nondiscriminatory manner with other service providers, utilizing supporting infrastructure which is functionally equivalent, that is, service providers whose facilities are similarly situated in terms of structure, placement, or cumulative impacts. Wireless communication facility review under this chapter shall neither prohibit nor have the effect of prohibiting the ability of an applicant to provide telecommunications services.

**23.62.020 Definitions.**

For the purpose of this chapter, certain terms and words are defined as follows:

“Antenna” means an apparatus designed for the purpose of emitting radio frequency (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. For purposes of this definition, the term “antenna” does not include an unintentional radiator, mobile station, or device authorized under 47 CFR Chapter I, Subchapter A, Part 15. Examples of antenna include, but are not limited to:

- A. Omnidirectional Antenna. An omnidirectional antenna (also known as whip antenna) transmits and receives radio frequency signals in a 360-degree radial pattern. For the purpose of this chapter, an omnidirectional antenna is up to 15 feet in height and four inches in diameter.
- B. Directional Antenna. A directional antenna (also known as panel antenna) transmits and receives radio frequency signals in a specific directional pattern of less than 360 degrees.
- C. Parabolic Antenna. A parabolic antenna (also known as dish antenna) is a bowl-shaped device for the reception and/or transmission of radio frequency communications signals in a specific directional pattern.

53 D. Antenna Array. An antenna array is two or more devices used for the transmission or  
54 reception of radio frequency signals, microwave, or other signals for commercial  
55 communications purposes.

56 “Antenna equipment” or “equipment” means equipment, switches, wiring, cabling, power  
57 sources, shelters or cabinets associated with an antenna, located at the same fixed location as  
58 the antenna, and, when collocated on a structure, is mounted or installed at the same time as  
59 such antenna.

60 “Antenna mount” means any mounting device or bracket that is used to attach an antenna or  
61 antenna array to a monopole, lattice tower, building, or other structure.

62 “Attached wireless communications facility” is a wireless communications facility that is affixed  
63 to an existing structure.

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

68 A. Equipment associated with wireless communications services such as private, broadcast,  
69 and public safety services, as well as unlicensed wireless services and fixed wireless services  
70 such as microwave backhaul.

71 B. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power  
72 supplies, and comparable equipment, regardless of technological configuration (including  
73 distributed antenna systems and small-cell networks).

74 C. Any structure other than a tower that, at the time an eligible facilities request application is  
75 filed with the development services department under this chapter, supports or houses  
76 equipment described in subsections (A) and (B) of this definition, that has been reviewed and  
77 approved under the applicable zoning or siting process, or under another state, county or local  
78 regulatory review process, even if the structure was not built for the sole or primary purpose of  
79 providing such support.

80 D. The term does not include any structure that, at the time a completed eligible facilities  
81 request application is filed with the development services department under this chapter, does  
82 not support or house equipment described in subsections (A), (B), and (C) of this definition.

83 “Co-location” means (A) mounting or installing an antenna facility on a preexisting structure,  
84 and/or (B) modifying a structure for the purpose of mounting or installing an antenna facility on  
85 that structure. Provided, that, for purposes of eligible facilities requests, “co-location” means the  
86 mounting or installation of transmission equipment on an eligible support structure for the  
87 purpose of transmitting and/or receiving radio frequency signals for communications purposes.

88 “Disrepair” as used in this chapter refers to a facility or structure which has become so damaged  
89 or deteriorated on account of age, the elements, wear and tear, or other cause, that it has  
90 become a threat to public safety or would constitute a public nuisance as defined in the RMC.

91 “Eligible facilities request” shall mean any request for modification of an existing tower or base  
92 station that does not substantially change the physical dimensions of such tower or base  
93 station, involving:

94 A. Co-location or new transmission equipment;

95 B. Removal of transmission equipment; or

96 C. Replacement of transmission equipment.

97 “Eligible support structure” shall mean and refer to a tower or base station as defined in this  
98 chapter; provided, that it is existing at the time the eligible facilities request application is filed  
99 with the development services department under RMC 23.62.110.

100 “Equipment shelter or cabinet” is a room, cabinet, or building used to house equipment for utility  
101 or service providers.

102 “Existing” shall mean a constructed tower or base station that has been reviewed and approved  
103 under applicable city zoning or permitting processes, or reviewed and approved under other

104 state, county or local regulatory review processes; provided, that a tower that has not been  
105 reviewed and approved because it was not in a zoned area when it was built, but was lawfully  
106 constructed, is existing for purposes of this section.

107 “FCC” means Federal Communications Commission.

108 “Guyed tower” is a wireless communications support structure, which consists of metal crossed  
109 strips or bars and is steadied by wire guys in a radial pattern around the tower.

110 “Lattice tower” is a wireless communications support structure, which consists of metal crossed  
111 strips or bars to support antennas and related equipment.

112 “Light pole” means a pole used primarily for lighting streets, parking areas, parks or pedestrian  
113 paths.

114 “Macrofacility” is a large wireless communication facility that provides radio frequency coverage  
115 for a cellular telephone network. Generally, macro cell antennas are mounted on ground-based  
116 towers, rooftops and other existing structures at a height that provides a clear view over the  
117 surrounding buildings and terrain. Macro cell facilities typically contain antennas that are greater  
118 than three cubic feet per antenna, and typically cover large geographic areas with relatively high  
119 capacity and may be capable of hosting multiple wireless service providers.

120 “Monopole” means a vertical support structure consisting of a single vertical metal, concrete or  
121 wooden pole, typically round or square and driven into the ground or attached to a foundation.

122 “Related equipment” is all equipment ancillary to the transmission and reception of voice and  
123 data via radio frequencies. Such reception may include, but is not limited to, cable, conduit, and  
124 connectors.

125 “RF” means radio frequency.

126 “Site” shall mean, for towers other than towers in the public rights-of-way, the current  
127 boundaries of the leased or owned property surrounding the tower, and any access or utility  
128 easements currently related to the site; and for other eligible support structures, further  
129 restricted to that area in proximity to the structure and to other transmission equipment already  
130 deployed on the ground.

131 “Small cell facility” has the same meaning as a “small wireless facility” defined  
132 in 47 CFR 1.6002.

