

MONROE PLANNING COMMISSION

Regular Meeting

June 22, 2020, 7:00 P.M.

[Click here to join Zoom Meeting](#)

Call in: 253-215-8782 - Meeting ID: 821 8995 8960

Council Chambers, City Hall
806 W Main Street, Monroe, WA 98272

Commission Chair: Bridgette Tuttle

*Commissioners: Jay Bull, Vice Chair; Kyle Fisher
Steve Jensen; Mike Stanger; Dionne Miller; and Liz Nugent*

AGENDA

CALL TO ORDER

1. Virtual Participation Information

The Planning Commission meeting will be held virtually via Zoom Meeting. Due to the COVID-19 crisis, and OPMA guidance issued by governor Jay Inslee, in-person attendance is not permitted at this time.

Join Zoom Meeting:

- [Click here to join Zoom Meeting](#)
- Dial in: (253) 215-8782
- Meeting ID: 821 8995 8960

ROLL CALL

COMMENTS FROM CITIZENS

Members of the audience may comment on any city matter that is not listed on the agenda. Comments by individuals are limited to five (5) minutes. The Commission usually does not respond to matters brought up during audience participation and may, if appropriate, address the matter at a subsequent meeting.

1. Virtual Participation Information

If you are attending the meeting virtually (using the link or number provided above) please indicate that you would like to speak by clicking "raise hand" and the Chair will call on attendees to speak at the appropriate time. If you are joining by phone, dial *9 to "raise hand".

Attendees can alternatively submit written comments to be read into the record at the time of the meeting. All written comments must be received prior to 5:00 p.m. on the day of the meeting and must be 350 words or less. Submit to labarr@monroewa.gov.

APPROVAL OF MINUTES

April 13, 2020

April 27, 2020

May 11, 2020

Documents:

[Minutes - 4-13-2020.pdf](#)

[Minutes - 4-27-2020.pdf](#)

[Minutes - 5-11-2020.pdf](#)

OLD BUSINESS

1. Wireless Communication Facilities (WCF) Code Amendments
2. Temporary Homeless Encampments Code Amendments

Documents:

[OB2-Temp Enc-6-22-2020.pdf](#)

[OB1-WCF.pdf](#)

NEW BUSINESS

NONE

DISCUSSION BY COMMISSIONERS AND STAFF

ADJOURNMENT

THE PLANNING COMMISSION MAY ADD AND/OR TAKE ACTION ON OTHER ITEMS NOT LISTED ON THIS AGENDA

Accommodations for people with disabilities will be provided upon request.
Please contact City Hall at 360-794-7400 and allow one-week advanced notice.

**CITY OF MONROE
PLANNING COMMISSION MINUTES
Monday, April 13, 2020**

The regular meeting of the Monroe Planning Commission was held on Monday, April 13, 2020 at 7:00 p.m., via Zoom online meeting platform.

CALL TO ORDER

Chair Tuttle called the meeting to order at 7:05 p.m.

ROLL CALL

Planning Commission Secretary Gina Pfister called the roll.

Commissioners Present: Chair Tuttle, Vice-Chair Bull, Commissioner Jensen, Commissioner Fisher¹, Commissioner Miller, Commissioner Stanger, and Commissioner Nugent.

Staff Present: Community Development Director Ben Swanson; Principal Planner Shana Restall, Senior Planner Anita Marrero; and Clerical Specialist Gina Pfister.

PUBLIC COMMENTS

There was not a public comment portion of the meeting pursuant to Governor Jay Inslee's OPMA guidance related to the COVID-19 pandemic.

OLD BUSINESS

1. Floodplain Regulations

Ms. Anita Marrero, Senior Planner, provided background information on the agenda item; and reviewed discussion from the March 9, 2020 Planning Commission meeting. Ms. Marrero reminded Commissioners that the Federal Emergency management Agency (FEMA) deadline of June 19, 2020 deadline to adopt both the updated Flood Insurance Rate Maps (FIRMs), and the flood damage prevention ordinance would not be extended due to the COVID-19 pandemic. This must be adopted in order to remain in good standing with the National Flood Insurance Program (NFIP).

Ms. Marrero shared the FEMA National Flood Hazard layer map, and map legend; and noted boundary changes including the removal of Miracle Field.

Discussion ensued. A Public Hearing will be scheduled for April 27, 2020. Commissioner Jensen requested that Ben Swanson, Director of Community Development, make a clear statement at the public hearing as to why the adoption is important and how it will affect resident's insurance premiums.

2. Proposed Code Amendments for Temporary Homeless Encampments

Ms. Shana Restall, Principal Planner, provided background information on the agenda item; summarized previous Planning Commission discussions; and shared a PowerPoint presentation highlighting the following topics: applicability; requirements; possible city regulations; city limitations; public safety; community meetings and notice; and liability. Ms. Restall reviewed ordinance changes and code amendments.

¹ Commissioner Fisher left the meeting at 7:12 for a fire department call.

Discussion ensued relating to the following topics: public safety; Fire District authority; and potential location concerns. Commissioners would like to see the proposed ordinance in track-changes form.

This item will be brought back to a future meeting before the Public Hearing will be scheduled.

NEW BUSINESS

1. Proposed Code Amendments to Title 22 MMC, Unified Development Regulations (UDR)

Shana Restall, Principal Planner, provided background information on the agenda item; and noted that the proposed amendments to the UDR are necessary to correct, clarify, and facilitate the application of development regulations.

Ms. Restall reviewed the proposed code amendments; and explained that since MMC Title 22 has been in effect, staff has been tracking the new regulations and identifying any needed corrections and/or discrepancies. Ms. Restall noted that staff has been meeting with stakeholders including the Fire District and the Engineering department.

Discussion ensued related to the following topics: timeline; land use zones; frequency of updates; and bulk requirements. Commissioner Jensen requested a paper packet when meeting materials involve several attachments or large maps.

DISCUSSION BY COMMISSIONERS AND STAFF

Anita Marrero, Senior Planner, noted that the Floodplain Regulation Public Hearing will be held on April 27, 2020.

Commissioner Nugent provided an Economic Development Advisory Board (EDAB) update.

Chair Tuttle commented on the recent PSA videos posted on the City, the Mayor, and the Monroe Chamber Facebook pages.

Commissioner Miller inquired about the upcoming virtual town hall meeting for small businesses.

Commissioner Stanger noted that the upcoming Park Board meeting has been cancelled.

Commissioner Stanger requested assistance to reset his email password; and was given IT Specialist Ken Stickles' email address.

Commissioner Jensen inquired if a stop work order had been issued on the construction happening near the AT&T store.

Chair Tuttle noted that Coastal Farm and Ranch has stopped work based on the Governor's COVID-19 construction guidance.

Discussion ensued relating to essential business and construction activity. Mr. Swanson reviewed exemptions to the Governor's proclamation and guidance relating to construction.

Chair Tuttle provided an update a Homelessness Policy Advisory Committee update.

Chair Tuttle expressed concern over holding a Public Hearing via Zoom.

ADJOURNMENT

Commissioner Jensen moved to adjourn at 8:10 p.m. The motion was seconded by Commissioner Bull. Motion carried 6-0.

Bridgette Tuttle
Chair

Gina Pfister
Planning Commission Secretary

**CITY OF MONROE
PLANNING COMMISSION MINUTES
Monday, April 27, 2020**

The regular meeting of the Monroe Planning Commission was held on Monday, April 27, 2020 at 7:00 p.m., via Zoom online meeting platform.

CALL TO ORDER

Chair Tuttle called the meeting to order at 7:10 p.m.

ROLL CALL

Planning Commission Secretary Gina Pfister called the roll.

Commissioners Present: Chair Tuttle, Vice-Chair Bull, Commissioner Jensen, Commissioner Fisher, Commissioner Miller, Commissioner Stanger, and Commissioner Nugent.

Staff Present: Community Development Director Ben Swanson; Principal Planner Shana Restall, Senior Planner Anita Marrero; and Clerical Specialist Gina Pfister.

PUBLIC COMMENTS

There was not a public comment portion of the meeting pursuant to Governor Jay Inslee's OPMA guidance related to the COVID-19 pandemic.

APPROVAL OF MINUTES

- March 9, 2020
- April 13, 2020

Commissioner Jensen moved to approve the meeting minutes of March 9, 2020. The motion was seconded by Commissioner Bull. Motion carried 7-0.

Commissioner Jensen moved to approve the meeting minutes of April 13, 2020. The motion was seconded by Commissioner Miller. Motion carried 7-0.

PUBLIC HEARING

1. Floodplain Regulations

Chair Tuttle opened the public hearing opened at 7:14 p.m.

Ms. Anita Marrero, Senior Planner, led Commissioners through a PowerPoint presentation highlighting the following topics:

- Floodplains & shoreline boundaries; and reviewed the map
- FEMA deadline of June 19, 2020
- Flood damage prevention ordinance
- National Flood Insurance Program (NFIP)
- Updated Flood Insurance Rate Maps (FIRMs)
- Community Rating System (CRS)
- Code changes; and recommended action

Commissioner Jensen moved to open the public comment portion of the public hearing. The motion was seconded by Commissioner Fisher. Motion carried 7-0.

There were no comments from the public.

Commissioner Jensen moved to close the public comment portion of the public hearing. The motion was seconded by Commissioner Fisher. Motion carried 7-0.

Discussion ensued relating to the following: initiated changes, and state requirements.

Commissioner Jensen moved to close the public hearing. The motion was seconded by Commissioner Nugent. Motion carried 7-0.

Commissioner Jensen moved to direct staff to draft Findings of Fact and Conclusions of Law for the Planning Commission that recommend that the Monroe City Council approve the proposed amendments to Chapter 14.01 MMC, Flood Hazard Area Regulations. The motion was seconded by Commissioner Fisher. Motion carried 7-0.

DISCUSSION BY COMMISSIONERS AND STAFF

Commissioner Miller commented on a recent positive interaction with Monroe Police while walking on Main Street.

Ms. Marrero briefed Commissioners on a request from the Parks & Recreation department asking for support for an RCO grant letter. Ms. Marrero will bring the draft letter to the next Planning Commission meeting.

Ms. Marrero provided Commissioners with a Community Development update related to the following topics: construction, inspections, permits, and pre-application meetings.

Mr. Swanson commented on Proclamation 20-25 issued by Governor Jay Inslee and impacts to the Community Development department; and that James Palmer, Economic Specialist, is helping with outreach efforts.

Chair Tuttle commented on the joint [Mayors letter](#) to Governor Inslee advocating for a path forward.

Commissioner Jensen and Mr. Swanson engaged in brief discussion relating to the following topics: new business activity since the COVID-19 pandemic; current permit activity; virtual meetings; proclamation guidance.

Commissioner Nugent provided an Economic Development Advisory Board (EDAB) update; and noted EDAB will meet weekly until further notice.

Commissioner Stanger commented on the following topics: cancellation of April Parks Board meeting; and Governor Inslee's updated construction guidance.

Commissioner Bull and Ms. Marrero engaged in a brief discussion regarding ongoing construction at Rivers Edge apartments.

Commissioner Fisher encouraged everyone to wear personal protective equipment (PPE) during the pandemic.

Ms. Pfister noted that Leigh Anne Barr would be returning on May 11, 2020.

Chair Tuttle commented on the following topics: EDAB meetings; Homelessness Policy Advisory Board (HPAC) communication plan; community celebration efforts for the graduating class of 2020; and thanked Commissioners for meeting attendance.

ADJOURNMENT

Commissioner Jensen moved to adjourn at 7:57 p.m. The motion was seconded by Commissioner Fisher. Motion carried 7-0.

Bridgette Tuttle
Chair

Gina Pfister
Planning Commission Secretary

**CITY OF MONROE
PLANNING COMMISSION MINUTES
Monday, May 11, 2020**

The regular meeting of the Monroe Planning Commission was held on Monday, May 11, 2020 at 7:00 p.m., via Zoom online meeting platform.

CALL TO ORDER

Chair Tuttle called the meeting to order at 7:03 p.m.

ROLL CALL

Permit Supervisor Kim Shaw called the roll.

Commissioners Present: Chair Tuttle, Vice-Chair Bull, Commissioner Fisher, Commissioner Miller, Commissioner Stanger

Commissioners absent: Commissioner Stanger, Commissioner Jensen

Staff Present: Community Development Director Ben Swanson; Principal Planner Shana Restall, Senior Planner Anita Marrero; and Permit Supervisor Kim Shaw, Clerical Specialist Gina Pfister

PUBLIC COMMENTS

There was not a public comment portion of the meeting pursuant to Governor Jay Inslee's OPMA guidance related to the COVID-19 pandemic.

OLD BUSINESS

1. Proposed Amendments to Chapter 14.01 MMC, Flood Hazard Area Regulations

Commissioner Bull moved that the Planning Commission **ADOPT** the Findings of Fact and Conclusions of Law, **AUTHORIZE** the Planning Commission Chair to sign the Findings on behalf of the Commission, and recommend that the Monroe City Council **APPROVE** the proposed amendments to Chapter 14.01 MMC, Flood Hazard Area Regulations. Commissioner Fisher seconded the motion. Motion carried 5/0.

2. Wireless Communication Facilities (WCF) Code Amendments

Senior Planner, Anita Marrero, presented the code amendment for the Wireless Communication Facilities via a power point presentation, along with a rough draft of the proposed ordinance. She explained that this is intended for introduction only and that she will be bringing this back to the Commissioners at the next scheduled meeting in June for further discussion.

The commissioners discussed various features of the ordinance.

NEW BUSINESS

1. Presentation from Denise Johns, Parks Department Senior Planner, for RCO grant

Senior Parks Planner, Denise Johns, explained the premise of the RCO (Recreation and Conservation Office) grant that the city will be applying for. The city is interested in acquiring a five acre parcel which will become a new neighborhood park serving Monroe's growing North Hill area residents. This is a priority in the city's CIP (Capital Improvement Plan).

Commissioners discussed specifics of the proposed park as well as the grant and funding for the project. Planner Johns summarized the letter of support that was intended for the commissioners' review and signature. This will be included with the grant application.

Commissioner Bull made a motion to authorize Planning Commission Chair to sign the letter supporting the North Hill acquisition for a public park. Motion was seconded by Commissioner Fisher. Motion carried 5/0.

DISCUSSION BY COMMISSIONERS AND STAFF

Senior Planner Marrero noted that the consultant for the Housing Action Plan has been chosen. This will be addressing affordable housing and will be brought to the commissioners within the next couple of months for discussion.

Commissioner Nugent provided an Economic Development Advisory Board (EDAB) update with regards to small businesses and the effects of the COVID-19.

Community Development Director Swanson summarized updates relating to the impacts of city performed inspections on construction sites.

Chair Tuttle shared that the EDAB board was making recommendations to City Council for a proposed stimulus package for small businesses and she was questioning the status? Clerical Specialist Gina Pfister responded that this was moving forward to City Council on May 12th, 2020.

ADJOURNMENT

Commissioner Bull moved to adjourn at 7:52 p.m. The motion was seconded by Commissioner Nugent. Motion carried 5-0.

Bridgette Tuttle
Chair

Kim Shaw
Permit Supervisor



MONROE PLANNING COMMISSION

SUBJECT:	<i>DISCUSSION - Proposed Code Amendments Regarding Temporary Homeless Encampments</i>
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DATE:	DEPT:	CONTACT:	PRESENTER:	ITEM:
06/22/2020	Community Development	Shana Restall	Shana Restall	Old Business # 2

Discussion: 08/12/2019, 03/09/2020, 04/13/2020, and 06/06/2020

Public Hearing:

Attachments:

1. DRAFT Temporary Encampments Code
2. Engrossed Substitute House Bill 1754 (Filed 03/31/2020)

REQUESTED ACTION:

None, this meeting is informational only. A public hearing on this topic will take place at a later date.

POLICY CONSIDERATIONS

Temporary homeless encampments, which provide temporary shelter to homeless persons, have become more frequent in the Puget Sound area over the past decade. The Washington State legislature adopted Engrossed House Bill 1956 on March 23, 2010 that authorizes religious organizations to host temporary encampments and limits a local government’s ability to regulate these encampments. Specifically, it prohibits local governments from enacting an ordinance or regulation with respect to the provision of homeless housing that imposes conditions other than those necessary to protect public health and safety and do not substantially burden the decisions or actions of a religious organization. Furthermore, Governor Inslee signed into law Engrossed Substitute House Bill 1754 on March 31, 2020, which provides additional clarification regarding the regulation of temporary encampments.

DESCRIPTION/BACKGROUND

Over the last decade, temporary homeless encampments, sometimes called tent cities, have become an often-used mechanism for providing shelter for homeless individuals. These encampments usually rotate between various host properties, which are generally owned by religious organizations. On March 6, 2007, the Monroe City Council adopted Ordinance No. 003/2007, which added a chapter to the zoning code to regulate temporary homeless encampments within the City. However, in 2010, the state adopted legislation that limited a local government’s purview over these encampments. RCW 35A.21.360 authorizes religious organizations to host temporary homeless encampments and states that cities may not:

- a. Impose conditions other than those necessary to protect public health and safety and that do not substantially burden the decisions or actions of a religious organization regarding the location of housing or shelter for homeless persons on property owned by the religious organization;
- b. Require a religious organization to obtain insurance pertaining to the liability of a municipality with respect to homeless persons housed on property owned by a religious organization or otherwise require the religious organization to indemnify the municipality against such liability.

Governor Inslee signed into law Engrossed Substitute House Bill 1754 on March 31, 2020, which provides additional clarification regarding the regulation of temporary encampments. The City's code was not updated at the time Engrossed House Bill 1956 was adopted and has yet to be updated to reflect the provisions of Engrossed Substitute House Bill 1754. The proposed amendments are intended to bring the code into compliance with state law.

FISCAL IMPACT

N/A

TIME CONSTRAINTS

On June 9, 2020, the City adopted Ordinance No. 005/2020, which repealed and replaced previously adopted interim provisions to regulate temporary encampments. The interim ordinance is in effect for no longer than six months per RCW 35A.63.220, Moratoria, Interim Zoning Controls—Public Hearing—Limitation on Length.

Chapter 22.90 TEMPORARY ENCAMPMENTS

Sections:

22.90.010	Purpose.
22.90.020	Applicability; Construction.
22.90.030	Definitions.
22.90.040	General provisions.
22.90.050	Memorandum of understanding.
22.90.060	Outdoor encampments.
22.90.070	Indoor overnight shelters.
22.90.080	Temporary houses on-site.
22.90.090	Vehicle resident safe parking areas.
22.90.100	Application and review process; Appeals.

22.90.010. Purpose

The City of Monroe finds it is necessary to promote solutions to the complex problem of homelessness. One solution is to facilitate, with appropriate regulation and oversight, sponsors of temporary shelters in existing structures and in temporary outdoor encampments organized and managed by religious organizations. These facilities do not represent a permanent solution to homelessness, but rather can provide vitally needed shelter and a first step toward more permanent forms of housing. This chapter reflects guidance provided by ESHB 1754, WAC 51-16-030, and by federal law that religious institutions are free to practice their faith including offering assistance to the homeless. This chapter further attempts to appropriately balance such considerations with the city's need to protect the health, safety and welfare of both temporary encampment residents and of the public.

22.90.020. Applicability; Construction.

A. The regulations, requirements, and standards set forth in this chapter apply to all temporary encampments within the City.

B. This chapter shall be reasonably construed and administered in a manner consistent with applicable state and federal law, including ESHB 1754. Without limitation of the foregoing, the City may exercise any of the authority set forth in ESHB 1754 in administering this chapter.

C. Except as provided in this chapter and/or by law, nothing in this chapter shall excuse any person from compliance with all applicable provisions of the Monroe Municipal Code.

22.90.030. Definitions

The following definitions shall apply for purposes of this chapter:

A. "Managing agency" means an organization such as a religious organization or other organized entity that has the capacity to organize and manage a temporary encampment.

B. "Outdoor encampment" means any temporary tent or structure encampment, or both.

C. "Religious organization" means the federally protected practice of a recognized religious assembly, school, or institution that owns or controls the real property where the temporary encampment is hosted.

D. "Temporary" means not affixed to land permanently and not using underground utilities.

E. "Temporary encampment" means a temporary housing or shelter for homeless persons, such as an outdoor encampment, indoor overnight shelter, temporary small house on-site, or vehicle resident safe parking area.

22.90.040. General provisions.

The following standards shall apply to all temporary encampments within the city of Monroe, except as modified by the category-specific standards otherwise set forth in this chapter:

A. Temporary encampments on private property are prohibited within the city except as expressly provided in this chapter.

B. A religious organization may host a temporary encampment for the homeless on property owned or controlled by the religious organization whether within buildings located on the property or elsewhere on the property outside of buildings, subject to the provisions of this chapter.

C. All temporary encampments shall comply with the applicable provisions of RCW 35A.21.360.

D. The host religious organization and/or managing agency shall provide a transportation plan for the temporary encampment, which shall include provisions for access to and from transit services.

E. The host religious organization and/or managing agency shall ensure the temporary encampment's compliance with all applicable state laws and regulations, the Monroe Municipal Code, Fire District 7 directives, and Snohomish health district standards concerning, but not limited to, drinking water connections, solid waste disposal, human waste, electrical systems, and fire resistant materials.

F. The host religious organization and/or the managing agency shall appoint an individual to serve as a permanent point of contact for the temporary encampment.

G. At least one representative of the host religious organization, the managing agency, and/or a designated occupant of the temporary encampment shall be on duty at the temporary encampment all times. Such individuals shall be familiar with emergency protocols, equipped with suitable communication devices, and be trained to contact local first responders when necessary. The names and contact information for such individuals shall be posted daily at the temporary encampment.

H. The host religious organization and/or the managing agency shall ensure the temporary encampment's compliance with all applicable public health regulations, including but not limited to the following:

1. Adequate toilet facilities shall be provided on site and shall be set back at least 40 feet from all property lines. Restroom access shall be provided either within the buildings on the host property or through use of portable facilities.

2. Hand washing stations provided near the toilets and food preparation areas;

3. Food preparation and/or service tents and/or facilities shall be provided;

4. Solid waste receptacles shall be provided on site throughout the temporary encampment. A regular trash patrol in the immediate vicinity of the temporary encampment site shall also be provided.

5. An adequate supply of potable water shall be available on site at all times.

6. All applicable city, county, health department, and state regulations pertaining to drinking water connections and solid waste disposal shall be met.

I. Temporary encampments shall not cause or permit the intrusion of noise from the temporary encampment exceeding the applicable thresholds set forth in WAC 173-60-

040.

J. The host religious organization and/or the managing agency shall keep a log of the names of all overnight residents of the temporary homeless encampment and the date(s) upon which they stayed.

K. The host religious organization and/or the managing agency shall ensure that the Monroe Police Department has completed sex offender checks of all adult residents and guests of the temporary encampment. The host religious organization retains the authority to allow such offenders to remain on the property.

L. Periodic inspections of the temporary encampment by public officials from agencies with applicable regulatory jurisdiction, including without limitation the fire marshal, may be conducted at reasonable times, consistent with applicable constitutional and statutory standards.

M. Any host religious organization must work with the city to utilize Washington's homeless client management information system, as provided for in RCW 43.185C.180.

1. When there is no managing agency, the host religious organization is encouraged to partner with a local homeless services provider using the Washington homeless client managing information system.

2. Any managing agency receiving any funding from local continuum of care programs must utilize the homeless client management information system.

3. Temporary, overnight, extreme weather shelters provided in religious organization buildings are exempt from the requirements of this subsection.

22.90.050 Memorandum of understanding.

A. The city shall require the host religious organization and/or a managing agency to execute a memorandum of understanding to protect the health and safety of both the residents of the temporary encampment and that of the public. Any such memorandum of understanding must, at a minimum, include information regarding:

1. The right of a temporary encampment resident to seek public health and safety assistance;

2. The resident's ability to access social services on-site;

3. The resident's ability to directly interact with the host religious organization, including the ability to express any concerns regarding the managing agency to the religious organization;

4. A written code of conduct agreed to by the managing agency, if any, host religious organization, and all volunteers working with residents; and

5. Where a publicly funded managing agency exists, the ability for the host religious organization to interact with residents using a release of information.

B. The zoning administrator, in consultation with the city attorney, is authorized to negotiate and execute on behalf of the city a memorandum of understanding under this section.

22.90.060. Outdoor encampments.

A. The hosting term of an outdoor encampment shall not exceed four consecutive months;

B. At least three months shall lapse between subsequent or established outdoor encampments at a particular site.

C. Simultaneous and adjacent hostings of outdoor encampments by a religious organization shall not be located within 1,000 feet of another outdoor encampment concurrently hosted by the same or different religious organization.

D. An outdoor encampment shall be located a minimum of 20 feet from the property line of abutting properties.

F. Any exterior lighting must be directed downward and contained within the outdoor encampment.

G. The maximum residential density of an outdoor encampment is one occupant per 400 square feet of parcel area; provided, that the maximum number of occupants within an outdoor encampment shall not exceed 100 regardless of the size of the parcel.

H. An outdoor encampment shall comply with the following fire safety requirements:

1. All tents exceeding 300 square feet, and all canopies exceeding 400 square feet, shall be comprised of flame retardant materials.

2. Open flames are prohibited in an outdoor encampment.

3. If temporary structures other than tents are used for habitation within an outdoor encampment, each such structure shall have a door, at least one egress window, and shall be equipped with a functional smoke detector.

4. An adequate power supply to the outdoor encampment is required; provided, that properly permitted and installed construction site type electrical boxes may be approved by the zoning administrator.

5. Only wired electrical heating is allowed within tents and other temporary structures used for habitation at an outdoor encampment.

I. The outdoor encampment shall ensure a minimum separation of six feet between structures, including tents.

22.90.070 Indoor overnight shelters.

The city shall not limit a religious organization's availability to host an indoor overnight shelter in spaces with at least two accessible exits due to lack of sprinklers or other fire-related concerns, except that:

1. If the fire code official finds that fire-related concerns associated with an indoor overnight shelter pose an imminent danger to persons within the shelter, the city may take action to limit the religious organization's availability to host the indoor overnight shelter; and

2. The city may require a host religious organization to enter into a memorandum of understanding for fire safety that includes:

a. Inspections by the fire code official;

b. An outline for appropriate emergency procedures;

c. A determination of the most viable means to evacuate occupants from inside the host site with appropriate illuminated exit signage;

d. Panic bar exit doors; and

e. A completed firewatch agreement indicating:

i. Posted safe means of egress;

ii. Operable smoke detectors, carbon monoxide detectors as necessary, and fire extinguishers;

iii. A plan for monitors who spend the night awake and are familiar with emergency protocols, who have suitable communication devices, and who know how to contact the fire department.

22.90.080 Temporary small houses on-site.

The city shall not limit a religious organization's ability to host temporary small houses on land owned or controlled by the religious organization, except for recommendations that are in accord with the following criteria:

1. A renewable one-year duration agreed to by the host religious organization and the city via a memorandum of understanding;

2. Maintaining a maximum unit square footage of one 120 square feet, with units set at least six feet apart;

3. Electricity and heat, if provided, must be inspected by the city;

4. Space heaters, if provided, must be approved by the local fire authority;
5. Doors and windows must be included and be lockable, with a recommendation that the managing agency and host religious organization also possess keys;
6. Each unit must have a fire extinguisher;
7. Adequate restrooms must be provided, including restrooms solely for families if present, along with handwashing and potable running water to be available if not provided within the individual units, including accommodating black water;
8. A recommendation for the host religious organization to partner with regional homeless service providers to develop pathways to permanent housing.

22.90.090 Vehicle resident safe parking areas.

A. The city shall not limit a religious organization's availability to host safe parking efforts at its on-site parking lot, including limitations on any other congregationally-sponsored uses and the parking available to support such uses during the hosting, provided that the following criteria are met:

1. No less than one space may be devoted to safe parking per ten on-site parking spaces;
2. Restroom access must be provided either within the buildings on the property or through use of portable facilities, with the provision for proper disposal of waste is recreational vehicles are hosted; and
3. The religious organization providing spaces for safe parking shall abide by all existing on-site parking minimum requirements so that the provision of safe parking spaces does not reduce the total number of available parking spaces below the minimum number of spaces otherwise required by the MMC. Provided, the City may in its discretion enter into a memorandum of understanding with the religious organization that reduces the minimum number of on-site parking spaces required.

B. The host religious organization or the managing agency must inform vehicle residents how to comply with laws regarding the legal status of vehicles and drivers, and provide a written code of conduct consistent with applicable city standards.

22.90.100. Application and review process; appeals.

A. Application. The completed application for a temporary encampment, which shall be signed by the host religious organization and/or managing agency, and shall contain, at a minimum, contact information for the applicant, and detailed information regarding the following:

1. How the proposed temporary encampment will meet the requirements set forth in this chapter;
 2. Potential adverse effects that the proposed temporary encampment will likely have on neighboring properties and the community;
 3. Measures to mitigate such adverse effects;
 4. A proposed written code of conduct for the temporary encampment;
 5. Measures to meet the applicable requirements of the International Fire Code;
- and
6. Certification that the applicant has taken and/or will take all reasonable and legal steps to obtain verifiable identification from current and prospective encampment residents and shall ensure that the Monroe Police Department has and/or will have completed sex offender checks of all adult residents and guests of the temporary encampment. The form of the notice and the application shall be provided by the zoning administrator upon request by the applicant.

B. Community Meeting. Unless the use is in response to a declared emergency, the host shall hold a meeting open to the public prior to the opening of a temporary

encampment. The purpose of the community meeting is to provide the surrounding community with information regarding the proposed duration and operation of the encampment, conditions that will likely be placed on the operation of the encampment, requirements of the written code of conduct, and to answer questions regarding the encampment. The religious organization must provide written notice of the community meeting to the city council at least one week, if possible, but no later than ninety-six hours prior to the meeting.

1. The notice must specify the time, place, and purpose of the meeting.
2. Public notice of the meeting shall be provided by the city by taking at least two of the following actions at any time prior to the time of the meeting:
 - a. Delivering to each local newspaper of general circulation and local radio or television station that has on file with the city a written request to be notified of special meetings;
 - b. Posting on the city's web site;
 - c. Prominently displaying, on signage at least two feet in height and two feet in width, one or more meeting notices that can be placed on or adjacent to the main arterials in proximity to the location of the meeting; or
 - d. Prominently displaying the notice at the meeting site.
- C. Application Review. The zoning administrator shall issue a decision approving, approving with conditions, or denying the application for a temporary homeless encampment within fourteen days of the date that the application was submitted.
- D. Decision. A notice of decision for the temporary encampment, or summary thereof, shall contain the decision of the zoning administrator approving, approving with conditions, or denying the application, and the appeal procedure, and shall be distributed as required within four business days after the decision.
- E. Conditions of Approval. Reasonable conditions of approval may be established as deemed necessary by the zoning administrator in order to protect the health, safety and welfare of the public and the occupants of the temporary homeless encampment, consistent with this chapter and applicable federal and state law. Without limitation of the foregoing, any such conditions of approval shall comply with RCW 35A.21.360 and applicable state and federal law concerning religious exercise.
- F. Appeal. The zoning administrator's decision to approve, approve with conditions, or deny the application is appealable directly to Snohomish County Superior Court in accordance with the procedures and timeframes of the Land Use Petition Act, Chapter 36.70C RCW.

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1754

Chapter 223, Laws of 2020

66th Legislature
2020 Regular Session

RELIGIOUS ORGANIZATIONS--HOSTING OF THE HOMELESS

EFFECTIVE DATE: June 11, 2020

Passed by the House March 7, 2020
Yeas 97 Nays 0

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate March 3, 2020
Yeas 42 Nays 7

CYRUS HABIB

President of the Senate

Approved March 31, 2020 10:45 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1754** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

March 31, 2020

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1754

AS AMENDED BY THE SENATE

Passed Legislature - 2020 Regular Session

State of Washington 66th Legislature 2019 Regular Session

By House Housing, Community Development & Veterans (originally sponsored by Representatives Santos, Jinkins, and Pollet)

READ FIRST TIME 02/21/19.

1 AN ACT Relating to the hosting of the homeless by religious
2 organizations; amending RCW 36.01.290, 35.21.915, and 35A.21.360; and
3 creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The legislature makes the following
6 findings:

7 (a) Residents in temporary settings hosted by religious
8 organizations are a particularly vulnerable population that do not
9 have access to the same services as citizens with more stable
10 housing.

11 (b) Residents in these settings, including outdoor uses such as
12 outdoor encampments, indoor overnight shelters, temporary small
13 houses on-site, and homeless-occupied vehicle resident safe parking,
14 can be at increased risk of exploitation, theft, unsanitary living
15 conditions, and physical harm.

16 (c) Furthermore, the legislature finds and declares that hosted
17 outdoor encampments, indoor overnight shelters, temporary small
18 houses on-site, and homeless-occupied vehicle resident safe parking
19 serve as pathways for individuals experiencing homelessness to
20 receive services and achieve financial stability, health, and
21 permanent housing.