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

136 “Substantial change” shall mean a modification that substantially changes the physical  
137 dimensions of an eligible support structure if it meets any of the following criteria:

138 A. For towers other than towers in the public rights-of-way, it increases the height of the tower  
139 by more than 10 percent or by the height of one additional antenna array with separation from  
140 the nearest existing antenna not to exceed 20 feet, whichever is greater; for other eligible  
141 support structures, it increases the height of the structure by more than 10 percent or more than  
142 10 feet, whichever is greater;

143 B. For towers other than towers in the public rights-of-way, it involves adding an appurtenance  
144 to the body of the tower that would protrude from the edge of the tower more than 20 feet, or  
145 more than the width of the tower structure at the level of the appurtenance, whichever is greater;  
146 for other eligible support structures, it involves adding an appurtenance to the body of the  
147 structure that would protrude from the edge of the structure by more than six feet;

148 C. For any eligible support structure, it involves installation of more than the standard number  
149 of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for  
150 towers in the public rights-of-way and base stations, it involves installation of any new  
151 equipment cabinets on the ground if there are no preexisting ground cabinets associated with

152 the structure, or else involves installation of ground cabinets that are more than 10 percent  
153 larger in height or overall volume than any other ground cabinets associated with the structure;  
154 D. It entails any excavation or deployment outside the current site;  
155 E. It would defeat the concealment elements of the eligible support structure; or  
156 F. It does not comply with conditions associated with the siting approval of the construction or  
157 modification of the eligible support structure or base station equipment; provided, however, that  
158 this limitation does not apply to any modification that is noncompliant only in a manner that  
159 would not exceed the thresholds identified in subsections (A) through (D) of this definition.  
160 G. A determination of whether a proposed modification to an eligible support structure qualifies  
161 as a substantial change shall be based on the height and configuration of the eligible support  
162 structure at the time of the adoption of the ordinance codified in this chapter, which is August  
163 18, 2015, regardless of any modifications that may have taken place to the eligible support  
164 structure after August 18, 2015.

165 “Tower” means any structure built for the sole or primary purpose of supporting any FCC-  
166 licensed or authorized antennas and their associated facilities, including structures that are  
167 constructed for wireless communications services including, but not limited to, private,  
168 broadcast and public safety services, as well as unlicensed wireless services and fixed wireless  
169 services such as microwave backhaul and the associated site. The term includes “guyed tower,”  
170 “lattice tower,” and “monopole” as defined in this section.

171 “Traffic signal poles” means a pole that supports equipment used for controlling traffic, including  
172 but not limited to traffic lights, rapid flashing beacons, speed radar, and school zone flashers.

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

179 “Utility pole” shall mean a pole designated and used primarily for the support of electrical wires,  
180 telephone wires, or television cable.

181 “Wireless communications facility” is an unstaffed facility for the transmission and reception of  
182 low-power (under 500 watts) radio signals typically consisting of an equipment shelter or  
183 cabinet, a support structure, antennas (e.g., omnidirectional, panel/directional or parabolic), and  
184 related equipment.

185 “Wireless communications support structure” is the structure erected to support wireless  
186 communications antennas and connecting appurtenances. Support structure types include, but  
187 are not limited to, stanchions, monopoles, lattice towers, wood poles or guyed towers.  
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### 189 **23.62.030 Development standards for small cell facilities.**

190 A. Small cell facilities are permitted within the right-of-way in all zones provided they meet the  
191 requirements of this chapter and Chapter 28.14 RMC, and receive a small cell permit.

192 B. Small cell facilities are permitted outside of the right-of-way in all zones provided they meet  
193 the requirements of this chapter and receive a building permit.

194 C. Any application for a small cell permit that contains an element which is not exempt from  
195 review under SEPA (Chapter 22.09 RMC), Shoreline Management (RMC Title 26), or the  
196 Critical Areas Ordinance (Chapter 22.10 RMC) shall simultaneously apply under the applicable  
197 RMC.

198 D. The director or the public works director may promulgate through a director’s rule additional  
199 design standards and requirements for use of city-owned poles within the right-of-way.

200 E. The following zones are designated as design zones for the purpose of the application of the  
201 provisions of Chapter 28.14 RMC and this chapter:

- 202 1. CBD – Medical district;
- 203 2. CBD – Uptown district;

204 3. CBD – Parkway district.

205 F. Any applicant who desires to place a small cell facility in a design zone must first establish  
206 that the applicant cannot locate the small cell facility on an existing pole located within 500 feet  
207 from the proposed site and outside of the design zone. Applications for small cell facilities in a  
208 design zone may be approved if the applicant demonstrates that, due to technical infeasibility,  
209 the applicant cannot locate the proposed small cell facility on an existing or replacement pole  
210 within 500 feet of the proposed site and outside of the design zone.

211 G. Small cell facilities on (1) non-city-owned replacement poles that deviate from the design  
212 standards adopted in this chapter; or (2) on new poles, are only permitted upon receipt of a  
213 Type I permit and if they comply with the following requirements:

214 1. The applicant must establish that:

215 a. If proposing a new pole, the proposed small cell facility cannot be located on an  
216 existing utility pole, light pole, electrical transmission tower, or on a site outside of the  
217 public right-of-way such as a public park, public property, building, transmission tower, or  
218 in or on a nonresidential use in a residential zone whether by roof or panel-mount or  
219 separate structure;

220 b. The proposed small cell facility receives approval for a concealment element plan as  
221 described in subsection (G)(2) of this section;

222 c. The proposed small cell facility complies with all other applicable regulatory criteria,  
223 including but not limited to shoreline management, critical areas requirements and  
224 SEPA; and

225 d. The location of the small cell facility is physically possible, complies with applicable  
226 traffic warrants, the ADA and city construction and sidewalk clearance standards, all  
227 applicable city, state and federal laws and regulations, and does not interfere with utility  
228 or safety fixtures (e.g., fire hydrants, traffic control devices) or adversely affect public  
229 health, safety or welfare.

230 2. The concealment element plan shall include the design of the screening, fencing or other  
231 concealment technology for a tower, pole or equipment structure, and all related  
232 transmission equipment or facilities associated with the proposed small cell facility, including  
233 but not limited to fiber and power connections.

234 a. The concealment element plan should seek to minimize the visual obtrusiveness of  
235 small cell facility installations. The proposed pole or structure should have similar  
236 designs to existing neighboring poles in the rights-of-way, including similar height to the  
237 extent technically feasible. If the proposed small cell facility is placed on a replacement  
238 pole in a design zone, then the replacement pole shall be of the same general design as  
239 the pole it is replacing, unless the city otherwise approves a variation due to aesthetic or  
240 safety concerns. Any concealment element plan for a small wireless facility on a  
241 decorative pole should attempt to mimic the design of such pole and integrate the small  
242 cell facility into the design of the decorative pole. Other concealment methods include,  
243 but are not limited to, integrating the installation with architectural features or building  
244 design components, utilization of coverings or concealment devices of similar material,  
245 color, and texture – or the appearance thereof – as the surface against which the  
246 installation will be seen or on which it will be installed, landscape design, or other  
247 camouflage strategies appropriate for the type of installation. Applicants are required to  
248 utilize designs in which all conduit and wirelines are installed internally in the structure.  
249 Further, applicant designs should, to the extent technically feasible, comply with the  
250 generally applicable design standards adopted in this chapter.