1 (2) The legislature intends that local municipalities have the
2 discretion to protect the health and safety of both residents in
3 temporary settings that are hosted by religious organizations and the
4 surrounding community. The legislature encourages local jurisdictions
5 and religious organizations to work together collaboratively to
6 protect the health and safety of residents and the surrounding
7 community while allowing religious organizations to fulfill their
8 mission to serve the homeless. The legislature further intends to
9 monitor the implementation of this act and continue to refine it to
10 achieve these goals.

11 **Sec. 2.** RCW 36.01.290 and 2010 c 175 s 2 are each amended to
12 read as follows:

13 (1) A religious organization may host (~~temporary encampments~~
14 ~~for~~) the homeless on property owned or controlled by the religious
15 organization whether within buildings located on the property or
16 elsewhere on the property outside of buildings.

17 (2) Except as provided in subsection (7) of this section, a
18 county may not enact an ordinance or regulation or take any other
19 action that:

20 (a) Imposes conditions other than those necessary to protect
21 public health and safety and that do not substantially burden the
22 decisions or actions of a religious organization regarding the
23 location of housing or shelter, such as an outdoor encampment, indoor
24 overnight shelter, temporary small house on-site, or vehicle resident
25 safe parking, for homeless persons on property owned or controlled by
26 the religious organization;

27 (b) Requires a religious organization to obtain insurance
28 pertaining to the liability of a municipality with respect to
29 homeless persons housed on property owned by a religious organization
30 or otherwise requires the religious organization to indemnify the
31 municipality against such liability; (~~or~~)

32 (c) Imposes permit fees in excess of the actual costs associated
33 with the review and approval of (~~the required~~) permit applications.
34 A county has discretion to reduce or waive permit fees for a
35 religious organization that is hosting the homeless;

36 (d) Specifically limits a religious organization's availability
37 to host an outdoor encampment on its property or property controlled
38 by the religious organization to fewer than six months during any
39 calendar year. However, a county may enact an ordinance or regulation

1 that requires a separation of time of no more than three months
2 between subsequent or established outdoor encampments at a particular
3 site;

4 (e) Specifically limits a religious organization's outdoor
5 encampment hosting term to fewer than four consecutive months;

6 (f) Limits the number of simultaneous religious organization
7 outdoor encampment hostings within the same municipality during any
8 given period of time. Simultaneous and adjacent hostings of outdoor
9 encampments by religious organizations may be limited if located
10 within one thousand feet of another outdoor encampment concurrently
11 hosted by a religious organization;

12 (g) Limits a religious organization's availability to host safe
13 parking efforts at its on-site parking lot, including limitations on
14 any other congregationally sponsored uses and the parking available
15 to support such uses during the hosting, except for limitations that
16 are in accord with the following criteria that would govern if
17 enacted by local ordinance or memorandum of understanding between the
18 host religious organization and the jurisdiction:

19 (i) No less than one space may be devoted to safe parking per ten
20 on-site parking spaces;

21 (ii) Restroom access must be provided either within the buildings
22 on the property or through use of portable facilities, with the
23 provision for proper disposal of waste if recreational vehicles are
24 hosted; and

25 (iii) Religious organizations providing spaces for safe parking
26 must continue to abide by any existing on-site parking minimum
27 requirement so that the provision of safe parking spaces does not
28 reduce the total number of available parking spaces below the minimum
29 number of spaces required by the county, but a county may enter into
30 a memorandum of understanding with a religious organization that
31 reduces the minimum number of on-site parking spaces required;

32 (h) Limits a religious organization's availability to host an
33 indoor overnight shelter in spaces with at least two accessible exits
34 due to lack of sprinklers or other fire-related concerns, except
35 that:

36 (i) If a county fire official finds that fire-related concerns
37 associated with an indoor overnight shelter pose an imminent danger
38 to persons within the shelter, the county may take action to limit
39 the religious organization's availability to host the indoor
40 overnight shelter; and

1 (ii) A county may require a host religious organization to enter
2 into a memorandum of understanding for fire safety that includes
3 local fire district inspections, an outline for appropriate emergency
4 procedures, a determination of the most viable means to evacuate
5 occupants from inside the host site with appropriate illuminated exit
6 signage, panic bar exit doors, and a completed fire watch agreement
7 indicating:

8 (A) Posted safe means of egress;

9 (B) Operable smoke detectors, carbon monoxide detectors as
10 necessary, and fire extinguishers;

11 (C) A plan for monitors who spend the night awake and are
12 familiar with emergency protocols, who have suitable communication
13 devices, and who know how to contact the local fire department; or

14 (i) Limits a religious organization's ability to host temporary
15 small houses on land owned or controlled by the religious
16 organization, except for recommendations that are in accord with the
17 following criteria:

18 (i) A renewable one-year duration agreed to by the host religious
19 organization and local jurisdiction via a memorandum of
20 understanding;

21 (ii) Maintaining a maximum unit square footage of one hundred
22 twenty square feet, with units set at least six feet apart;

23 (iii) Electricity and heat, if provided, must be inspected by the
24 local jurisdiction;

25 (iv) Space heaters, if provided, must be approved by the local
26 fire authority;

27 (v) Doors and windows must be included and be lockable, with a
28 recommendation that the managing agency and host religious
29 organization also possess keys;

30 (vi) Each unit must have a fire extinguisher;

31 (vii) Adequate restrooms must be provided, including restrooms
32 solely for families if present, along with handwashing and potable
33 running water to be available if not provided within the individual
34 units, including accommodating black water;

35 (viii) A recommendation for the host religious organization to
36 partner with regional homeless service providers to develop pathways
37 to permanent housing.

38 (3) (a) A county may enact an ordinance or regulation or take any
39 other action that requires a host religious organization and a
40 distinct managing agency using the religious organization's property,

1 owned or controlled by the religious organization, for hostings to
2 include outdoor encampments, temporary small houses on-site, indoor
3 overnight shelters, or vehicle resident safe parking to enter into a
4 memorandum of understanding to protect the public health and safety
5 of both the residents of the particular hosting and the residents of
6 the county.

7 (b) At a minimum, the agreement must include information
8 regarding: The right of a resident in an outdoor encampment, vehicle
9 resident safe parking, temporary small house on-site, or indoor
10 overnight shelter to seek public health and safety assistance, the
11 resident's ability to access social services on-site, and the
12 resident's ability to directly interact with the host religious
13 organization, including the ability to express any concerns regarding
14 the managing agency to the religious organization; a written code of
15 conduct agreed to by the managing agency, if any, host religious
16 organization, and all volunteers working with residents of the
17 outdoor encampment, temporary small house on-site, indoor overnight
18 shelter, or vehicle resident safe parking; and when a publicly funded
19 managing agency exists, the ability for the host religious
20 organization to interact with residents of the outdoor encampment,
21 indoor overnight shelter, temporary small house on-site, or vehicle
22 resident safe parking using a release of information.

23 (4) If required to do so by the county, any host religious
24 organization performing any hosting of an outdoor encampment, vehicle
25 resident safe parking, or indoor overnight shelter, or the host
26 religious organization's managing agency, must ensure that the county
27 or local law enforcement agency has completed sex offender checks of
28 all adult residents and guests. The host religious organization
29 retains the authority to allow such offenders to remain on the
30 property. A host religious organization or host religious
31 organization's managing agency performing any hosting of vehicle
32 resident safe parking must inform vehicle residents how to comply
33 with laws regarding the legal status of vehicles and drivers, and
34 provide a written code of conduct consistent with area standards.

35 (5) Any host religious organization performing any hosting of an
36 outdoor encampment, vehicle resident safe parking, temporary small
37 house on-site, or indoor overnight shelter, with a publicly funded
38 managing agency, must work with the county to utilize Washington's
39 homeless client management information system, as provided for in RCW
40 43.185C.180. When the religious organization does not partner with a

1 managing agency, the religious organization is encouraged to partner
2 with a local homeless services provider using the Washington homeless
3 client managing information system. Any managing agency receiving any
4 funding from local continuum of care programs must utilize the
5 homeless client management information system. Temporary, overnight,
6 extreme weather shelter provided in religious organization buildings
7 does not need to meet this requirement.

8 (6) For the purposes of this section((7)):

9 (a) "Managing agency" means an organization such as a religious
10 organization or other organized entity that has the capacity to
11 organize and manage a homeless outdoor encampment, temporary small
12 houses on-site, indoor overnight shelter, and a vehicle resident safe
13 parking program.

14 (b) "Outdoor encampment" means any temporary tent or structure
15 encampment, or both.

16 (c) "Religious organization" means the federally protected
17 practice of a recognized religious assembly, school, or institution
18 that owns or controls real property.

19 (d) "Temporary" means not affixed to land permanently and not
20 using underground utilities.

21 ((4)) (7)(a) Subsection (2) of this section does not affect a
22 county policy, ordinance, memorandum of understanding, or applicable
23 consent decree that regulates religious organizations' hosting of the
24 homeless if such policies, ordinances, memoranda of understanding, or
25 consent decrees:

26 (i) Exist prior to the effective date of this section;

27 (ii) Do not categorically prohibit the hosting of the homeless by
28 religious organizations; and

29 (iii) Have not been previously ruled by a court to violate the
30 religious land use and institutionalized persons act, 42 U.S.C. Sec.
31 2000cc.

32 (b) If such policies, ordinances, memoranda of understanding, and
33 consent decrees are amended after the effective date of this section,
34 those amendments are not affected by subsection (2) of this section
35 if those amendments satisfy (a)(ii) and (iii) of this subsection.

36 (8) An appointed or elected public official, public employee, or
37 public agency as defined in RCW 4.24.470 is immune from civil
38 liability for (a) damages arising from the permitting decisions for a
39 temporary encampment for the homeless as provided in this section and
40 (b) any conduct or unlawful activity that may occur as a result of

1 the temporary encampment for the homeless as provided in this
2 section.

3 (9) A religious organization hosting outdoor encampments, vehicle
4 resident safe parking, or indoor overnight shelters for the homeless
5 that receives funds from any government agency may not refuse to host
6 any resident or prospective resident because of age, sex, marital
7 status, sexual orientation, race, creed, color, national origin,
8 honorably discharged veteran or military status, or the presence of
9 any sensory, mental, or physical disability or the use of a trained
10 dog guide or service animal by a person with a disability, as these
11 terms are defined in RCW 49.60.040.

12 (10)(a) Prior to the opening of an outdoor encampment, indoor
13 overnight shelter, temporary small house on-site, or vehicle resident
14 safe parking, a religious organization hosting the homeless on
15 property owned or controlled by the religious organization must host
16 a meeting open to the public for the purpose of providing a forum for
17 discussion of related neighborhood concerns, unless the use is in
18 response to a declared emergency. The religious organization must
19 provide written notice of the meeting to the county legislative
20 authority at least one week if possible but no later than ninety-six
21 hours prior to the meeting. The notice must specify the time, place,
22 and purpose of the meeting.

23 (b) A county must provide community notice of the meeting
24 described in (a) of this subsection by taking at least two of the
25 following actions at any time prior to the time of the meeting:

26 (i) Delivering to each local newspaper of general circulation and
27 local radio or television station that has on file with the governing
28 body a written request to be notified of special meetings;

29 (ii) Posting on the county's web site. A county is not required
30 to post a special meeting notice on its web site if it: (A) Does not
31 have a web site; (B) employs fewer than ten full-time equivalent
32 employees; or (C) does not employ personnel whose duty, as defined by
33 a job description or existing contract, is to maintain or update the
34 web site;

35 (iii) Prominently displaying, on signage at least two feet in
36 height and two feet in width, one or more meeting notices that can be
37 placed on or adjacent to the main arterials in proximity to the
38 location of the meeting; or

39 (iv) Prominently displaying the notice at the meeting site.

1 **Sec. 3.** RCW 35.21.915 and 2010 c 175 s 3 are each amended to
2 read as follows:

3 (1) A religious organization may host (~~temporary encampments~~
4 ~~for~~) the homeless on property owned or controlled by the religious
5 organization whether within buildings located on the property or
6 elsewhere on the property outside of buildings.

7 (2) Except as provided in subsection (7) of this section, a city
8 or town may not enact an ordinance or regulation or take any other
9 action that:

10 (a) Imposes conditions other than those necessary to protect
11 public health and safety and that do not substantially burden the
12 decisions or actions of a religious organization regarding the
13 location of housing or shelter, such as an outdoor encampment, indoor
14 overnight shelter, temporary small house on-site, or vehicle resident
15 safe parking, for homeless persons on property owned or controlled by
16 the religious organization;

17 (b) Requires a religious organization to obtain insurance
18 pertaining to the liability of a municipality with respect to
19 homeless persons housed on property owned by a religious organization
20 or otherwise requires the religious organization to indemnify the
21 municipality against such liability; (~~or~~)

22 (c) Imposes permit fees in excess of the actual costs associated
23 with the review and approval of (~~the required~~) permit applications.
24 A city or town has discretion to reduce or waive permit fees for a
25 religious organization that is hosting the homeless;

26 (d) Specifically limits a religious organization's availability
27 to host an outdoor encampment on its property or property controlled
28 by the religious organization to fewer than six months during any
29 calendar year. However, a city or town may enact an ordinance or
30 regulation that requires a separation of time of no more than three
31 months between subsequent or established outdoor encampments at a
32 particular site;

33 (e) Specifically limits a religious organization's outdoor
34 encampment hosting term to fewer than four consecutive months;

35 (f) Limits the number of simultaneous religious organization
36 outdoor encampment hostings within the same municipality during any
37 given period of time. Simultaneous and adjacent hostings of outdoor
38 encampments by religious organizations may be limited if located
39 within one thousand feet of another outdoor encampment concurrently
40 hosted by a religious organization;

1 (g) Limits a religious organization's availability to host safe
2 parking efforts at its on-site parking lot, including limitations on
3 any other congregationally sponsored uses and the parking available
4 to support such uses during the hosting, except for limitations that
5 are in accord with the following criteria that would govern if
6 enacted by local ordinance or memorandum of understanding between the
7 host religious organization and the jurisdiction:

8 (i) No less than one space may be devoted to safe parking per ten
9 on-site parking spaces;

10 (ii) Restroom access must be provided either within the buildings
11 on the property or through use of portable facilities, with the
12 provision for proper disposal of waste if recreational vehicles are
13 hosted; and

14 (iii) Religious organizations providing spaces for safe parking
15 must continue to abide by any existing on-site parking minimum
16 requirement so that the provision of safe parking spaces does not
17 reduce the total number of available parking spaces below the minimum
18 number of spaces required by the city or town, but a city or town may
19 enter into a memorandum of understanding with a religious
20 organization that reduces the minimum number of on-site parking
21 spaces required;

22 (h) Limits a religious organization's availability to host an
23 indoor overnight shelter in spaces with at least two accessible exits
24 due to lack of sprinklers or other fire-related concerns, except
25 that:

26 (i) If a city or town fire official finds that fire-related
27 concerns associated with an indoor overnight shelter pose an imminent
28 danger to persons within the shelter, the city or town may take
29 action to limit the religious organization's availability to host the
30 indoor overnight shelter; and

31 (ii) A city or town may require a host religious organization to
32 enter into a memorandum of understanding for fire safety that
33 includes local fire district inspections, an outline for appropriate
34 emergency procedures, a determination of the most viable means to
35 evacuate occupants from inside the host site with appropriate
36 illuminated exit signage, panic bar exit doors, and a completed fire
37 watch agreement indicating:

38 (A) Posted safe means of egress;

39 (B) Operable smoke detectors, carbon monoxide detectors as
40 necessary, and fire extinguishers;

1 (C) A plan for monitors who spend the night awake and are
2 familiar with emergency protocols, who have suitable communication
3 devices, and who know how to contact the local fire department; or

4 (i) Limits a religious organization's ability to host temporary
5 small houses on land owned or controlled by the religious
6 organization, except for recommendations that are in accord with the
7 following criteria:

8 (i) A renewable one-year duration agreed to by the host religious
9 organization and local jurisdiction via a memorandum of
10 understanding;

11 (ii) Maintaining a maximum unit square footage of one hundred
12 twenty square feet, with units set at least six feet apart;

13 (iii) Electricity and heat, if provided, must be inspected by the
14 local jurisdiction;

15 (iv) Space heaters, if provided, must be approved by the local
16 fire authority;

17 (v) Doors and windows must be included and be lockable, with a
18 recommendation that the managing agency and host religious
19 organization also possess keys;

20 (vi) Each unit must have a fire extinguisher;

21 (vii) Adequate restrooms must be provided, including restrooms
22 solely for families if present, along with handwashing and potable
23 running water to be available if not provided within the individual
24 units, including accommodating black water;

25 (viii) A recommendation for the host religious organization to
26 partner with regional homeless service providers to develop pathways
27 to permanent housing.

28 (3)(a) A city or town may enact an ordinance or regulation or
29 take any other action that requires a host religious organization and
30 a distinct managing agency using the religious organization's
31 property, owned or controlled by the religious organization, for
32 hostings to include outdoor encampments, temporary small houses on-
33 site, indoor overnight shelters, or vehicle resident safe parking to
34 enter into a memorandum of understanding to protect the public health
35 and safety of both the residents of the particular hosting and the
36 residents of the city or town.

37 (b) At a minimum, the agreement must include information
38 regarding: The right of a resident in an outdoor encampment, vehicle
39 resident safe parking, temporary small house on-site, or indoor
40 overnight shelter to seek public health and safety assistance, the

1 resident's ability to access social services on-site, and the
2 resident's ability to directly interact with the host religious
3 organization, including the ability to express any concerns regarding
4 the managing agency to the religious organization; a written code of
5 conduct agreed to by the managing agency, if any, host religious
6 organization, and all volunteers working with residents of the
7 outdoor encampment, temporary small house on-site, indoor overnight
8 shelter, or vehicle resident safe parking; and when a publicly funded
9 managing agency exists, the ability for the host religious
10 organization to interact with residents of the outdoor encampment,
11 indoor overnight shelter, temporary small house on-site, or vehicle
12 resident safe parking using a release of information.

13 (4) If required to do so by a city or town, any host religious
14 organization performing any hosting of an outdoor encampment, vehicle
15 resident safe parking, or indoor overnight shelter, or the host
16 religious organization's managing agency, must ensure that the city
17 or town or local law enforcement agency has completed sex offender
18 checks of all adult residents and guests. The host religious
19 organization retains the authority to allow such offenders to remain
20 on the property. A host religious organization or host religious
21 organization's managing agency performing any hosting of vehicle
22 resident safe parking must inform vehicle residents how to comply
23 with laws regarding the legal status of vehicles and drivers, and
24 provide a written code of conduct consistent with area standards.

25 (5) Any host religious organization performing any hosting of an
26 outdoor encampment, vehicle resident safe parking, temporary small
27 house on-site, or indoor overnight shelter, with a publicly funded
28 managing agency, must work with the city or town to utilize
29 Washington's homeless client management information system, as
30 provided for in RCW 43.185C.180. When the religious organization does
31 not partner with a managing agency, the religious organization is
32 encouraged to partner with a local homeless services provider using
33 the Washington homeless client managing information system. Any
34 managing agency receiving any funding from local continuum of care
35 programs must utilize the homeless client management information
36 system. Temporary, overnight, extreme weather shelter provided in
37 religious organization buildings does not need to meet this
38 requirement.

39 (6) For the purposes of this section((7)):

1 (a) "Managing agency" means an organization such as a religious
2 organization or other organized entity that has the capacity to
3 organize and manage a homeless outdoor encampment, temporary small
4 houses on-site, indoor overnight shelter, and a vehicle resident safe
5 parking program.

6 (b) "Outdoor encampment" means any temporary tent or structure
7 encampment, or both.

8 (c) "Religious organization" means the federally protected
9 practice of a recognized religious assembly, school, or institution
10 that owns or controls real property.

11 (d) "Temporary" means not affixed to land permanently and not
12 using underground utilities.

13 ((4)) (7)(a) Subsection (2) of this section does not affect a
14 city or town policy, ordinance, memorandum of understanding, or
15 applicable consent decree that regulates religious organizations'
16 hosting of the homeless if such policies, ordinances, memoranda of
17 understanding, or consent decrees:

18 (i) Exist prior to the effective date of this section;

19 (ii) Do not categorically prohibit the hosting of the homeless by
20 religious organizations; and

21 (iii) Have not been previously ruled by a court to violate the
22 religious land use and institutionalized persons act, 42 U.S.C. Sec.
23 2000cc.

24 (b) If such policies, ordinances, memoranda of understanding, and
25 consent decrees are amended after the effective date of this section,
26 those amendments are not affected by subsection (2) of this section
27 if those amendments satisfy (a) (ii) and (iii) of this subsection.

28 (8) An appointed or elected public official, public employee, or
29 public agency as defined in RCW 4.24.470 is immune from civil
30 liability for (a) damages arising from the permitting decisions for a
31 temporary encampment for the homeless as provided in this section and
32 (b) any conduct or unlawful activity that may occur as a result of
33 the temporary encampment for the homeless as provided in this
34 section.

35 (9) A religious organization hosting outdoor encampments, vehicle
36 resident safe parking, or indoor overnight shelters for the homeless
37 that receives funds from any government agency may not refuse to host
38 any resident or prospective resident because of age, sex, marital
39 status, sexual orientation, race, creed, color, national origin,
40 honorably discharged veteran or military status, or the presence of

1 any sensory, mental, or physical disability or the use of a trained
2 dog guide or service animal by a person with a disability, as these
3 terms are defined in RCW 49.60.040.

4 (10)(a) Prior to the opening of an outdoor encampment, indoor
5 overnight shelter, temporary small house on-site, or vehicle resident
6 safe parking, a religious organization hosting the homeless on
7 property owned or controlled by the religious organization must host
8 a meeting open to the public for the purpose of providing a forum for
9 discussion of related neighborhood concerns, unless the use is in
10 response to a declared emergency. The religious organization must
11 provide written notice of the meeting to the city or town legislative
12 authority at least one week if possible but no later than ninety-six
13 hours prior to the meeting. The notice must specify the time, place,
14 and purpose of the meeting.

15 (b) A city or town must provide community notice of the meeting
16 described in (a) of this subsection by taking at least two of the
17 following actions at any time prior to the time of the meeting:

18 (i) Delivering to each local newspaper of general circulation and
19 local radio or television station that has on file with the governing
20 body a written request to be notified of special meetings;

21 (ii) Posting on the city or town's web site. A city or town is
22 not required to post a special meeting notice on its web site if it:
23 (A) Does not have a web site; (B) employs fewer than ten full-time
24 equivalent employees; or (C) does not employ personnel whose duty, as
25 defined by a job description or existing contract, is to maintain or
26 update the web site;

27 (iii) Prominently displaying, on signage at least two feet in
28 height and two feet in width, one or more meeting notices that can be
29 placed on or adjacent to the main arterials in proximity to the
30 location of the meeting; or

31 (iv) Prominently displaying the notice at the meeting site.

32 **Sec. 4.** RCW 35A.21.360 and 2010 c 175 s 4 are each amended to
33 read as follows:

34 (1) A religious organization may host (~~temporary encampments~~
35 ~~for~~) the homeless on property owned or controlled by the religious
36 organization whether within buildings located on the property or
37 elsewhere on the property outside of buildings.

1 (2) Except as provided in subsection (7) of this section, a code
2 city may not enact an ordinance or regulation or take any other
3 action that:

4 (a) Imposes conditions other than those necessary to protect
5 public health and safety and that do not substantially burden the
6 decisions or actions of a religious organization regarding the
7 location of housing or shelter, such as an outdoor encampment, indoor
8 overnight shelter, temporary small house on-site, or vehicle resident
9 safe parking, for homeless persons on property owned or controlled by
10 the religious organization;

11 (b) Requires a religious organization to obtain insurance
12 pertaining to the liability of a municipality with respect to
13 homeless persons housed on property owned by a religious organization
14 or otherwise requires the religious organization to indemnify the
15 municipality against such liability; ~~((or))~~

16 (c) Imposes permit fees in excess of the actual costs associated
17 with the review and approval of ~~((the required))~~ permit applications.
18 A code city has discretion to reduce or waive permit fees for a
19 religious organization that is hosting the homeless;

20 (d) Specifically limits a religious organization's availability
21 to host an outdoor encampment on its property or property controlled
22 by the religious organization to fewer than six months during any
23 calendar year. However, a code city may enact an ordinance or
24 regulation that requires a separation of time of no more than three
25 months between subsequent or established outdoor encampments at a
26 particular site;

27 (e) Specifically limits a religious organization's outdoor
28 encampment hosting term to fewer than four consecutive months;

29 (f) Limits the number of simultaneous religious organization
30 outdoor encampment hostings within the same municipality during any
31 given period of time. Simultaneous and adjacent hostings of outdoor
32 encampments by religious organizations may be limited if located
33 within one thousand feet of another outdoor encampment concurrently
34 hosted by a religious organization;

35 (g) Limits a religious organization's availability to host safe
36 parking efforts at its on-site parking lot, including limitations on
37 any other congregationally sponsored uses and the parking available
38 to support such uses during the hosting, except for limitations that
39 are in accord with the following criteria that would govern if

1 enacted by local ordinance or memorandum of understanding between the
2 host religious organization and the jurisdiction:

3 (i) No less than one space may be devoted to safe parking per ten
4 on-site parking spaces;

5 (ii) Restroom access must be provided either within the buildings
6 on the property or through use of portable facilities, with the
7 provision for proper disposal of waste if recreational vehicles are
8 hosted; and

9 (iii) Religious organizations providing spaces for safe parking
10 must continue to abide by any existing on-site parking minimum
11 requirement so that the provision of safe parking spaces does not
12 reduce the total number of available parking spaces below the minimum
13 number of spaces required by the code city, but a code city may enter
14 into a memorandum of understanding with a religious organization that
15 reduces the minimum number of on-site parking spaces required;

16 (h) Limits a religious organization's availability to host an
17 indoor overnight shelter in spaces with at least two accessible exits
18 due to lack of sprinklers or other fire-related concerns, except
19 that:

20 (i) If a code city fire official finds that fire-related concerns
21 associated with an indoor overnight shelter pose an imminent danger
22 to persons within the shelter, the code city may take action to limit
23 the religious organization's availability to host the indoor
24 overnight shelter; and

25 (ii) A code city may require a host religious organization to
26 enter into a memorandum of understanding for fire safety that
27 includes local fire district inspections, an outline for appropriate
28 emergency procedures, a determination of the most viable means to
29 evacuate occupants from inside the host site with appropriate
30 illuminated exit signage, panic bar exit doors, and a completed fire
31 watch agreement indicating:

32 (A) Posted safe means of egress;

33 (B) Operable smoke detectors, carbon monoxide detectors as
34 necessary, and fire extinguishers;

35 (C) A plan for monitors who spend the night awake and are
36 familiar with emergency protocols, who have suitable communication
37 devices, and who know how to contact the local fire department; or

38 (i) Limits a religious organization's ability to host temporary
39 small houses on land owned or controlled by the religious

1 organization, except for recommendations that are in accord with the
2 following criteria:

3 (i) A renewable one-year duration agreed to by the host religious
4 organization and local jurisdiction via a memorandum of
5 understanding;

6 (ii) Maintaining a maximum unit square footage of one hundred
7 twenty square feet, with units set at least six feet apart;

8 (iii) Electricity and heat, if provided, must be inspected by the
9 local jurisdiction;

10 (iv) Space heaters, if provided, must be approved by the local
11 fire authority;

12 (v) Doors and windows must be included and be lockable, with a
13 recommendation that the managing agency and host religious
14 organization also possess keys;

15 (vi) Each unit must have a fire extinguisher;

16 (vii) Adequate restrooms must be provided, including restrooms
17 solely for families if present, along with handwashing and potable
18 running water to be available if not provided within the individual
19 units, including accommodating black water;

20 (viii) A recommendation for the host religious organization to
21 partner with regional homeless service providers to develop pathways
22 to permanent housing.

23 (3)(a) A code city may enact an ordinance or regulation or take
24 any other action that requires a host religious organization and a
25 distinct managing agency using the religious organization's property,
26 owned or controlled by the religious organization, for hostings to
27 include outdoor encampments, temporary small houses on-site, indoor
28 overnight shelters, or vehicle resident safe parking to enter into a
29 memorandum of understanding to protect the public health and safety
30 of both the residents of the particular hosting and the residents of
31 the code city.

32 (b) At a minimum, the agreement must include information
33 regarding: The right of a resident in an outdoor encampment, vehicle
34 resident safe parking, temporary small house on-site, or indoor
35 overnight shelter to seek public health and safety assistance, the
36 resident's ability to access social services on-site, and the
37 resident's ability to directly interact with the host religious
38 organization, including the ability to express any concerns regarding
39 the managing agency to the religious organization; a written code of
40 conduct agreed to by the managing agency, if any, host religious

1 organization, and all volunteers working with residents of the
2 outdoor encampment, temporary small house on-site, indoor overnight
3 shelter, or vehicle resident safe parking; and when a publicly funded
4 managing agency exists, the ability for the host religious
5 organization to interact with residents of the outdoor encampment,
6 indoor overnight shelter, temporary small house on-site, or vehicle
7 resident safe parking using a release of information.

8 (4) If required to do so by a code city, any host religious
9 organization performing any hosting of an outdoor encampment, vehicle
10 resident safe parking, or indoor overnight shelter, or the host
11 religious organization's managing agency, must ensure that the code
12 city or local law enforcement agency has completed sex offender
13 checks of all adult residents and guests. The host religious
14 organization retains the authority to allow such offenders to remain
15 on the property. A host religious organization or host religious
16 organization's managing agency performing any hosting of vehicle
17 resident safe parking must inform vehicle residents how to comply
18 with laws regarding the legal status of vehicles and drivers, and
19 provide a written code of conduct consistent with area standards.

20 (5) Any host religious organization performing any hosting of an
21 outdoor encampment, vehicle resident safe parking, temporary small
22 house on-site, or indoor overnight shelter, with a publicly funded
23 managing agency, must work with the code city to utilize Washington's
24 homeless client management information system, as provided for in RCW
25 43.185C.180. When the religious organization does not partner with a
26 managing agency, the religious organization is encouraged to partner
27 with a local homeless services provider using the Washington homeless
28 client managing information system. Any managing agency receiving any
29 funding from local continuum of care programs must utilize the
30 homeless client management information system. Temporary, overnight,
31 extreme weather shelter provided in religious organization buildings
32 does not need to meet this requirement.

33 (6) For the purposes of this section((7)):

34 (a) "Managing agency" means an organization such as a religious
35 organization or other organized entity that has the capacity to
36 organize and manage a homeless outdoor encampment, temporary small
37 houses on-site, indoor overnight shelter, and a vehicle resident safe
38 parking program.

39 (b) "Outdoor encampment" means any temporary tent or structure
40 encampment, or both.

1 (c) "Religious organization" means the federally protected
2 practice of a recognized religious assembly, school, or institution
3 that owns or controls real property.

4 (d) "Temporary" means not affixed to land permanently and not
5 using underground utilities.

6 ((4)) (7)(a) Subsection (2) of this section does not affect a
7 code city policy, ordinance, memorandum of understanding, or
8 applicable consent decree that regulates religious organizations'
9 hosting of the homeless if such policies, ordinances, memoranda of
10 understanding, or consent decrees:

11 (i) Exist prior to the effective date of this section;

12 (ii) Do not categorically prohibit the hosting of the homeless by
13 religious organizations; and

14 (iii) Have not been previously ruled by a court to violate the
15 religious land use and institutionalized persons act, 42 U.S.C. Sec.
16 2000cc.

17 (b) If such policies, ordinances, memoranda of understanding, and
18 consent decrees are amended after the effective date of this section,
19 those amendments are not affected by subsection (2) of this section
20 if those amendments satisfy (a)(ii) and (iii) of this subsection.

21 (8) An appointed or elected public official, public employee, or
22 public agency as defined in RCW 4.24.470 is immune from civil
23 liability for (a) damages arising from the permitting decisions for a
24 temporary encampment for the homeless as provided in this section and
25 (b) any conduct or unlawful activity that may occur as a result of
26 the temporary encampment for the homeless as provided in this
27 section.

28 (9) A religious organization hosting outdoor encampments, vehicle
29 resident safe parking, or indoor overnight shelters for the homeless
30 that receives funds from any government agency may not refuse to host
31 any resident or prospective resident because of age, sex, marital
32 status, sexual orientation, race, creed, color, national origin,
33 honorably discharged veteran or military status, or the presence of
34 any sensory, mental, or physical disability or the use of a trained
35 dog guide or service animal by a person with a disability, as these
36 terms are defined in RCW 49.60.040.

37 (10)(a) Prior to the opening of an outdoor encampment, indoor
38 overnight shelter, temporary small house on-site, or vehicle resident
39 safe parking, a religious organization hosting the homeless on
40 property owned or controlled by the religious organization must host

1 a meeting open to the public for the purpose of providing a forum for
2 discussion of related neighborhood concerns, unless the use is in
3 response to a declared emergency. The religious organization must
4 provide written notice of the meeting to the code city legislative
5 authority at least one week if possible but no later than ninety-six
6 hours prior to the meeting. The notice must specify the time, place,
7 and purpose of the meeting.