251 b. If the development services department has already approved a concealment  
252 element plan either for the applicant or another small cell facility along the same public  
253 right-of-way or for the same pole type, then the applicant shall utilize a substantially  
254 similar concealment element plan, unless it can show that such concealment element  
255 plan is not physically or technologically feasible, or that such deployment would  
256 overwhelm the pole design.

257 3. If a new pole is permitted by the city, then the applicant must dedicate the new pole to  
258 the city.

259 H. Prior to the issuance of a permit to construct a new pole or ground-mounted equipment in  
260 the right-of-way, the applicant must obtain a site-specific agreement from the city to locate such  
261 new pole or ground-mounted equipment. This requirement also applies to replacement poles  
262 that are taller than the replaced pole, when the overall height of the replacement pole and the  
263 proposed small cell facility is more than 60 feet, unless the replacement pole is owned by the  
264 city and the applicant has a lease agreement with the city for usage of that pole.

265 I. Any decision by the director shall be final and not subject to administrative appeal.

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267 **23.62.035 Design standards for small cell facilities.**

268 A. Small Cell Facilities Attached to Wooden Poles. Small cell facilities located on wooden utility  
269 poles shall conform to the following design criteria:

270 1. The utility pole at the proposed location may be replaced with a taller pole for the  
271 purpose of accommodating a small cell facility; provided, that the replacement pole shall not  
272 exceed a height that is a maximum of 10 feet taller than the existing pole, unless a further  
273 height increase is required and confirmed in writing by the pole owner, and such height  
274 extension is the minimum extension necessary to provide sufficient separation and/or  
275 clearance from electrical and wireline facilities. Replacement wooden utility poles may either  
276 match the approximate color and materials of the replaced pole, or shall be the standard  
277 new wooden utility pole used by the pole owner in the city.

278 2. A pole extender may be used instead of replacing an existing pole, but may not increase  
279 the height of the existing pole by more than 10 feet, unless a further height increase is  
280 required and confirmed in writing by the pole owner, and such height extension is the  
281 minimum extension necessary to provide sufficient separation and/or clearance from  
282 electrical and wireline facilities. The pole extender shall be painted to approximately match  
283 the color of the pole and shall substantially match the diameter of the pole measured at the  
284 top of the pole. A "pole extender" means an object affixed between the utility pole and the  
285 antenna for the purpose of increasing the height of the antenna above the pole.

286 3. Antennas, equipment enclosures, and all ancillary equipment, boxes, and conduit shall  
287 be colored or painted to match the approximate color of the surface of the utility pole on  
288 which they are attached.

289 4. Panel antennas shall not be mounted more than 12 inches from the surface of the utility  
290 pole, unless an additional distance is required by the pole owner, and shall not exceed three  
291 cubic feet in volume.

292 5. A canister antenna may be mounted on top of an existing or replacement utility pole,  
293 which must not exceed the height requirements described in subsection (A)(1) of this  
294 section. A canister antenna mounted on the top of a utility pole shall not exceed the  
295 diameter of the pole by more than 12 inches or be 16 inches in diameter, whichever is  
296 greater, and shall be colored or painted to match the pole. The canister antenna must be  
297 placed to look as if it is an extension of the pole. In the alternative, the applicant may  
298 propose a side-mounted canister antenna, so long as the inside edge of the antenna is no  
299 more than 12 inches from the surface of the utility pole. All cables shall be concealed either  
300 within the canister antenna or within a sleeve between the antenna and the utility pole.

301 6. An omni-directional antenna may be mounted on the top of an existing or replacement  
302 utility pole, which may not exceed the height requirements described in subsection (A)(1) of  
303 this section, provided such antenna is no more than three cubic feet in volume and is  
304 mounted directly on the top of a pole or attached to a sleeve made to look like the exterior of  
305 the pole as close to the top of the pole as technically feasible. All cables shall be concealed  
306 within the sleeve between the bottom of the antenna and the mounting bracket.

307 7. All related equipment, including but not limited to ancillary equipment, radios, cables,  
308 associated shrouding, disconnect boxes, meters, microwaves, and conduit, which is  
309 mounted on utility poles shall not be mounted more than six inches from the surface of the  
310 pole, unless a further distance is required and confirmed in writing by the pole owner.

311 8. Equipment for small cell facilities must be attached to the utility pole, unless otherwise  
312 permitted to be ground-mounted pursuant to subsection (D)(1) of this section. The  
313 equipment must be placed in the smallest enclosure possible for the intended purpose. The



314 equipment enclosure and all other wireless equipment associated with the utility pole,  
315 including wireless equipment associated with the antenna and any preexisting associated  
316 equipment on the pole, may not exceed 28 cubic feet. Multiple equipment enclosures may  
317 be acceptable if designed to more closely integrate with the pole design; provided, that said  
318 multiple enclosures must not cumulatively exceed 28 cubic feet. The applicant is  
319 encouraged to place the equipment enclosure behind any banners or road signs that may  
320 be on the pole.

321 9. An applicant who desires to enclose both its antennas and equipment within one  
322 enclosure may do so; provided, that such enclosure is the minimum size necessary for its  
323 intended purpose, and the enclosure and all other wireless equipment associated with the  
324 pole, including wireless equipment associated with the antenna and any preexisting  
325 associated equipment on the pole, do not exceed 28 cubic feet. To the extent possible, the  
326 unified enclosure shall be placed so as to appear as an integrated part of the pole or behind  
327 banners or signs. The unified enclosure may not be placed more than six inches from the  
328 surface of the pole, unless a further distance is required and confirmed in writing by the pole  
329 owner. The applicant is encouraged to place the unified enclosure behind any banners or  
330 road signs that may be on the pole.

331 10. The visual effect of the small cell facility on all other aspects of the appearance of the  
332 utility pole shall be minimized to the greatest extent possible.

333 11. The use of the utility pole for the site of a small cell facility shall be considered  
334 secondary to the primary function of the utility pole. If the primary function of a utility pole  
335 serving as the host site for a small cell facility becomes unnecessary, the utility pole shall not  
336 be retained for the sole purpose of accommodating the small cell facility, and the small cell  
337 facility and all associated equipment shall be removed at the applicant's expense.

338 12. All cables and conduit shall be routed through conduit along the outside of the pole. The  
339 outside conduit shall be colored or painted to match the pole. The number of conduit shall  
340 be minimized to the number technically necessary to accommodate the small cell.