8 (b) A code city must provide community notice of the meeting
9 described in (a) of this subsection by taking at least two of the
10 following actions at any time prior to the time of the meeting:

11 (i) Delivering to each local newspaper of general circulation and
12 local radio or television station that has on file with the governing
13 body a written request to be notified of special meetings;

14 (ii) Posting on the code city's web site. A code city is not
15 required to post a special meeting notice on its web site if it: (A)
16 Does not have a web site; (B) employs fewer than ten full-time
17 equivalent employees; or (C) does not employ personnel whose duty, as
18 defined by a job description or existing contract, is to maintain or
19 update the web site;

20 (iii) Prominently displaying, on signage at least two feet in
21 height and two feet in width, one or more meeting notices that can be
22 placed on or adjacent to the main arterials in proximity to the
23 location of the meeting; or

24 (iv) Prominently displaying the notice at the meeting site.

Passed by the House March 7, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 31, 2020.

Filed in Office of Secretary of State March 31, 2020.

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MONROE PLANNING COMMISSION

SUBJECT:	<i>Review of Wireless Communication Facilities (WCF) Code Amendments</i>
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DATE:	DEPT:	CONTACT:	PRESENTER:	ITEM:
06/22/2020	Community Development	Anita Marrero	Anita Marrero	Old Business # 1

Discussion: 04/22/2019, 05/13/2019, 06/10/2019, 06/24/2019, 07/08/2019, 05/11/2020, 06/22/2020

Public Hearing:

- Attachments:**
1. DRAFT WCF Code
 2. Letter addressed to the Planning Commission from the Wireless Policy Group, LLC dated May 11, 2020
 3. Email from resident Vicki Tolbert regarding 5G health concerns

REQUESTED ACTION: Review the revised WCF chapter and provide direction to staff.

POLICY CONSIDERATIONS

In September 2018 the Federal Communications Commission (FCC) issued a Declaratory Ruling and Order, *FCC 18-133: Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment* ("Order"), intended to facilitate and streamline implementation of small cell deployment infrastructure. The FCC Order requires amendments to the City's municipal code. The amendments primarily pertain to, but not exclusively, small cell technology. The FCC Order became effective on January 14, 2019. The Order curtails several aspects of the authority of localities to regulate wireless communication facilities, especially small cells. 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 as well as updating the current WCF code, MMC 22.62 Large Wireless Communication 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 communication facilities (WCFs) 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 wireless facilities feature equipment that is smaller and more densely sited than macro wireless facilities and are primarily located in the right-of-way. 5G equipment is comprised of an antenna less than 3 cubic feet, an equipment box (similar to the size of a brief case), and wiring, or "fiber". Small cell wireless facilities must be less than 50 feet tall. 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 macro wireless facilities, which mainly include separate, standalone cell towers and other wireless communication 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.

**CHAPTER 22.62
WIRELESS COMMUNICATION FACILITIES (WCF)**

Sections:

22.62.010	Purpose.
22.62.020	Applicability.
22.62.030	Definitions.
22.62.040	General Provisions.
22.62.050	Procedures for macro facilities.
22.62.070	Design and concealment standards for macro facilities.
22.62.080	Eligible Facilities Requests.
22.62.090	Review criteria for small wireless facilities.
22.62.100	Procedures for small wireless facilities.
22.62.110	Franchise application.
22.62.120	Modifications to small wireless facilities.
22.62.130	Hierarchy for small wireless facilities.
22.62.140	Decorative poles for small wireless facilities.
22.62.150	Design and concealment standards for small wireless facilities.
22.62.160	New poles in the right-of-way for small wireless facilities.
22.62.170	Deviations.
22.62.180	Obsolescence and Removal.

22.62.010 Purpose.

The purpose of this chapter is to regulate the placement, construction, and modification of wireless communication facilities, in order to protect the health, safety, and welfare of the public. This chapter provides design and review procedures for WCF's. These provisions are intended to provide standards to assist in minimizing the potential impacts associated with wireless communication facilities and to encourage creative approaches in their location and construction.

The City shall make every reasonable effort, consistent with any applicable provisions of state and federal law, to:

- A. Minimize potential adverse visual, aesthetic, and safety impacts of all wireless communication facilities.
- B. Establish objective standards for the placement of wireless communication facilities.
- C. Encourage the design of such wireless communication facilities to be aesthetically and architecturally compatible with the surrounding built and natural environments where possible.
- D. Encourage the collocation or attachment of wireless communication facilities on existing support structures to help minimize the total number and impact of such structures throughout the community.
- E. Comply with the federal presumptively reasonable time periods for review of macro facilities and for the deployment of small wireless facilities.

22.62.020 Applicability.

The placement of any wireless communication facility in any location within the City is subject to the provisions of this chapter.

- A. Any person holding a license from the FCC to provide wireless communications services who desires to place any wireless communication facility within the boundaries of the city must apply to the city for the appropriate wireless communication facility permit.
- B. Lease Required. In addition to the requirement of obtaining the appropriate wireless communication facility permit, if all or a portion of the wireless communication facility will be located upon a City-owned

structure, or upon non-right-of-way property, which is either City-owned or City-leased, the applicant shall be required to enter into a lease agreement with the City for the use of the City property.

C. Franchise Required. In addition to the requirement of obtaining the appropriate wireless communication facility permit, if all or a portion of the wireless communication facility will be located within the City's right-of-way, the applicant shall be required to enter into a franchise agreement, consistent with MMC Chapter 5.52, with the City for the use of the city's right-of-way.

22.62.030 Definitions.

For the purpose of this chapter, except when a different definition is required by MMC [22.62.110](#), Eligible Facilities Requests, the following terms are defined as follows:

Amateur radio tower: A tower with antenna(s) which transmit and receive noncommercial communication signals, and is defined as an amateur radio tower by the Federal Communications Commission. Guy wires for amateur radio antenna(s) are considered part of the structure for the purposes of meeting development standards.

Antenna(s): Means an apparatus designed for the purpose of emitting radio frequency (RF) radiation, to be operated or operating from a fixed location pursuant to Commission 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 Part 17](#).

Antenna array: A single or group of antenna elements and associated mounting hardware, cables, or other appurtenances that may share a common attachment device such as a mounting frame or mounting support structure for the sole purpose of transmitting or receiving electromagnetic waves.

Antenna equipment: Means equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with an antenna, located at the same fixed location as the antenna, and, when collocated on a structure, is mounted or installed at the same time as such antenna.

Antenna facility: Means an antenna and associated antenna equipment.

Collocation: Means:

- A. Mounting or installing an antenna facility on a preexisting structure; and/or
- B. Modifying a structure for the purpose of mounting or installing an antenna facility on that structure.

Provided, that, for purposes of eligible facilities requests, “collocation” 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.

Completely concealed facility: A WCF where: (A) the antennas, mounting apparatus, and any associated equipment are fully recessed/concealed from all sides with a structure that achieves total integration with the existing building or structure; and (B) all cable is routed internally or completely screened from view; and (C) the associated equipment is completely within the building or structure, placed in an underground vault, or is within another element such as a bench, mail box, kiosk, etc.

Decorative poles: Any pole that is uniquely found in a particular neighborhood in the City that adds to the aesthetic of the streetscape of that neighborhood and is specified in a City-adopted plan.

Equipment enclosures: Includes the wireless service provider’s specific enclosure used to house transmission equipment other than antennas, usually located within and including cabinets, shelters, pedestals, or other similar enclosures used to contain electronic equipment for said purpose. This may include cabinets attached to a pole.

Macro facility: A wireless communication facility that generally provides radio frequency coverage over a larger geographic area. Generally, macro facilities are mounted on ground-based towers, rooftops and other existing structures, at a height that provides a clear view over the surrounding buildings and terrain. Macro facilities typically contain antennas that are greater than three (3) cubic feet per antenna and typically cover large geographic areas with relatively high capacity and are capable of hosting multiple wireless service providers.

Network provider: Network provider means:

- A. A wireless service provider; or

A person that does not provide wireless services and that is not an electric utility or the City but builds or installs a WCF on behalf of a wireless service provider:

Personal wireless services: Means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined by Federal laws and regulations.

Poles: Utility poles, light poles or other types of poles, used primarily to support electrical wires, telephone wires, television cable, lighting, or guide posts; or are constructed for the sole purpose of supporting a WCF.

Satellite dish antenna(s): A type of antenna(s) and supporting structure consisting of a solid, open mesh, or bar configured reflective surface used to receive and/or transmit radio frequency communication signals. Such an apparatus is typically in the shape of a shallow dish or cone.

Small wireless facility: Small wireless facilities, as consistent with 47 CFR § 1.6002(l), are defined as those facilities that meet each of the following conditions:

1. The facilities:
 - a. Are mounted on structures 50 feet or less in height including their antennas, as defined in 47 CFR § 1.1320(d); or
 - b. Are mounted on structures no more than 10 percent taller than adjacent structures; or
 - c. 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; and
2. Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of “antenna” in 47 CFR § 1.1320(d)), is no more than three cubic feet in volume; and
3. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume; and
4. The facilities do not require antenna structure registration under 47 CFR Part 17; and
5. The facilities are not located on Tribal lands, as defined under 36 CFR 800.16(x); and
6. The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable FCC safety standards specified in 47 CFR § 1.1307(b).

Small wireless network: A collection of interrelated small wireless facilities designed to deliver personal wireless services.

Structure: 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 commingled with other types of services).

Structure mounted facility: A structure or building that can accommodate a wireless communication facility that is mounted on the roof or facade of the structure or building. The term does not encompass a tower or any equipment associated with a tower or a utility pole, light pole, traffic signal pole or miscellaneous pole.

Temporary wireless communication facility: Facilities that are composed of antennas and a mast mounted on a truck (also known as a cell on wheels, or “COW”), antennas mounted on sleds or rooftops, or ballast mount temporary poles. These facilities are for a limited period of time, are not deployed in a permanent manner, and do not have a permanent foundation. These facilities are for:

- A. The reconstruction of a permanent WCF and limited to a duration of twelve (12) months from the date of approval unless an extension is requested at least thirty (30) days prior to the expiration date; or
- B. Large scale events are limited to the duration of the event, plus ten (10) days prior to the event and ten (10) days after; or
- C. Emergency communications equipment in anticipation of and during a declared public emergency or emergency exercise.

Tower: Any structure built for the sole or primary purpose of supporting any Federal Communications Commission (“FCC”)-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services, including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services such as microwave backhaul, and the associated site.

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

Wireless communication facility (WCF): Any unstaffed facility for the transmission and/or reception of radio frequency (RF) signals through electromagnetic energy usually consisting of an equipment shelter or cabinet, a support tower or other structures used to achieve the necessary elevation, and the transmission and reception devices or antennas.

22.62.040 General Provisions.

- A. Applicable Development. The regulations, requirements, and standards contained in MMC Chapter 22.62, Wireless Communication Facilities, shall apply to:
 - 1. New large wireless communication facilities;
 - 2. New small wireless communication facilities; and
 - 3. Modifications to and/or collocation with existing wireless communication facilities.
- B. Exemptions. The following are exempt from the provisions of this chapter and shall be permitted in all zoning districts:
 - 1. Routine maintenance, replacement, or repair of wireless communication facilities or related equipment, excluding structural work or changes in height, type, or dimensions of towers or base stations; provided, that compliance with the standards of this chapter are maintained;
 - 2. Emergency repair or maintenance of a wireless communication facility, provided a building permit application is filed for the emergency repair or maintenance of a wireless communication facility within seven (7) working days after such emergency activity is started;

3. Industrial processing equipment and scientific or medical equipment using frequencies regulated by the FCC;
 4. Antennas and related equipment that are being stored, shipped, or displayed for sale;
 5. Radar systems for military and civilian communication and navigation;
 6. Nonpermanent, temporary wireless communication facilities subject to the requirements of a temporary use permit pursuant to MMC Chapter 22.60, Temporary Uses;
 7. Licensed amateur (ham) radio stations; and
 8. Satellite dish antennas less than two meters in diameter, including direct to home satellite services, when operated as a secondary or accessory use of a property.
- C. Prohibitions. The following wireless communication support structures are prohibited in all zoning districts within the city:
1. Lattice towers
 2. Guyed wire towers

22.62.050 Procedures for macro facilities permit.

- A. Review Process.
1. Permits and Approvals Required.
 - a. Wireless Communication Facility Permit. A wireless communication facility permit is required for any wireless communication facility unless specifically exempted.
 - b. Building Permit. A building permit is required for any wireless communication facility unless specifically exempted.
 - c. Right-of-Way Disturbance Permit. A right-of-way disturbance permit is required for any wireless communication facility located within public rights-of-way unless specifically exempted.
- B. Wireless Communication Facility Permit.
1. Pre-application Meeting. A pre-application meeting is encouraged prior to submitting an application for a wireless communication facility. The purpose of a pre-application meeting is to discuss the nature of the proposed deployment of telecommunications facilities, and to review applicable plans, policies, and regulations.
 2. Application and Contents. An application for a wireless communication facility permit shall be made according to the submittal requirements in MMC Chapter 22.84, Permit Processing, on forms prescribed by the city, and shall include the fee established by the current fee resolution. All wireless communication facility permit applications submitted in accordance with this Title shall include the information set forth in MMC 22.84.040(D), Project Permit Applications and in the following section. No application shall be deemed complete, nor accepted by the city, until all information set forth below has been submitted:
 - a. The specific locational information for all proposed facilities, and specify whether and where wireless facilities are to be located on existing poles, or will utilize replacement poles, new poles, towers, existing buildings, and/or other structures. The applicant may submit multiple sites in one wireless communication facility permit application for processing at the same time. The applicant is encouraged to batch small wireless facilities in a single application within a contiguous service area and with similar pole types and designs.

- b. To the extent known, show conduit and fiber service necessary for and intended for use in the deployment regardless of whether the additional facilities are to be constructed by the applicant or leased from a third party.
- c. Provide detailed schematics and visual renderings of the wireless facilities
- d. If the site location includes a replacement light pole, then the applicant must submit a photometric analysis of the roadway and sidewalk 150 feet upstream and downstream of the existing light. Lighting levels are subject to the approval of the zoning administrator and must meet current city standards.
- e. Provide written approval of the owner of any pole, structure, or building for the installation of its wireless communication facilities on such pole, structure, or building. For facilities to be placed on poles, such written approval shall include approval of the specific pole's engineering, including assurances that the specific pole can withstand wind and seismic loads. For city-owned poles or structures, the applicant must obtain a master lease agreement from the city, and submit a draft site agreement or addendum specific to each proposed pole location on a form prepared by the city.
- f. The applicant shall specify any element of a deployment that qualifies as an eligible facilities request.
- g. Any application for a wireless communication facility permit that contains an element that is not exempt from review under the State Environmental Policy Act (Chapter 22.78 MMC), the Critical Areas Ordinance (Chapter 22.80 MMC), or Shoreline Management (Chapter 22.82 MMC) shall simultaneously apply under the applicable MMC when necessary.
- h. The general standards applicable to the use of the right-of-way, as described in Title 12 MMC, Streets and Sidewalks, and within this Title shall apply to all wireless communication facility permits for locations within the right-of-way.
- i. Vertical clearance from grade shall be demonstrated by means of a design stamped by a Washington-licensed professional engineer attesting to adequate clearances to ensure that the wireless facilities will not pose a hazard to other users of the rights-of-way.
- j. The applicant shall submit a sworn affidavit, signed by an appropriately qualified professional with experience in RF emissions and with knowledge of the proposed project, affirming that the wireless deployment will be compliant with all FCC and other governmental regulations related to human exposure to radio frequency emissions for every frequency at which the wireless facility will operate. If facilities necessary to the wireless facility are to be provided by a third party, the wireless communication facility permit shall be conditioned on an RF certification showing the cumulative impact of the RF emissions on the entire installation. The applicant may provide one emissions report for the entire wireless deployment if the applicant is using the same wireless facility configuration for all installations within that batch, or may submit one emissions report for each subgroup installation identified in the batch.
- k. Submit proof of FCC and other regulatory approvals required to provide the service(s) or utilize the technologies sought to be installed.
- l. Construction drawings submitted by the applicant shall depict all existing and proposed improvements related to the proposed location, including but not limited to poles, driveways, ADA ramps, equipment cabinets, street trees, and structures within 50 feet from the proposed site(s). The construction drawings shall also include the applicant's plan for electric and fiber

utilities, all conduits, cables, wires, hand holes, junctions, meters, disconnect switches and any other ancillary equipment or construction necessary to construct the wireless facility.

m. The application must contain a copy of the contractor's and all subcontractors' state licensing and bonding compliance and current city of Monroe business licenses and insurance requirements, as listed in Title 5 MMC, Business Regulations and Licensing, and Title 12 MMC, Streets and Sidewalks.

n. Such other information as the zoning administrator or public works director deems appropriate.