341 13. The diameter of a replacement pole shall comply with the city's setback and sidewalk  
342 clearance requirements and shall not be more than a 25 percent increase of the existing  
343 utility pole measured at the base of the pole. Glulam poles are specifically prohibited.

344 **B. Small Cell Facilities Attached to Non-Wooden Light Poles and Non-Wooden Utility Poles.**

345 Small cell facilities attached to existing or replacement light poles and non-wooden utility poles  
346 or poles within parking lots shall conform to the following design criteria:

347 1. Antennas and the associated equipment enclosures (including disconnect switches and  
348 other appurtenant devices), conduit and fiber shall be fully concealed within the pole, unless  
349 such concealment is otherwise technically infeasible, or is incompatible with the pole design,  
350 then the antennas and associated equipment enclosures must be camouflaged to appear as  
351 an integral part of the pole or flush-mounted to the pole, meaning no more than six inches  
352 off of the pole, and must be the minimum size necessary for the intended purpose, not to  
353 exceed the volumetric requirements described in subsection (A) of this section. If the  
354 equipment enclosure is permitted on the exterior of the pole, the applicant is required to  
355 place the equipment enclosure behind any banners or road signs that may be on the pole.

356 2. Any replacement pole shall substantially conform to the existing neighboring pole design  
357 standards utilized within the contiguous right-of-way.

358 3. The height of any replacement pole may not extend more than 10 feet above the height  
359 of the existing pole, unless such further height increase is required and confirmed in writing  
360 by the pole owner.

361 4. The diameter of a replacement pole shall comply with the city's setback and sidewalk  
362 clearance requirements and shall, to the extent technically feasible, not be more than a 25  
363 percent increase of the existing non-wooden pole measured at the base of the pole, unless  
364 additional diameter is needed in order to conceal equipment within the base of the pole, and  
365 shall comply with the requirements in subsection (D)(1) of this section.

366 5. A canister antenna on top of an existing or replacement pole may not extend more than  
367 six feet above the height of the existing pole and the diameter may not exceed the diameter

368 of the pole by more than 12 inches or be 16 inches in diameter, whichever is greater, unless  
369 the applicant can demonstrate that more space is technically or aesthetically needed.  
370 6. The use of a non-wooden pole for the siting of a small cell facility shall be considered  
371 secondary to the primary function of the non-wooden pole. If the primary function of a non-  
372 wooden pole serving as the host site for a small cell facility becomes unnecessary, the non-  
373 wooden pole shall not be retained for the sole purpose of accommodating the small cell  
374 facility, and the small cell facility and all associated equipment shall be removed at the  
375 applicant's expense.

376 **C. Small Cell Facilities Attached to Existing Buildings.** Small cell facilities attached to existing  
377 buildings shall conform to the following design criteria:

- 378 1. Small cell facilities may be mounted to the sides of a building if the antennas do not  
379 interrupt the building's architectural theme.
- 380 2. The interruption of architectural lines or horizontal or vertical reveals is discouraged.
- 381 3. New architectural features such as columns, pilasters, corbels, or other ornamentation  
382 that conceal antennas may be used if they complement the architecture of the existing  
383 building.
- 384 4. Small cells shall utilize the smallest mounting brackets necessary, in order to provide the  
385 smallest offset from the building.
- 386 5. Skirts or shrouds shall be utilized on the sides and bottoms of antennas in order to  
387 conceal mounting hardware, create a cleaner appearance, and minimize the visual impact of  
388 the antennas. Exposed cabling/wiring is prohibited.
- 389 6. Small cell facilities shall be painted and textured to match the adjacent building surfaces.
- 390 7. The applicant must provide approval from the building owner, including consent that the  
391 small cell design meets the building owner's design requirements.

392 **D. General Requirements.**

- 393 1. Ground-mounted equipment in the right-of-way is prohibited, unless such facilities are  
394 placed underground, or the applicant can demonstrate that pole-mounted equipment and  
395 undergrounding are technically infeasible. If ground-mounted equipment is necessary, then  
396 the applicant shall submit a concealment element design as described in RMC 23.62.030.  
397 Generators located in the right-of-way are prohibited.
- 398 2. Replacement poles and new poles shall comply with the Americans with Disabilities Act  
399 (ADA), city construction and sidewalk clearance standards, and city, state and federal laws  
400 and regulations in order to provide a clear and safe passage within the right-of-way. Further,  
401 the location of any replacement or new pole must be physically possible, comply with  
402 applicable traffic warrants, not interfere with utility or safety fixtures (e.g., fire hydrants, traffic  
403 control devices), and not adversely affect public health, safety or welfare.
- 404 3. Replacement poles shall be located as near as possible to the existing pole with the  
405 requirement to remove the abandoned pole.
- 406 4. Any replacement pole shall substantially conform to the design of the pole it is replacing  
407 or the neighboring pole design standards utilized in the contiguous right-of-way.
- 408 5. No signage, message, or identification other than the manufacturer's identification is  
409 allowed to be portrayed on any antenna, and any such signage on equipment enclosures  
410 shall be of the minimum amount possible to achieve the intended purpose; provided, that  
411 signs are permitted as concealment techniques where appropriate.
- 412 6. Antennas and related equipment shall not be illuminated except as required by a federal  
413 or state authority, or unless approved as part of a light standard or consistent with  
414 RMC 23.62.030.
- 415 7. Side arm mounts for antennas or equipment must be the minimum extension necessary,  
416 but in any case no more than 12 inches off the pole for wooden poles, and no more than six  
417 inches off the pole for non-wooden poles.
- 418 8. Any small cell facility shall be removed by the facility owner or authorized agent within 90  
419 days of the date it ceases to be operational or if the facility falls into disrepair.
- 420 9. Upon replacement of a pole upon which a small cell facility exists, the small cell facility  
421 owner must transfer its infrastructure to such new pole within 90 days of notice from the pole

422 owner to transfer the small cell facility, or such extended period of time as approved by the  
423 pole owner.

424 10. The preferred location of a small cell facility on a pole is the location with the least  
425 visible impact.

426 11. Antennas, equipment enclosures, and ancillary equipment, conduit and cable shall not  
427 dominate the structure or pole upon which it is attached.

428 12. The city may consider the cumulative visual effects of small cells mounted on poles  
429 within the right-of-way in determining whether additional permits may be granted so as to  
430 not adversely affect the visual character of the city.

431 13. Except for locations in the right-of-way, small cell facilities are not permitted on any  
432 property containing a residential use in the residential zones.