3. Permit Type. Except for where otherwise specified, applications for wireless communication facility permits shall follow the procedures for a Type I permit review, pursuant to MMC Chapter 22.84.030, Types of Project Permits.
4. Public Notice. Wireless communication facility permits shall be subject to all applicable noticing requirements in MMC 22.84.050, Public Notice Requirements.
5. Public Hearing. Pursuant to MMC Table 22.84.060(B)(2): Decision Making and Appeal Authorities, a public hearing is not required for wireless communication facility permit applications.
6. Decision. The zoning administrator may approve, deny, or conditionally approve all or any portion of the sites proposed in the wireless communication facility permit application. Denial of one or more wireless facility locations within a submission described in subsection (A)(2)(c) of this section shall not be the sole basis for denial of other locations or applicant's entire application for wireless facilities.
7. Third Party Review. The zoning administrator or their designee shall route project permit applications to consultants as the zoning administrator determines necessary. All costs of consultant review shall be billed to the project applicant.
8. Withdrawal. Any applicant may withdraw an application at any time, provided the withdrawal is in writing and signed by all persons who signed the original application or their successors in interest. When a withdrawal is received, the application shall be deemed null and void. If such withdrawal occurs prior to the zoning administrator's decision, then reimbursement of fees submitted with said application shall be prorated to withhold the amount of city costs incurred in processing the application prior to the time of withdrawal. If such withdrawal is not accomplished prior to the zoning administrator's decision, no portion of the fee will be refunded.
9. Permit for Modifications and Collocations to Wireless Facilities. Modifications to and/or collocations with existing wireless facilities shall conform to the following requirements:
 - a. Permit Required. Unless otherwise exempted pursuant to MMC 22.62.020(B), if an applicant desires to make modifications to wireless facilities, including but not limited to expanding or changing the antenna type, increasing the equipment enclosure size, placing additional pole-mounted or ground-mounted equipment, or modifying the concealment elements, then the applicant shall apply for a wireless communication facility permit.
 - b. Permit Not Required. A wireless communication facility permit shall not be required for routine maintenance and repair of a wireless facility within the right-of-way, or the replacement of an antenna or equipment of similar size, weight, and height; provided, that such replacement does not defeat the concealment elements used in the original deployment of the wireless facility and does not impact the structural integrity of the pole. Further, a wireless communication facility permit shall not be required for replacing equipment within the equipment enclosure or

reconfiguration of fiber or power to the wireless facilities. A right-of-way disturbance permit may be required for such routine maintenance, repair, or replacement.

22.62.060 Prioritized locations for macro facilities.

A. Priority of locations.

The order of priorities for locating new macro facilities shall be as follows:

1. Place antennas and towers on appropriate rights-of-way and existing structures, such as buildings, towers, and water towers in the industrial and commercial zoning districts.
2. Place antennas and towers in districts zoned Mixed Use - Medical, Parks, and Limited Open Space.
3. Place antennas and towers in Residential zoning districts.
 - a. An applicant that wishes to locate a new tower in a residential zone shall demonstrate that a diligent effort has been made to locate the proposed macro facility on a government facility, a private institutional structure, or other appropriate existing structures within a nonresidential zone, and that due to valid considerations including physical constraints, and economic or technological feasibility, no appropriate location is available.
 - b. Applicants are required to demonstrate: (i) that they have contacted the owners of structures in excess of thirty feet within a one-quarter mile radius of the site proposed and which from a location standpoint could provide part of a network for transmission of signals; (ii) have asked for permission to install the antenna on those structures; and (iii) were denied for reasons other than the ability or refusal of the applicant to pay a market rate for use of the alternative structures.
 - c. The information submitted by the applicant shall include (i) a map of the area to be served by the proposed tower, (ii) its relationship to other WCFs in the applicant's network, and (iii) an evaluation of existing buildings taller than 30 feet, within one-quarter mile of the proposed tower which from a location standpoint could provide part of a network to provide transmission of signals.

B. Siting priority on public property.

1. Where public property is sought to be utilized by an applicant, priority for the use of city-owned land for macro facilities will be given to the following entities in descending order:
 - a. City of Monroe;
 - b. Public safety agencies, including law enforcement, fire and ambulance services, which are not part of the city of Monroe and private entities with a public safety agreement with the city of Monroe;
 - c. Other governmental entities, for uses that are not related to public safety; and
 - d. Entities providing licensed commercial wireless services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), data, internet, paging, and similar services that are marketed to the general public.
2. Minimum Requirements. The placement of macro facilities on city-owned property must comply with the following requirements:
 - a. The facilities will not interfere with the purpose for which the city-owned property is

- intended;
 - b. The facilities will have no significant adverse impact on surrounding private property;
 - c. The applicant shall obtain adequate liability insurance naming the city as loss payee and commit to a lease agreement that includes equitable compensation for the use of public land and other necessary provisions and safeguards. The city shall establish fees after considering comparable rates in other cities, potential expenses, risks to the city, and other appropriate factors;
 - d. The applicant will submit a letter of credit, performance bond, or other security acceptable to the city to cover the costs of removing the facilities;
 - e. The lease shall provide that the applicant must agree that in the case of a declared emergency or documented threat to public health, safety or welfare and following reasonable notice the city may require the applicant to remove the facilities at the applicant's expense. Telecommunication facilities serving essential government services and other government agencies shall have priority over other users.
 - f. The applicant must reimburse the city for any actual and reasonable costs that the city incurs because of the presence of the applicant's facilities;
 - g. The applicant must obtain all necessary land use approvals; and
 - h. The applicant must cooperate with the city's objectives to encourage co-locations and limit the number of WCF sites needed.
3. Special Requirements for Parks. The use of city-owned parks for macro facilities brings with it special concerns due to the unique nature of these sites. The placement of personal wireless service facilities in a park will be allowed only when the following additional requirements are met:
- a. The park board has reviewed and made a recommendation regarding proposed macro facilities to be located in the park and this recommendation must be forwarded to the city council for consideration;
 - b. In no case shall macro facilities be allowed in designated critical areas (except aquifer recharge areas) unless they are co-located on existing facilities;
 - c. Before macro facilities may be located in public parks, visual impacts and disruption of normal public use shall be mitigated;
 - d. Macro facilities may be located in public parks that are adjacent to an existing commercial or industrial zone;
 - e. Macro facilities may be located in park maintenance facilities.
3. Separation Distance. In all residential and commercial districts, macro facilities shall be separated by a distance equal to or greater than one thousand three hundred twenty linear feet (one-quarter mile), except when the applicant demonstrates that collocation upon the nearby WCF is not feasible pursuant to MMC 22.62.030(G). WCF's that are collocated upon a single support structure shall count as a single WCF for the purposes of this subsection.
- D. Freestanding Macro Facilities. Macro facilities attached to freestanding support structures, as described in MMC 22.62.050(B)(1)(a), shall conform to the following requirements:
- 1. All freestanding support structures, including monopoles and towers, that exceed 85 feet in height shall be designed to accommodate two or more wireless communications facilities.

2. Antennas not exceeding 15 feet in height which extend above the freestanding support structure shall not be calculated as part of the height of the wireless communication support structure.
 3. Freestanding support structures, antennas, and antenna arrays, together with any associated antenna mount, shall be designed utilizing the narrowest dimensions possible, and in no instance shall they extend further, as measured horizontally, from the centerline of the monopole than a distance of 15 feet.
 4. Collocation on an existing freestanding support structure shall be encouraged.
 5. The equipment shelter or cabinet used to house radio electronics equipment and the associated cabling connecting the equipment or cabinet to the freestanding support structure shall be concealed, camouflaged, or placed underground.
- E. Attached Macro Facilities. Macro facilities attached to existing buildings, as described in MMC 22.62.050(B)(1)(b), shall conform to the following requirements:
1. Attached antennas may exceed the height limitation by 15 feet so long as they are affixed to the side of an existing building or mounted on the rooftop of the building and architecturally blend with the building.
 2. Buildings that are nonconforming with respect to height may be used, provided the antenna's do not exceed a height of 15 feet above the existing structure. Placement of an antenna on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure.
 3. Attached wireless facilities shall be placed in a location, which is as unobtrusive as possible consistent with the proper functioning of the WCF.
 4. The interruption of architectural lines or horizontal or vertical reveals is discouraged.
 5. New architectural features such as columns, pilasters, corbels, or other ornamentation that conceal antennas may be used if they complement the architecture of the existing building.
 6. Wireless facilities shall utilize the smallest mounting brackets necessary, in order to provide the smallest offset from the building.
 7. Skirts or shrouds shall be utilized on the sides and bottoms of antennas in order to conceal mounting hardware, create a cleaner appearance, and minimize the visual impact of the antennas. Exposed cabling/wiring is prohibited.
 8. The applicant must provide approval from the building owner, including consent that the wireless design meets the building owner's design requirements.
 9. If the aesthetic impacts cannot be mitigated by placement and color solutions, the WCF can be required to be screened.

22.62.070 Design and concealment standards for macro facilities.

Wireless communication facilities are permitted subject to this chapter and shall all applicable standards contained herein, as well as the following:

- A. Land Use.
1. Wireless communication facilities are permitted in all zones.
 2. Wireless communication facilities shall not be allowed on buildings which are designated as solely residential in use, except for those structures that contain three or more attached dwelling units.
- B. Separation Distance. In all residential and commercial districts, macro facilities shall be separated by a distance equal to or greater than one thousand three hundred twenty linear feet (one-quarter mile),

except when the applicant demonstrates that collocation upon the nearby WCF is not feasible pursuant to MMC 22.62.070(H). WCF's that are collocated upon a single support structure shall count as a single WCF for the purposes of this subsection.

C. Setbacks. When located outside of rights-of-way, macro facilities reviewed under this section shall not be located within any required setback areas; provided, however, the setback requirement for underground facilities shall be a minimum of five feet from any property line, except where:

1. Macro facilities that exceed forty-five feet in height shall be set back from any lot line five feet more than that specified in the individual zone for every ten feet, or fraction thereof, over forty-five feet of height.
2. The required setback, as listed above, may be reduced by the zoning administrator if the applicant can demonstrate to the zoning administrator's satisfaction that the reduced setback would result in a greater natural vegetative screening of the WCF than would have been provided by meeting the WCF development regulations.
3. All equipment shelters, cabinets, or other on-the-ground ancillary equipment shall meet the setback requirements of the zone in which located, except that the rear setback requirement may be reduced to five feet if the structure meets all other standards.

D. Height. In the single-family residential (R4, R7, and R15), multifamily residential (R25), and mixed use [mixed use – general (MG), mixed use – medical (MM), and mixed use – neighborhood (MN)] zoning districts, the maximum combined height limit shall be eighty-five feet. In commercial [downtown commercial (DC), general commercial (GC), industrial transition (IT), tourist commercial (TC), and the North Kelsey/Tjerne Place overlay (NK/TP-O)], industrial [general industrial (GI), light industrial (LI), shoreline industrial (SI), and the Fryelands Commercial overlay (FC-O)], open space [limited open space (LS) and parks (P)], and public facilities [institutional (IN) and transportation (TR)] zoning districts and overlays, the combined height of the WCF and any support structure shall not exceed eighty-five feet, except when collocation is specifically provided for, the combined height shall not exceed one hundred feet. Utility poles and streetlights may be exempted under MMC 22.62.160, Deviations, from the height limitation at the discretion of the zoning administrator and public works director.

E. Landscaping. WCF support structures, towers, and base stations shall be screened using a Type I Planting buffer with a minimum width of five feet around the compound's perimeter, in accordance with the requirements contained in MMC 22.46.040(A), Type I Planting – Solid Screen. Trees with significant height and fullness upon maturity shall also be used to visually screen the tower from adjacent properties. These provisions shall not apply to small wireless facilities located in the right-of-way.

F. Lighting. Except as specifically requested by the Federal Aviation Administration (FAA), and/or the FCC, WCF's shall not be illuminated, except equipment shelters and compounds may use lighting for security reasons as long as the light is shielded downward to remain within the boundaries of the site.

G. Concealment Technology. All macro facilities shall employ concealment technology in their design, construction, and maintenance and reduce the WCF's aesthetic impacts to the maximum extent possible. Such concealment technology shall include, at a minimum, the following:

1. All WCF's and antennas shall be a nonreflective color, approved by the zoning administrator, which blends into the nearby surroundings of the WCF so as to minimize the visual impact of the support structure or antennas.
2. New WCF's shall be located in such a manner that, to the extent feasible, existing trees and/or buildings and other structures on the site are used to screen the WCF from view from roadways,

residences, and other properties; provided, however, that all WCF's shall be designed in a manner which minimizes the need for removal of existing trees.

3. To the maximum extent feasible, excluding industrial zones, WCF's shall be designed to resemble an object other than a WCF which is already present in the local environment, such as a tree or a streetlight.

4. Concealment under this subsection may include the use of colors or materials to blend into the building materials from which a structure is constructed. Examples of concealment technology include, but are not limited to, the use of innovative site design techniques, existing or new vegetation and landscaping, paint and other surface treatments, alternative antenna configuration and/or selection, utilization of antenna support structures designed to resemble trees, and any other practice which screens the WCF from observation from roadways, residences, and other properties or otherwise has the effect of reducing the aesthetic impacts associated with the WCF.

H. Noise. No equipment shall be operated at a WCF so as to produce noise in excess of the applicable noise standards regulated by MMC 6.04.055, Public Nuisances, and Chapter 173-60 WAC, Maximum Environmental Noise Levels, except for in emergency situations requiring the use of a backup generator, where the noise standards may be exceeded on a temporary basis.

I. Collocation. It is the policy of the city to minimize the number of macro facilities and to encourage the collocation of more than one carrier's macro facility on a single support structure. Except for small wireless facilities, a proposed WCF shall collocate with an existing WCF site unless the applicant can demonstrate to the city's satisfaction that such collocation is not feasible due to radio interference, usable signal, other engineering reason, property owner's refusal to lease property at a commercially reasonable rate, or zoning restriction. The city also encourages WCF applicants to construct and site facilities with a view toward sharing sites and structures with other utilities, and accommodating the future collocation of other future WCF's. Nothing in this section shall prohibit the owner of an existing facility from charging a reasonable fee for collocation of other communication facilities.

J. Maintenance. All macro facilities shall be maintained in good and safe condition and in a manner that complies with all applicable federal, state, and local requirements.

K. Radio Frequency Emissions. All applicants shall demonstrate compliance with all applicable FCC regulations regarding the radio-frequency emissions of WCF's.

L. Use of City Right-of-Way. Any wireless communication carrier who desires to construct, install, operate, maintain, or otherwise locate WCF's in, under, over, or across any public right-of-way of the city for the purpose of providing wireless services shall obtain permission from the city, and enter into a franchise agreement and/or obtain applicable permits authorizing use of the city right-of-way.

M. Airport Compatibility. Wireless communication facilities are subject to the applicable provisions of MMC Chapter 22.54, Airport Compatibility, to ensure that the facilities are not located within the airport's restricted airspace.

N. Visual Impact. Antennas, equipment enclosures, and ancillary equipment, conduits and cables shall not dominate the structure or pole upon which they are attached.

O. Equipment Shelters and Cabinets.

1. An equipment shelter for a macro facility shall be the minimum size necessary for its intended purpose.

2. Ground-mounted equipment in the right-of-way is prohibited, unless such facilities are placed underground, or the applicant can demonstrate that pole-mounted equipment and undergrounding are technically infeasible.
3. Generators located in the right-of-way are prohibited.
4. All equipment shelters, cabinets, or other on-the-ground ancillary equipment shall meet the setback requirements of the zone in which it is located.
5. Except when permitted in the right-of-way, equipment shelters and cabinets and other on-the-ground ancillary equipment shall be screened using a Type I Planting buffer with a minimum width of five feet around the enclosure, in accordance with the requirements contained in MMC 22.46.040(A), Type I Planting – Solid Screen.

22.62.080 Eligible Facilities Requests.

Eligible facilities requests shall be reviewed pursuant to this subsection. An eligible facilities request is defined by 47 CFR § 1.6100(b)(3) as any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving collocation of new transmission equipment, removal of transmission equipment, or replacement of transmission equipment.

A. Definitions. The following definitions shall apply to eligible facilities requests only as described in this section and shall not apply throughout this chapter.

1. Base station is a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined herein nor any equipment associated with a tower. Base station includes, without limitation:
 - a. Equipment associated with wireless communications services as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
 - b. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and back-up power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems (“DAS”) and small wireless networks).
 - c. Any structure other than a tower that, at the time the relevant application is filed (with jurisdiction) under this section, supports or houses equipment described in subsections (A)(1)(a) and (b) 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 that support.
 - d. The term does not include any structure that, at the time the relevant application is filed with the City under this section, does not support or house equipment described in subsections (A)(1)(a) and (b) of this section.
2. Collocation. The mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communication purposes.
3. Eligible support structure. 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 City.
4. Existing. A constructed tower or base station is existing if it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review

process; provided, that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.