433 14. Designs for small cell facilities located on existing or replacement city-owned poles may  
434 deviate from the design standards in this section, provided such deviations are approved as  
435 part of a lease agreement between the applicant and the city.

436 15. Small cell facilities may not be placed on traffic signal poles.

437

#### 438 **23.62.040 Development standards for macrofacilities.**

439 A. Macrofacilities are permitted in all zones.

440 B. Macrofacilities shall not be allowed on buildings which are designated as solely residential,  
441 except for those structures that contain an excess of four dwelling units. Macrofacilities may be  
442 located on buildings and structures which contain mixed uses (e.g., residential and commercial  
443 or other uses located with residential uses); provided, that the interior wall or ceiling immediately  
444 adjacent to the facility is not designated residential space.

445 C. The shelter or cabinet, if necessary, used to house radio electronics equipment shall be  
446 concealed, camouflaged or underground.

447 D. Macrofacilities shall comply with the height limitations specified for all zones except as  
448 follows: Antennas may exceed the height limitation by 15 feet so long as they are affixed to the  
449 side of an existing building or mounted on the rooftop of the building and architecturally blend  
450 with the building. Structures which are nonconforming with respect to height may be used,  
451 provided they do not exceed 15 feet above the existing structure. Placement of an antenna on a  
452 nonconforming structure shall not be considered to be an expansion of the nonconforming  
453 structure.

454

#### 455 **23.62.050 Development standards for monopoles and lattice towers.**

456 A. All monopoles and lattice towers exceeding 60 feet in height shall be designed to  
457 accommodate two or more wireless communications facilities.

458 B. Macrofacilities are the largest wireless communications facilities allowed on a monopole or  
459 lattice tower. Antennas not exceeding 15 feet in height which extend above the wireless  
460 communications support structure shall not be calculated as part of the height of the wireless  
461 communications support structure.

462 C. On monopoles, antennas and antenna arrays together with any associated antenna mount  
463 shall be designed utilizing the narrowest dimensions possible, and in no instance shall they  
464 extend further, as measured horizontally, from the centerline of the monopole than a distance of  
465 15 feet.

466 D. On lattice towers, antennas and antenna arrays together with any associated mounts shall  
467 extend no further, as measured horizontally, than 15 feet from the portion of the lattice tower to  
468 which the antennas are mounted.

469 E. Co-location on an existing support structure shall be permitted.

470 F. The shelter or cabinet, if necessary, used to house radio electronics equipment and the  
471 associated cabling connecting the equipment or cabinet to the monopole or lattice tower shall  
472 be concealed, camouflaged or underground.

473 G. When a monopole or lattice tower is adjacent to a suburban agricultural (SAG), single-family  
474 residential – 12,000 (R-1-12), single-family residential – 10,000 (R-1-10), medium-density  
475 residential (R-2), medium-density residential small lot (R-2S) or multiple-family residential (R-3)  
476 zoning district, the wireless communications support structure must be set back a distance

477 equal to the height of the wireless communications support structure from the nearest  
478 residential lot line.  
479 H. All monopoles and lattice towers shall be lighted and painted, if necessary, in accordance  
480 with Federal Aviation Administration regulations.

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482

**23.62.060 Permitted zones for monopoles and lattice towers.**

- 483 A. Monopoles up to 80 feet in height are considered a permitted use in the general business  
484 (C-3), business research park (B-RP), medium industrial (I-M), and heavy manufacturing (M-2)  
485 zoning districts. Monopoles up to 80 feet in height may be permitted in the parks and public  
486 facilities (PPF), business commerce (B-C), central business district (CBD) and retail business  
487 (C-2) zoning districts subject to issuance of a special use permit as set forth in RMC 23.62.070.  
488 B. Monopoles between 80 feet and 150 feet in height are considered a permitted use in the  
489 business research park (B-RP), medium industrial (I-M), and heavy manufacturing (M-2) zoning  
490 districts. Monopoles between 80 feet and 150 feet in height may be permitted in the parks and  
491 public facilities (PPF), general business (C-3) and business commerce (B-C) zoning districts  
492 subject to issuance of a special use permit as set forth in RMC 23.62.070.  
493 C. Monopoles over 150 feet in height may be permitted in the business research park (B-RP),  
494 medium industrial (I-M) and heavy manufacturing (M-2) zoning districts subject to issuance of a  
495 special use permit as set forth in RMC 23.62.070.  
496 D. Lattice towers up to 150 feet in height are considered a permitted use in the medium  
497 industrial (I-M) and heavy manufacturing (M-2) zoning districts.  
498 E. Lattice towers over 150 feet in height may be permitted in the medium industrial (I-M) and  
499 heavy manufacturing (M-2) zoning districts subject to issuance of a special use permit as set  
500 forth in RMC 23.62.070.

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**23.62.070 Special use permit criteria for monopoles and lattice towers.**

503 Requests for special use permits shall be considered in accordance with the provisions of  
504 Chapter 23.46 RMC. In addition to the provisions of Chapter 23.46 RMC, the following specific  
505 criteria shall be met before a special use permit can be granted:

- 506 A. Visual Impact.
- 507 1. Antennas may not extend more than 15 feet above their supporting structure, monopole,  
508 lattice tower, building or other structure.
  - 509 2. Site location and development shall preserve the preexisting character of the  
510 surrounding buildings, land uses, and zone district to the extent consistent with the function  
511 of the communications equipment. Wireless communications towers shall be integrated  
512 through location and design to blend in with the existing characteristics of the site to the  
513 extent practical. Existing on-site vegetation shall be preserved or improved, and disturbance  
514 of the existing topography shall be minimized, unless such disturbance would result in less  
515 visual impact of the site to the surrounding area.
  - 516 3. Accessory equipment facilities used to house or contain wireless communications  
517 equipment should be located within buildings when possible. When they cannot be located  
518 in buildings, equipment shelters or cabinets, they shall be screened and landscaped.
  - 519 4. All monopoles and lattice type facilities shall be screened with trees, shrubs and  
520 landscaping planted in sufficient depth to form an effective and actual sight barrier within five  
521 years. Said landscaping shall have a minimum mature height of eight feet.
- 522 B. Noise. No equipment shall be operated so as to produce noise in levels above 45 dBA as  
523 measured from the nearest property line on which the attached wireless communications facility  
524 is located.
- 525 C. Availability of Suitable Existing Towers or Other Structures. Applications for a special use  
526 permit shall reasonably demonstrate that alternatives such as lower structures that are  
527 permitted without a special use permit or other existing support structures are not capable of  
528 accommodating the applicant's needs. Evidence and information shall be submitted to establish  
529 the following:
- 530 1. Permitted shorter support structures are not of sufficient height to meet the applicant's  
531 engineering requirements.

- 532 2. No existing support structures are located within the geographic area required to meet  
533 the applicant's engineering requirements.
- 534 3. Existing support structures do not have sufficient structural strength to support the  
535 proposed antenna and related equipment.
- 536 4. The applicant's antenna would cause electromagnetic interference with antennas on the  
537 existing support structures, or the antenna on the existing support structures would cause  
538 interference with the applicant's proposed antenna.
- 539 5. The fees, costs, or contractual provisions required in order to share or adapt an existing  
540 support structure for sharing are unreasonable. Costs exceeding new tower development  
541 are presumed to be unreasonable.
- 542 6. The applicant demonstrates that there are other limiting factors that render existing  
543 towers and structures unsuitable.

544  
545 **23.62.080 Prohibited support structures.**

546 Guyed towers are prohibited for use as a wireless communications facility support structure.

547  
548 **23.62.090 Exemption.**

549 The following is exempt from the requirement of a special use permit, and shall be considered a  
550 permitted use in all zones where wireless and attached wireless communications facilities are  
551 permitted: modifications of existing wireless communications and attached wireless  
552 communications facilities in conformance with the requirements of an eligible facilities request  
553 as required in RMC 23.62.110.

554  
555 **23.62.100 Obsolescence.**

556 A wireless communications facility or attached wireless communications facility shall be  
557 removed by the facility owner within six months of the date it ceased to be operational or if the  
558 facility falls into disrepair.

559  
560 **23.62.110 Application review and approval of eligible facilities requests.**

- 561 A. Application. The development services department shall prepare and make publicly  
562 available an application form which shall be limited to the information necessary for the  
563 development services department to consider whether an application is an eligible facilities  
564 request. The application may not require the applicant to demonstrate a need or business case  
565 for the proposed modification.
- 566 B. Type of Review. Upon receipt of an application for an eligible facilities request pursuant to  
567 this section, the development services department shall review such application to determine  
568 whether the application so qualifies.
- 569 C. Time Frame for Review. Within 60 days of the date on which an applicant submits an eligible  
570 facilities request seeking approval under this section, the development services department  
571 shall approve the application unless it determines that the application is not covered by this  
572 section.
- 573 D. Tolling of the Time Frame for Review. The 60-day review period begins to run when the  
574 application is filed with the development services department, and may be tolled only by mutual  
575 agreement by the development services department and the applicant, or in cases where the  
576 development services department determines that the application is incomplete. The time frame  
577 for review is not tolled by a moratorium on the review of applications.
- 578 1. To toll the time frame for incompleteness, the city must provide a written notice to the  
579 applicant within 30 days of receipt of the application, specifically delineating all missing  
580 documents or information required in the application.
- 581 2. The time frame for review begins running again when the applicant makes a  
582 supplemental submission in response to the city's notice of incompleteness.
- 583 3. Following a supplemental submission, the city will notify the applicant within 10 days that  
584 the supplemental submission did not provide the information identified in the original notice  
585 delineating missing information. The time frame is tolled in the case of a second or

586 subsequent notices pursuant to the procedures identified in this subsection (D). Second or  
587 subsequent notices of incompleteness may not specify missing documents or information  
588 that was not delineated in the original notice of incompleteness.

589 E. Determination That an Application Is Not an Eligible Facilities Request. If the development  
590 services department determines the applicant's request does not qualify as an eligible facilities  
591 request, the development services department shall deny the application. To the extent  
592 additional information is necessary, the development services department may request  
593 additional information from the applicant to evaluate the application under other provisions of  
594 this chapter and applicable law.

595 F. Failure to Act. In the event the city fails to approve or deny a request for an eligible facilities  
596 request within the time frame for review (accounting for any tolling), the request shall be  
597 deemed granted. The eligible facilities request does not become effective until the applicant  
598 notifies the development services department in writing after the review period has expired  
599 (accounting for any tolling) that the application has been deemed granted.

600 G. Remedies. Applicants and the city may bring claims related to Section 6409(a) of the  
601 Spectrum Act to any court of competent jurisdiction.

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**Chapter 28.14**  
**SMALL CELL DEPLOYMENT – FRANCHISE AND SMALL CELL FACILITY PERMITS**

**Sections:**

- 28.14.010 Overview.
- 28.14.015 Definitions.
- 28.14.020 Franchise and small cell facility permit applications.
- 28.14.030 Review process for small cell facility permits.
- 28.14.040 Permit requirements.
- 28.14.050 Consolidated permit.
- 28.14.060 Modifications to small cell facilities.
- 28.14.070 Additional review procedures.

**28.14.010 Overview.**

- A. In order to manage its right-of-way in a thoughtful manner, which balances the need to accommodate new and evolving technologies with the preservation of the natural and aesthetic environment of the city while complying with the requirements of state and federal law, the city of Richland has adopted this process for the deployment of small cell technology. Service providers who seek to utilize the public right-of-way for small cell deployment in order to provide wireless communication, data transmission or other related services to the citizens of the city must have a valid franchise to provide the specific service seeking to utilize the right-of-way, and a small cell facility permit to deploy the technology. Entities with franchises who wish to utilize a small cell deployment to upgrade or expand their existing services shall utilize the processes set forth in this chapter, including use of small cell facility permits to deploy their technology. The small cell facility permit process administers deployment under the franchise.
- B. Nothing in this chapter revises or diminishes the rights and obligations of an existing franchise. An “existing franchise” is one that existed as of February 5, 2019.
- C. See RMC 23.62.020 for additional definitions.

**28.14.015 Definitions.**

- “Antenna” means an apparatus designed for the purpose of emitting radio frequency (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. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, or device authorized under 47 CFR Chapter I, Subchapter A, Part 15. Examples of antennas include, but are not limited to:
- A. Omnidirectional Antenna. An omnidirectional antenna (also known as whip antenna) transmits and receives radio frequency signals in a 360-degree radial pattern. For the purpose of this chapter, an omnidirectional antenna is up to 15 feet in height and four inches in diameter.
  - B. Directional Antenna. A directional antenna (also known as panel antenna) transmits and receives radio frequency signals in a specific directional pattern of less than 360 degrees.
  - C. Parabolic Antenna. A parabolic antenna (also known as dish antenna) is a bowl-shaped device for the reception and/or transmission of radio frequency communications signals in a specific directional pattern.
  - D. Antenna Array. An antenna array is two or more devices used for the transmission or reception of radio frequency signals, microwave, or other signals for commercial communications purposes.
- “Design zone” is defined as described in RMC 23.62.030.

52 “Light pole” means a pole used primarily for lighting streets, parking areas, parks or pedestrian  
53 paths.