5. Substantial change: A modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

- a. For towers other than towers in the public rights-of-way, it increases the height of the tower by more than ten (10) percent or by the height of one (1) additional antenna array with separation from the nearest existing antenna, not to exceed twenty (20) feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than ten (10) percent or more than ten (10) feet, whichever is greater.
 - i. Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act;
- b. For towers 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 ten (10) 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 (6) feet;
- c. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four (4) cabinets; or, for towers in the public streets and base stations, it involves installation of any new equipment cabinets on the ground if there are no preexisting ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten (10) percent larger in height or overall volume than any other ground cabinets associated with the structure;
- d. It entails any excavation or deployment outside the current site;
- e. It would defeat the concealment elements of the eligible support structure; or
- f. 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 noncompliant only in a manner that would not exceed the thresholds identified above.

B. Application. The zoning administrator shall prepare and make publicly available an application form which shall be limited to the information necessary for the city to consider whether an application is an eligible facilities request. The application may not require the applicant to demonstrate a need or business case for the proposed modification.

C. Type of Review. Upon receipt of an application for an eligible facilities request pursuant to this chapter, the zoning administrator shall review such application to determine whether the application qualifies as an eligible facilities request.

D. Time Frame for Review. Within sixty days of the date on which an applicant submits an application seeking approval under this chapter, the zoning administrator shall approve the application unless it determines that the application is not covered by this section.

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

1. To toll the time frame for incompleteness, the zoning administrator shall provide written notice to the applicant within thirty days of receipt of the application, clearly and specifically delineating all missing documents and/or information required in the application.
2. The time frame for review begins running again when the applicant makes a supplemental submission in response to the city's notice of incompleteness.
3. Following a supplemental submission, the zoning administrator will notify the applicant within ten days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The time frame is tolled in the case of second or subsequent notices pursuant to the procedures identified in this subsection. Second or subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.

F. Determination That Application Is Not an Eligible Facilities Request. If the zoning administrator determines that the applicant's request does not qualify as an eligible facilities request, the zoning administrator shall deny the application. In the alternative, to the extent additional information is necessary, the zoning administrator may request such information from the applicant to evaluate the application under other provisions of this chapter and applicable law.

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

H. Remedies. Both the applicant(s) and the city may bring claims related to Section 6409(a) of the Spectrum Act to any court of competent jurisdiction.

22.62.090 Review criteria for small wireless facilities.

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

1. In any zone, upon application for a small wireless permit, the City will permit small wireless deployment on existing or replacement utility poles conforming to the City's generally applicable development and design and concealment standards.
2. Vertical clearance shall be reviewed by the Zoning Administrator to ensure that the small wireless facilities will not pose a hazard to other users of the right-of-way.
3. Replacement poles and new poles shall comply with the Americans with Disabilities Act (ADA), City construction and sidewalk clearance standards, traffic warrants, city ordinances, and state and federal statutes and regulations in order to provide a clear and safe passage within the right-

of-way. Further, the location of any replacement pole or new pole must: be physically possible, cannot obstruct vehicular or pedestrian traffic or the clear zone, not interfere with utility or safety fixtures (e.g., fire hydrants, traffic control devices), and not adversely affect the public welfare, health, or safety.

4. No equipment shall be operated so as to produce noise in violation of MMC 6.04.055, Public Nuisances, and Chapter 173-60 WAC, Maximum Environmental Noise Levels.
5. Small wireless facilities may not encroach onto or over private property or property outside of the right-of-way without the property owner's express written consent.

B. Eligible Facilities Requests. The design approved in a small wireless facility permit shall be considered concealment elements and such facilities may only be expanded upon submittal of an Eligible Facilities Request described in MMC 22.62.080, when the modification does not defeat the concealment elements of the small wireless facility.

C. Review of Facilities. Review of the site locations proposed by the applicant shall be governed by the provisions of 47 USC 253 and 47 USC 332 and other applicable statutes, regulations and case law. Applicants for franchises and the small wireless facility permits shall be treated in a competitively neutral and non-discriminatory 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. Small wireless facility permit review under this Chapter shall neither prohibit nor have the effect of prohibiting the ability of an applicant to provide telecommunications services.

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

E. Supplemental Information. Failure of an applicant to provide supplemental information as requested by the Zoning Administrator within sixty (60) days of notice by the Zoning Administrator shall be deemed a denial of that application, unless an extension period has been approved by the Zoning Administrator.

22.62.100 Procedures for small wireless facilities.

The following information shall be provided by all applicants for franchises seeking small wireless facility deployment. Existing franchisees who seek to implement an existing franchise for small wireless facility deployment shall provide the following information as part of their right-of-way application:

- A. The application shall identify and provide:
 1. Specific locational information including GIS coordinates of all proposed small wireless facilities deployment;
 2. Whether and where small wireless facilities are to be located on existing utility pole including City-owned light standards;
 3. Whether the deployment will utilize replacement utility poles, new poles, and/or other structures and where such replacement will take place; and
 4. Detailed schematics and visual renderings of the facilities.

- B. Conduit and/or ground-mounted equipment necessary for and intended for use in the deployment shall also be specified regardless of whether these facilities are constructed by the applicant or leased from an infrastructure provider.
- C. Failure to provide sufficient detail may result in a later need to request a deviation in the facility if significant elements of the facility were not shown on the originally approved franchise exhibit. Failure to include significant elements may also result in the requirement that new or undocumented elements complete the approval process.

22.62.110 Franchise application.

A. Service providers who seek to utilize the public right-of-way for small wireless facility deployment in order to provide wireless communication, data transmission, or other related services must have a valid franchise to provide the specific service seeking to utilize the right-of-way, and a wireless communication facility permit to deploy the technology. Entities with franchises who wish to utilize a small wireless facility deployment to upgrade or expand their existing services shall utilize the processes set forth in this section, including use of wireless communication facility permits, to deploy their technology. An applicant may apply for a wireless communication facility permit in parallel to obtaining a franchise; however, no wireless communication facility permit will be effective until a fully executed franchise becomes effective.

B. Applicants shall apply using the City's franchise application form and submit a fee according to the City's fee schedule to process an application for a franchise. The director of Public Works is charged with the administration of small wireless facility deployments and other wireless communication review processes established under this title and Title 5. All franchise applications shall designate the entire City right-of-way as the franchise boundary.

22.62.120 Modifications to small wireless facilities.

A. If a grantee desires to make a modification to an existing small wireless facility, including but not limited to expanding or changing the antenna type, increasing the equipment enclosure, placing additional pole-mounted or ground-mounted equipment, or modifying the concealment elements, then the applicant shall apply for a small wireless facility permit.

B. A small wireless facility permit shall not be required for routine maintenance and repair of a small wireless facility within the right-of-way, or the replacement of an antenna or equipment of similar size, weight, and height, provided that such replacement does not defeat the concealment elements used in the original deployment of the small wireless facility, does not impact the structural integrity of the pole, and does not require pole replacement. Further, a small wireless facility permit shall not be required for replacing equipment within the equipment enclosure or reconfiguration of signal or power to the small wireless facility. Right-of-way use permits may be required for such routine maintenance, repair or replacement consistent with MMC 12.36.

22.62.130 Hierarchy for small wireless facilities.

The City's preference is for the applicant to attach small wireless facilities to replacement light poles. If a light pole exists within 150 feet of a wooden pole, the applicant shall utilize the light pole unless the applicant can demonstrate, to the satisfaction of the Zoning Administrator, that the light pole has been evaluated and is not possible for either technical feasibility or aesthetic reasons.

However, this requirement shall not apply if the light pole is a Decorative Pole, as designated in MMC 22.62.140.

22.62.140 Decorative poles for small wireless facilities.

Notwithstanding anything to the contrary in this Chapter, an applicant may not install a small wireless facility on a Decorative Pole, or replace a Decorative Pole with a new Decorative Pole unless the Zoning Administrator has determined, in its sole discretion, that the following conditions have been met:

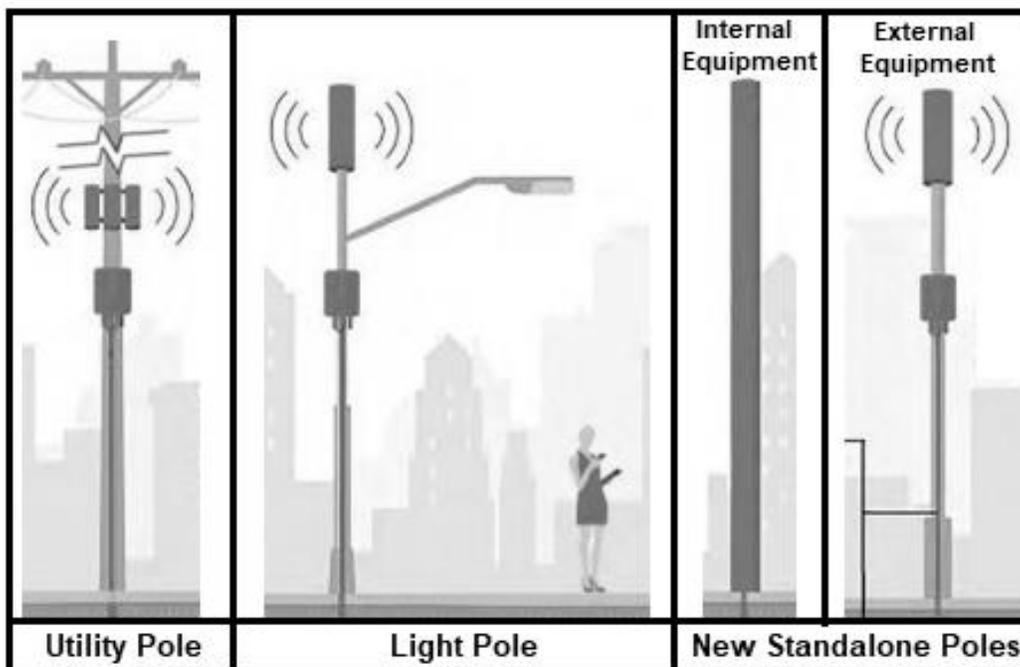
1. The application qualifies for issuance of a small wireless facility permit under MMC 22.62.100.
2. The attachment or replacement pole is in keeping with the aesthetics of the Decorative Pole and the Downtown Commercial zoning district.

22.62.150 Design and concealment standards for small wireless facilities.

A. General Provisions.

1. Siting of Small Wireless Facilities. Small wireless facilities are permitted both within and outside of the right-of-way in all zones, provided they meet the requirements of this chapter and have been issued all applicable permits. Small wireless facilities include the following:
 - a. New small facilities attached to existing, new, or replacement utility or light poles;
 - b. New standalone poles with internal or external equipment;
 - c. New small facilities attached to existing buildings; and
 - d. Modifications to and/or collocations on existing small wireless facilities.

Figure 22.62.040: Poles Permitted as Support Structures for Small Wireless Facilities



2. Signage and Identification. No signage, message, or identification other than the manufacturer's identification is allowed to be portrayed on any antenna, and any such signage on equipment enclosures shall be of the minimum amount possible to achieve the intended purpose; provided, that signs are permitted as concealment techniques where appropriate. Safety signage is allowed, as required by applicable laws and regulations.
 3. Lighting. Antennas and related equipment shall not be illuminated except as required by a federal or state authority, or unless approved as part of a light standard.
 4. Encroachment. Small wireless facilities may not encroach onto or over private property or property outside of the right-of-way without the property owner's express written consent.
- B. Small Wireless Facilities Attached to Pole Facilities. Any small wireless facility attached to a pole, as described in MMC 22.62.040(A)(1)(a-d), shall conform to the following requirements:
1. New standalone poles for small wireless facilities shall not exceed 10 percent above the maximum height of the zoning district in which it is located or fifty feet, whichever is greater.
 2. An existing pole at the proposed location of the small wireless facility may be replaced with a taller pole for the purpose of accommodating a small wireless facility; provided, that the replacement pole shall not exceed a height that is a maximum of 10 feet taller than the existing pole or the height allowed by MMC 22.62.040(C)(1), whichever is greater, unless a further height increase is required and confirmed in writing by the pole owner, and such height extension is the minimum extension necessary to provide sufficient separation and/or clearance from electrical and wireline facilities.
 3. A "pole extender," which is an object affixed between the pole and the antenna for the purpose of increasing the height of the antenna above the pole, may be used instead of replacing an existing utility or light pole, pursuant to the following conditions:
 - a. A pole extender shall not increase the height of the existing pole by more than 10 feet or the height allowed by MMC 22.62.040(C)(1), whichever is greater, unless a further height increase is required and confirmed in writing by the pole owner.
 - b. Such height extension proposed is the minimum extension necessary to provide sufficient separation and/or clearance from electrical and wireline facilities.
 - c. The pole extender shall be painted to approximately match the color of the pole.
 - d. The pole extender shall substantially match the diameter of the pole measured at the top of the pole.
 4. Antennas, equipment enclosures, and all ancillary equipment, boxes, and conduit shall be colored or painted to match the approximate color of the surface of the pole on which they are attached, to the extent technically feasible.
 5. Panel antennas shall not exceed three cubic feet in volume and shall not be mounted more than 12 inches from the surface of the pole unless additional distance is required by the pole owner.
 6. A canister antenna may be mounted on top of an existing or replacement pole, which must not exceed the height requirements described in subsection (C)(1) of this section. A canister antenna mounted on the top of a pole shall not exceed the diameter of the pole by more than 12 inches or be more than a total of 16 inches in diameter, whichever is greater, and shall be colored or painted to match the pole, to the extent technically feasible. The canister antenna must be placed to look as if it is an extension of the pole. In the alternative, the applicant may install a side-mounted canister antenna, so long as the inside edge of the antenna is no more than 12 inches from the surface of the

pole. All cables shall be concealed either within the canister antenna or within a sleeve between the antenna and the pole, to the extent technically feasible.

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

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

9. The diameter of a replacement pole shall comply with the city's sidewalk clearance requirements and shall, to the extent technically feasible, not be more than a 25 percent increase of the existing pole measured at the base of the pole unless additional diameter is needed to conceal equipment at the base of the pole. Glulam poles are specifically prohibited.

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

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

12. Any replacement pole shall substantially conform to the design of the pole it is replacing or the pole owner's standard new pole design.

13. Side arm mounts for antennas or equipment must be the minimum extension necessary, but in any case no more than 12 inches off of the pole.

14. Upon replacement of a pole upon which a small wireless facility exists, the small wireless facility owner must transfer its infrastructure to such new pole within 90 days of notice from the pole owner to transfer the small wireless facility, or such extended period of time as approved by the pole owner.

15. Except for locations in the right-of-way, small wireless facilities are not permitted on any property containing a single-family residential use or that is located in a single-family residential zone.

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

17. Equipment for small wireless facilities must be attached to the pole unless otherwise permitted to be ground-mounted by the zoning administrator. The equipment must be placed in the smallest enclosure(s) possible for the intended purpose and to provide for reasonable expansion for future frequencies and/or technologies. The equipment enclosure and all other wireless equipment associated with the pole, including wireless equipment associated with the antenna and any preexisting associated equipment on the pole, may not exceed 28 cubic feet. Multiple equipment

enclosures may be acceptable if designed to more closely integrate with the pole design; provided, that said multiple enclosures must not cumulatively exceed 28 cubic feet.

- C. Small Wireless Facilities Attached to Buildings. Small wireless facilities attached to existing buildings, as described in MMC 22.62.040(A)(1)(c), shall conform to the following requirements:
1. New architectural features such as columns, pilasters, corbels, or other ornamentation that conceal antennas may be used if they complement the architecture of the existing building.
 2. Small wireless facilities shall utilize the smallest mounting brackets necessary, in order to provide the smallest offset from the building.
 3. To the extent technically feasible, skirts or shrouds shall be utilized on the sides and bottoms of antennas in order to conceal mounting hardware, create a cleaner appearance, and minimize the visual impact of the antennas. Exposed cabling/wiring is prohibited.
 4. To the extent technically feasible, small wireless facilities shall be painted and textured to match the adjacent building surfaces.
 5. The applicant must provide approval from the building owner, including consent that the small wireless design meets the building owner's design requirements.