54 “Small cell facility” has the same meaning as a “small wireless facility” defined  
55 in 47 CFR 1.6002.

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

59 “Traffic signal pole” means a pole that supports equipment used for controlling traffic, including  
60 but not limited to traffic lights, rapid flashing beacons, speed radar, and school zone flashers.

61 “Utility pole” shall mean a pole designated and used primarily for the support of electrical wires,  
62 telephone wires, or television cable.

63

64 **28.14.020 Franchise and small cell facility permit applications.**

65 A. Applicants shall apply using the city’s franchise application form and submit a fee deposit  
66 commensurate with the estimated administrative costs of processing an application for a  
67 franchise. The fee deposit level shall be set by the director of public works (“director”). At its  
68 discretion, the applicant may designate the entire city or any portion thereof as the franchise  
69 boundary. Phased development is permitted, and an applicant shall specify at least the initial  
70 small cell deployment in its application.

71 B. Preapplication Conference. A preapplication conference is encouraged prior to submitting  
72 an application for a franchise or for a small cell facility permit. The purpose of a preapplication  
73 meeting is to discuss the nature of the proposed deployment of telecommunications facilities,  
74 and to review applicable plans, policies and regulations. Process and schedule will also be  
75 addressed. Absent the submission of a small cell facility permit application at the time of the  
76 conference, the preapplication conference does not constitute the official start of the review  
77 process.

78 C. Small Cell Facility Permits. The following information shall be provided by all applicants for  
79 small cell facility permits. Issuance of a small cell facility permit to install a small cell network  
80 shall be contingent upon approval of a franchise or the possession of a valid franchise. An  
81 applicant may apply for a small cell facility permit in parallel to obtaining a franchise; however,  
82 no small cell facility permit will be effective until a fully executed franchise becomes effective as  
83 determined by Article III, Section 3.05 of the Richland City Charter.

84 1. The application shall provide specific locational information of all facilities, and specify  
85 whether and where small cell facilities are to be located on existing poles, or will utilize  
86 replacement poles, new poles, towers, existing buildings, and/or other structures. Conduit  
87 and fiber necessary for and intended for use in the deployment shall also be specified  
88 regardless of whether the additional facilities are to be constructed by the applicant or  
89 leased from a third party. Detailed schematics and visual renderings of the small cell  
90 facilities shall be provided by the applicant. If the site location includes a replacement light  
91 pole, then the applicant must submit a photometric analysis of the roadway and sidewalk  
92 150 feet upstream and downstream of the existing light. Lighting levels are subject to  
93 approval of the city engineer and must meet current city standards.

94 2. The applicant must show written approval of the owner of any pole or structure for the  
95 installation of its small cell facilities on such pole or structure. Such written approval shall  
96 include approval of the specific pole’s engineering, including assurances that the specific  
97 pole can withstand wind and seismic loads. For city-owned poles or structures, the applicant  
98 must obtain a master lease agreement from the city, and submit a partially executed site  
99 agreement or addendum specific to each proposed pole location on a form prepared by the  
100 city.



- 101 3. The applicant may submit multiple sites in one small cell facility permit application for  
102 processing at the same time. The applicant is encouraged to batch small cell facilities in a  
103 single application within a contiguous service area and with similar pole types and designs.  
104 4. Any element of a deployment which qualifies as an eligible facilities request shall be  
105 specifically designated by the applicant.  
106 5. The public works director may approve, deny, or conditionally approve all or any portion  
107 of the sites proposed in the small cell facility permit application. Denial of one or more small  
108 cell facility locations within a submission described in subsection (C)(3) of this section shall  
109 not be the sole basis for denial of other locations or applicant's entire application for small  
110 cell facilities.  
111 6. Any application for a small cell facility permit that contains an element which is not  
112 exempt from review under SEPA (Chapter 22.09 RMC), Shoreline Management (RMC  
113 Title 26), or the Critical Areas Ordinance (Chapter 22.10 RMC) shall simultaneously apply  
114 under the applicable RMC.  
115 7. The applicant shall submit a sworn affidavit, signed by an appropriately licensed  
116 professional with experience in RF emissions and with knowledge of the proposed project,  
117 affirming that the small cell deployment will be compliant with all FCC and other  
118 governmental regulations related to human exposure to radio frequency emissions for every  
119 frequency at which the small cell facility will operate. If facilities necessary to the small cell  
120 facility are to be provided by a third party, the small cell facility permit shall be conditioned  
121 on an RF certification showing the cumulative impact of the RF emissions on the entire  
122 installation. The applicant may provide one emissions report for the entire small cell  
123 deployment if the applicant is using the same small cell facility configuration for all  
124 installations within that batch, or may submit one emissions report for each subgroup  
125 installation identified in the batch.  
126 8. The applicant shall provide proof of FCC and other regulatory approvals required to  
127 provide the service(s) or utilize the technologies sought to be installed.  
128 9. Construction drawings submitted by the applicant shall depict all existing proposed  
129 improvements related to the proposed location, including but not limited to poles, driveways,  
130 ADA ramps, equipment cabinets, street trees and structures within 250 feet from the  
131 proposed site. The construction drawings shall also include the applicant's plan for electric  
132 and fiber utilities, all conduits, cables, wires, handholes, junctions, meters, disconnect  
133 switches and any other ancillary equipment or construction necessary to construct the small  
134 cell facility.  
135 10. The application must contain a copy of the contractor's and all subcontractors' state  
136 licensing and bonding compliance and current city of Richland business licenses and  
137 insurance requirements as listed in Chapter 12.08 RMC.  
138 11. Such other information as the director deems appropriate, so long as the required  
139 information is identified and published in advance by the city.  
140 D. Withdrawal. Any applicant may withdraw an application at any time, provided the withdrawal  
141 is in writing and signed by all persons who signed the original application or their successors in  
142 interest. When a withdrawal is received, the application shall be deemed null and void. If such  
143 withdrawal occurs prior to the director's decision, then reimbursement of fees submitted with  
144 said application shall be prorated to withhold the amount of city costs incurred in processing the  
145 application prior to the time of withdrawal. If such withdrawal is not accomplished prior to the  
146 director's decision, no portion of the fee will be refunded.  
147 E. Supplemental Information. Failure of an applicant to provide additional information  
148 requested by the director within 60 days of notice by the director shall be deemed a denial of  
149 that application, unless an extension period has been approved by the director.  
150

151 **28.14.030 Review process for small cell facility permits.**

- 152 A. Review. The following provisions relate to review of applications for a small cell facility  
153 permit for small cell deployments:

- 154 1. In any zone, upon application for a small cell facility permit, the city will permit small cell  
155 deployment on existing or replacement utility or light poles conforming to the city's generally  
156 applicable development and design standards adopted pursuant to Chapter 23.62 RMC,  
157 except as provided in subsection (B) of this section.
- 158 2. Vertical clearance shall be demonstrated by means of a design stamped by a  
159 Washington-licensed professional engineer attesting to adequate clearances to ensure that  
160 the small cell facilities will not pose a hazard to other users of the rights-of-way.
- 161 3. Replacement poles, new poles, and ground-mounted equipment shall comply with the  
162 Americans with Disabilities Act (ADA), city construction standards, and city, state, and  
163 federal regulations in order to provide a clear and safe passage within the right-of-way.
- 164 4. No equipment shall be operated so as to produce noise in violation of  
165 RMC 23.62.070(B).
- 166 5. Small cell facilities may not encroach onto or over private property or property outside of  
167 the right-of-way without the property owner's express written consent.
- 168 6. If a light pole exists within 150 feet of a wooden pole, the applicant shall utilize the light  
169 pole unless the applicant can demonstrate, to the satisfaction of the director, that the light  
170 pole has been evaluated and is not possible for either technical feasibility or aesthetic  
171 reasons; provided, however, that this requirement shall not apply if the light pole is located  
172 in a design zone, as designated in Chapter 23.62 RMC, and the wooden pole is located  
173 outside of the design zone.
- 174 B. Development Services Department. Small cell deployment in design zones, as well as new  
175 non-city-owned poles or replacement poles deviating from the pole design standards adopted  
176 pursuant to Chapter 23.62 RMC, are subject to review pursuant to RMC 23.62.030.
- 177 C. Eligible Facilities Requests. The design approved in a small cell facility permit shall be  
178 considered concealment elements and such facilities may only be expanded upon an eligible  
179 facilities request described in RMC 23.62.110 when the modification does not defeat the  
180 concealment elements of the small cell facility.
- 181 D. Review of Facilities. Review of the site locations proposed by the applicant shall be  
182 governed by the provisions of 47 USC 253 and 332 and other applicable statutes, regulations  
183 and case law. Applicants for franchises and small cell facility permits shall be treated in a  
184 competitively neutral and nondiscriminatory manner with other service providers utilizing  
185 supporting infrastructure which is functionally equivalent; that is, service providers whose  
186 facilities are similarly situated in terms of structure, placement, or cumulative impacts. Small cell  
187 facility permit review under this chapter shall neither prohibit, nor have the effect of prohibiting,  
188 the ability of an applicant to provide telecommunications services.
- 189 E. Any decision by the director shall be final and not subject to administrative appeal.

190  
191 **28.14.040 Permit requirements.**

- 192 A. Post-Construction As-Builts. Within 30 days after construction of the small cell facility, the  
193 permittee shall provide the city with as-builts and site photographs of the small cell facility  
194 demonstrating compliance with the permit.
- 195 B. Permit Time Limit. Construction of the small cell facility must be completed within six months  
196 after the approval date by the city. The permittee may request one extension to be limited to  
197 three months, if the applicant cannot construct the small cell facility within the original six-month  
198 period. Failure to complete construction as required by this section shall result in expiration of  
199 the permit.
- 200 C. Site Safety and Maintenance. The permittee must maintain the small cell facilities in a safe  
201 and working condition. The permittee shall be responsible for removal of any graffiti or other  
202 vandalism, and shall keep the site neat and orderly at all times, including but not limited to the  
203 time period immediately following maintenance or modifications on the site.
- 204 D. Interference – WSDOT. If the small cell facility is located near Interstate 182, State Route  
205 240 or State Route 224 corridors, then the permittee must complete cooperative testing with the  
206 Washington State Department of Transportation (WSDOT) to determine if there are interference

207 problems with WSDOT equipment. If such interference problems exist, permittee must  
208 remediate such interference problems. If such remediation methods require modification to the  
209 small cell facility design, location, or RF emissions, permittee must apply with the city for an  
210 amendment to its small cell facility permit.

211 E. Interference with City Infrastructure. The small cell facility shall not physically or technically  
212 interfere with city-owned or operated traffic signals or telemetry. If such interference problems  
213 exist, permittee must remediate such interference problems. If such remediation methods  
214 require modification to the small cell facility design, location, or RF emissions, permittee must  
215 apply for an amendment to its small cell facility permit.

216 F. Additional Permit Requirements. The permittee must comply with such additional permit  
217 requirements as directed by the director which are of general applicability for usage of the right-  
218 of-way.

219

#### 220 **28.14.050 Consolidated permit.**

221 A. The issuance of a small cell facility permit grants authority to construct small cell facilities in  
222 the public right-of-way in a consolidated manner to allow the applicant, in most situations, to  
223 avoid the need to seek duplicative approval by both public works and development services. As  
224 an exercise of police powers pursuant to RCW 35.99.040(2), the small cell facility permit is not a  
225 right-of-way construction permit, but instead a consolidated public works and land use permit.  
226 Issuance of a small cell facility permit shall be governed by the time limits established by federal  
227 law for wireless communications facilities.

228 B. The small cell facility permit shall include those elements that are typically contained in the  
229 right-of-way construction permit to allow the applicant to proceed with build-out of its small cell  
230 deployment.

231 C. The general standards applicable to the use of the right-of-way described in  
232 Chapter 12.08 RMC and within this title shall apply to all small cell facility permits.

233

#### 234 **28.14.060 Modifications to small cell facilities.**

235 A. If an applicant desires to make modifications to small cell facilities, including but not limited  
236 to expanding or changing the antenna type, increasing the equipment enclosure size, placing  
237 additional pole-mounted or ground-mounted equipment, or modifying the concealment  
238 elements, then the applicant shall apply for a small cell facility permit.

239 B. A small cell facility permit shall not be required for routine maintenance and repair of a small  
240 cell facility within the right-of-way, or the replacement of an antenna or equipment of similar  
241 size, weight, and height; provided, that such replacement does not defeat the concealment  
242 elements used in the original deployment of the small cell facility and does not impact the  
243 structural integrity of the pole. Further, a small cell facility permit shall not be required for  
244 replacing equipment within the equipment enclosure or reconfiguration of fiber or power to the  
245 small cell facilities. A right-of-way construction permit may be required for such routine  
246 maintenance, repair, or replacement.

247

#### 248 **28.14.070 Additional review procedures.**

249 Small cell facilities in shoreline management zones or critical areas are subject to review as  
250 provided in Chapter 22.10 RMC (Critical Areas Ordinance) and RMC Title 26, Shoreline  
251 Management.