22.62.160 New poles in the right-of-way for small wireless facilities.

A. New poles within the right-of-way or for installations on a Decorative Pole are only permitted if the applicant can establish that:

1. The proposed small wireless facility cannot be located on an existing utility pole or light pole, electrical transmission tower or on a site outside of the public right-of-way such as a public park, public property, building, transmission tower or in or on a non-residential use in a residential zone whether by roof or panel-mount or separate structure;
2. The proposed small wireless facility complies with the applicable requirements of MMC 22.62.150;
3. The proposed small wireless facility receives approval for a concealment element design, as described in MCMC Section 1. Article IV.17.29.270C) below;
4. The proposed small wireless facility complies with SEPA, if applicable; and
5. No new poles shall be located in a critical area or associated buffer required by the City's Critical Areas Management ordinance (MMC Chapter 22.80), except when determined to be exempt pursuant to said ordinance.

B. An application for a new pole or installation on a Decorative Pole is subject to review and approval or denial by the Zoning Administrator.

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

1. If the applicant desires to place the small wireless facility on a Decorative Pole, and the City has created a small wireless facility standard for such type of Decorative Pole in the Standard Specification and Details, then the applicant is encouraged to first consider using the Decorative Pole design adopted for small wireless facilities from the Standard Specification and Details. The applicant, upon a showing that using the Standard Decorative

Pole design is either technically or physically infeasible, or that a modified pole design will not comply with the City's ADA, or sidewalk clearance requirements and/or would violate electrical or other safety standards, may deviate from the adopted standard Decorative Pole design and propose a concealment element design consistent with subsection 2 below.

2. If the Zoning Administrator has already approved a concealment element design either for the applicant or another small wireless facility along the same public right-of-way or for the same pole type, then the applicant shall utilize a substantially similar concealment element design, unless it can show that such concealment element design is not physically or technically feasible, or that such deployment would undermine the generally applicable design standards, in such case, the applicant shall propose a concealment element design consistent with subsection 3 below.
3. The concealment element design should seek to minimize the visual obtrusiveness of the small wireless facility. The proposed pole or structure should have similar designs to existing neighboring poles in the right-of-way, including similar height to the extent technically feasible. If the proposed small wireless facility is placed on a replacement pole, then the replacement pole shall be of the same general design as the pole it is replacing, unless the Community Development Department otherwise approves a variation due to aesthetic or safety concerns. Any concealment element design for a small wireless facility should attempt to mimic the design of such pole and integrate the small wireless facility into the design of the pole. Other concealment methods include, but are not limited to, integrating the installation with architectural features or building design components, utilization of coverings or concealment devices of similar material, color, and texture - or the appearance thereof - as the surface against which the installation will be seen or on which it will be installed, landscape design, or other camouflage strategies appropriate for the type of installation. Applicants are required to utilize designs in which all conduit and wirelines are installed internally in the structure.

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

E. Prior to the issuance of a permit to construct a new pole or ground mounted equipment in the right-of-way, the applicant must obtain a site-specific agreement from the City to locate such new pole or ground mounted equipment. This requirement also applies to replacement poles when the replacement is necessary for the installation or attachment of small cell facilities, the replacement structure is higher than the replaced structure, and the overall height of the replacement structure and the small cell facility is more than sixty (60) feet.

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

22.62.170 Deviations.

A. Applicability. Except as otherwise provided in this chapter, no wireless communication facility shall be used or developed contrary to any applicable development standard unless a deviation has been granted pursuant to this section. These provisions apply exclusively to wireless communication facilities. The approval authority for wireless communication facilities deviations is the zoning administrator.

B. Submittal Requirements. An application for a deviation from the provisions regulating wireless communication facilities shall include:

1. A written statement demonstrating how the deviation would meet the criteria in this section.
2. A site plan that includes:
 - a. Description of the proposed siting's design and dimensions, as it would appear with and without the deviation.
 - b. Elevations showing all components of the wireless communication facility, as it would appear with and without the deviation.
 - c. Color simulations of the wireless communication facility after construction demonstrating compatibility with the vicinity, as it would appear with and without the deviation.

C. Criteria. An application for a wireless communication facility deviation shall be granted if the following criteria are met:

1. The deviation is consistent with the purpose of the development standard for which the deviation is sought.
2. Based on a visual analysis, the design minimizes the visual impacts to residential zones through mitigating measures, including, but not limited to, building heights, bulk, color, and landscaping.
3. The owner demonstrates the existence of either of the following:
 - a. Material Inhibition of Wireless Service.
 - i. Compliance with this chapter's standards would materially inhibit the ability of the carrier to provide wireless service; and
 - ii. The deviation is narrowly tailored to allow the carrier to provide wireless service, such that the wireless communications facility conforms to this chapter's standards to the greatest extent possible; or
 - b. Minimization of Impacts. The deviation would minimize or eliminate negative impacts to surrounding properties and their uses, through a utilization of existing site characteristics, including, but not limited to, the site's size, shape, location, topography, improvements, and natural features. Negative impacts are minimized or eliminated if there is:
 - i. A decrease in negative visual impacts, including, but not limited to, visual clutter;
 - ii. Better preservation of views or view corridors;
 - iii. A decrease in negative impacts on property values; or
 - iv. A decrease in any other identifiable negative impacts to the surrounding area's primary uses.

22.62.180 Obsolescence and Removal.

- A. A wireless communication facility shall be removed by the facility owner within six (6) months of the date it ceases to be operational or if the facility falls into disrepair. Disrepair includes structural features, paint, landscaping, or general lack of maintenance which could result in safety or visual impacts. Whenever a wireless communication facility ceases operation or falls into disrepair as provided in this section and as determined by either the designated official or the network provider, the entire wireless communication facility shall be removed, including but not limited to all antennas, antenna supports, feeder lines, equipment enclosures, equipment, conduit, and the concrete pad upon which the structure is located. The facility owner may apply for an extension of time within those six (6) months if resuming operation of the facility is expected. The designated official, at his sole discretion, may extend the time for a period not to exceed six (6) months upon written request by the owner.
- B. Removal upon Undergrounding. A WCF must be removed at no expense to the City if collocated on an electrical system facility or utility support structure that is subsequently undergrounded.
- C. Abandonment. In the event that a licensed carrier fails to give notice, the facility shall be considered abandoned upon the City's discovery of discontinuation of operation. Upon such abandonment, the provider shall have 60 days or additional period of time determined in the reasonable discretion of the City within which to:
1. Reactivate the use of the facility or transfer the facility to another provider who makes actual use of the facility; or
 2. In the event that abandonment as defined in this chapter occurs due to relocation of an antenna at a lower point on the antenna support structure, reduction in the effective radiated power of the antenna or reduction in the number of transmissions from the antennas, the operator of the tower shall have six months from the date of effective abandonment to co-locate another service on the tower. If another service provider is not added to the tower, then the operator shall promptly dismantle and remove the portion of the tower that exceeds the minimum height required to function satisfactorily. Notwithstanding the foregoing, changes which are made to personal wireless facilities which do not diminish their essential role in providing a total system shall not constitute abandonment. However, in the event that there is a physical reduction in height of substantially all of the provider's towers in the city or surrounding area then all of the towers within the city shall similarly be reduced in height.
 3. Dismantle and remove facility. If the tower, antenna, foundation, and facility are not removed within the sixty-day time period or additional period of time allowed by the city, the city may remove such tower, antenna, foundation, and related facility at the provider's expense. If there are two or more providers co-locating on a facility, except as provided for in the paragraph above, this provision shall not become effective until all providers cease using the facility.
 4. At the earlier of sixty days from the date of abandonment without reactivating or upon completion of dismantling and removal, city approval for the facility shall automatically expire.



May 11, 2020

Ms. Bridgette Tuttle, Chair
Monroe Planning Commission
806 West Main Street
Monroe, WA 98272

SENT VIA EMAIL: kshaw@monroewa.gov

Re: Small Wireless Facilities – Revised MMC Chapter 22.62

Dear Chair Tuttle and Commissioners:

Thank you for the opportunity to comment on the proposed code amendments applicable to small wireless facilities (new MMC Chapter 22.62), which you are considering in work session tonight. These comments are submitted to the City of Monroe (“City”) on behalf of AT&T.

AT&T supports the City’s efforts to update its wireless code for greater consistency with federal law and advancements in technology, and it suggests the changes shown in the enclosed redlined copy of the code. In particular, AT&T asks that you consider the following changes to proposed MMC Chapter 22.62.

MMC 22.62.0[x]0(B)(2)(I)¹ – Construction Drawings: AT&T suggests: (a) refining the area within which construction drawings must depict existing conditions, and (b) clarifying the extent to which the drawings must include electric and fiber utility improvements, as follows:

- I. Construction drawings submitted by the applicant shall depict all existing and proposed improvements related to the proposed location, including but not limited to poles, driveways, ADA ramps, equipment cabinets, street trees, and structures within 250 feet from the proposed site(s). The construction drawings shall also include the applicant’s plan for electric and fiber utilities, all conduits, cables, wires, hand holes, junctions, meters, disconnect switches and any other ancillary equipment or construction necessary to construct the wireless facility, to the extent the applicant is responsible for installing such electric and fiber utilities and related conduits, cables, wires, and other improvements.

AT&T suggests requirements to depict all of the *applicant’s* proposed improvements, as well as existing improvements and features within a *reasonable distance* from the applicant’s project.

¹ In earlier drafts, this subsection appeared in the Small Wireless Facilities section of the proposed code. In the version before you now, the section is unnumbered and unnamed. See page 9 of draft ordinance and page 14 of enclosed redline. AT&T suggests clarifying the intended organization of the code.

With respect to electric and fiber utilities, the *applicant* will be responsible for constructing electric and fiber improvements to a particular connection point. The electric or fiber utility may be responsible for additional improvements and will be required to obtain a separate permit from the City. AT&T asks that each applicant (the wireless provider or the utility) be responsible for submitting construction plans for its own work. With respect to the radius for showing existing conditions in construction plans, AT&T suggests a reasonable distance within which existing improvements may reasonably be impacted by construction, which AT&T believes is 50 feet. Two hundred fifty feet is far more than is needed for reviewing potential impacts to other improvements in the right-of-way or assessing potential impacts to the critical root zone of an existing tree.

MMC 22.62.060(C)(6) – Canister Antenna : For consistency with other proposed small wireless facility design standards for painting/coloring antennas and equipment, AT&T suggests that the standard applicable to the canister antenna allowed by .060(C)(6) be qualified as follows:

A canister antenna mounted on the top of a pole shall not exceed the diameter of the pole by more than 12 inches or be more than a total of 16 inches in diameter, whichever is greater, and shall be colored or painted to match the pole, to the extent technically feasible.

MMC 22.62.060(E)(21)(b) – Permit Time Limit: AT&T also suggests additional time for completing construction of a small wireless facility as follows:

b. Permit Time Limit. Construction of the small wireless facility must be completed within six months after the approval date by the city. The permittee may request one extension to be limited to ~~three~~ six months, if the applicant cannot construct the small wireless facility within the original six-month period. Failure to complete construction as required by this section shall result in expiration of the permit.

Completion of construction may depend on the timing of work by third parties. AT&T suggests that the City's code allow for a six-month extension of a small wireless facility permit in order to better coordinate construction schedules and address other potential challenges in completing construction.

MMC 22.62.080 – Deviations: AT&T suggests that the City restore the Deviations section that was included in prior versions of the proposed revised chapter. The traditional variance process, such as is found in MMC Chapter 22.66, is not well suited to proposed wireless facilities; for example, the need for a wireless deviation is not often tied to the characteristics of the property (size, shape, etc.), but tied to the applicant's technical needs for providing wireless service to the community (additional tower height). AT&T suggests that the City adopt a deviations section tailored to the considerations relevant to siting a wireless facility, including whether denial of the proposal would materially inhibit the provision of wireless service contrary to federal law.

May 11, 2020
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We appreciate your consideration of AT&T's comments and for all of the efforts by Monroe's leaders and staff to establish workable policies for the wireless industry, including AT&T, and the people living and working in the Monroe community.

Thank you for your consideration of these comments.

Sincerely,



Meridee Pabst
meridee.pabst@wirelesspolicy.com

cc: Anita Marrero, Senior Planner
Shana Restall, Principal Planner
Ben Swanson, Community Development Director

Leigh Anne Barr

Subject: RE: 5G harms health and privacy - here's some legislative steps to take

From: Vicki Tolbert [<mailto:myvoice@oneclickpolitics.com>]

Sent: Monday, June 8, 2020 12:55 AM

To: Geoffrey Thomas <GThomas@monroewa.gov>

Subject: 5G harms health and privacy - here's some legislative steps to take

Re: 5G harms health and privacy - here's some legislative steps to take

Dear Hon. Thomas,

Thank you for your consideration of the misgivings that I, and many others, share regarding the risks pertaining to the deployment of 5G technology.

This week, more than 150,000 people are participating in an online Summit to examine the facts pertaining to 5G. To be clear, we understand that there are indeed benefits to this technology. We also understand, however, that there are very significant risks which have not been addressed to date. As my elected representative, I urge you to examine then take immediate action to mitigate these risks.

What are the risks and negative impacts from 5G? These fit into the following broad categories: 1) adverse health impacts, 2) privacy impacts, 3) national security risks and 4) budgetary impacts.

ADVERSE HEALTH IMPACTS have been confirmed in over 3,600 medical studies that include cancer, sterility, heart conditions, exacerbation of other underlying conditions and much more including environmental impacts.

PRIVACY IMPACTS include the harvesting of personal data about citizens without their knowledge or consent. 5G facilitates granular "contact tracing" surveillance. The "business case" for 5G right now is surveillance devices and cameras, not data service for consumers.

NATIONAL SECURITY RISKS include providing hostile nations with access to sensitive military and critical infrastructure networks.

BUDGETARY IMPACTS rise from lawsuits against municipal authorities for failure to comply with current statutory protections such as those provided in the ADA and FHA and tort liability for personal injuries caused by exposure from wireless infrastructure on public right-of-way.

Individually, these risks would merit further action. Collectively, they should justify treating the matter as an urgent, immediate priority.

To be clear, to date there are no independent safety studies demonstrating the safety of prolonged exposure to the microwave and millimeter-wave frequencies; or phased array beamforming intended to be used for 5G in the future.

Thus, with thousands of studies indicating harmful bio-effect(s) from wireless radiation, and since the wireless industry tells us that 5G requires installation of transmitters emitting wireless radiation 24 hours a day in front of every 3-10 homes, causing or facilitating the deployment of 5G and then exposing individuals against their will violates their right to bodily integrity and is a battery tort. The emissions crossing private land are a nuisance.

For a legislative template, see Burlington's Small Cell Policy, which is being used as a model in municipalities throughout the country: www.burlington.org/town_government/small_cell_information.php

States such as Wisconsin, Ohio, Pennsylvania, Connecticut, Massachusetts, New Hampshire, Louisiana, Oregon, New York, and California have taken action to limit and exert more control over the 5G rollout.

Federal legislators including Senators Richard Blumenthal and James Gaughran; and Representatives Anna Eshoo, Thomas Suozzi, Dan Lipinski, Andy Kim, and Peter DeFazio have all formally initiated an inquiry regarding the safety of 5G technology and have requested documentation of its safety.

Countries and cities around the world, including Switzerland, Brussels, Italy, Greece, UK, Slovenia, Nigeria, New Guinea, have completely halted or postponed the roll out of 5G until its safety has been firmly established.

Leading tech and industry professionals including Frank Clegg, the former President of Microsoft Canada, have made pragmatic appeals to policy makers regarding the risks of 5G technologies (see: youtu.be/xSP2exnmJXg). Mr. Clegg has requested that his industry, the telecommunications industry, be required by policy makers to do full safety testing on 5G and pursue technological options such as fiber optics which mitigate health, privacy and security risks.

What actions can be taken? Contrary to what you may be told by federal authorities, state authorities or even your own legal counsel, there are significant actions you can take right now to join other communities in the protection of the rights of the citizens within your community.

THESE ACTIONS INCLUDE:

- 1) pursuing ordinances that require the telecom provider to comply with the ADA/FHA;
- 2) requesting applications for installation from 5G service providers stating their compliance with FCC installation requirements;
- 3) submitting these applications to FCC for environmental impact assessment; and
- 4) ensuring that electrosensitive citizens (3.2% of population on average) are provided with an environment free from harm.

Furthermore, please note that at least 23 municipalities from around the US are currently suing in the federal 9th District Court for the rights to regulate and control the rollout of 5G infrastructure in their local communities.

For more information, and/or to receive a summary of key legal facts and proven-successful steps you can take within your local government, please see “5G & Wireless Facts at a Glance” (copy-paste this link): solutionsforhumanity.net/wireless-facts-at-a-glance/

You are the last line of defense for the members of your community including your own family and friends. It is my hope that you will join with others in the pursuit of ordinances that protects all of us.

Sincerely,

Vicki Tolbert

vicki_tolbert@yahoo.com

16654 167th Ave. SE Monroe, WA 98272 Constituent