

ORDINANCE 2021 - 02

**AN ORDINANCE OF THE CITY OF SUNNYSIDE, WASHINGTON,
AMENDING CHAPTER 17.66 OF THE SUNNYSIDE MUNICIPAL CODE,
PERTAINING TO WIRELESS COMMUNICATION FACILITIES**

WHEREAS, pursuant to Chapter 35A.13 RCW the City Council is charged with legislative authority of the City of Sunnyside; and

WHEREAS, Chapter 17.66 of the Sunnyside Municipal Code governs wireless communication facilities; and

WHEREAS, the Planning Commission conducted a public hearing on December 8, 2020, pursuant to notice duly published, to receive public testimony and evidence concerning such requested rezone, and, having received and considered all testimony and evidence presented, and made recommendation for approval; and

WHEREAS, the City Council has received the recommendation of the Planning Commission, and has held a public meeting on March 8, 2021 to consider legislative action to effect a zoning code amendment pursuant to such recommendation; and

WHEREAS, the City Council concurs with the recommendation of the Planning Commission; and

WHEREAS, the City Council finds and determines that such requested amendment should be approved, and that such approval is in the best interests of residents of the City of Sunnyside and will promote the general health, safety and welfare.

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF SUNNYSIDE, WASHINGTON, as follows:

SECTION 1. Section 17.66 of the Sunnyside Municipal Code is amended as set forth in Exhibit "A" attached hereto and incorporated herein by this reference.

SECTION 2. Except as amended herein, Title 17 SMC shall remain unchanged.

SECTION 3. This Ordinance shall be effective five days after passage, approval and publication as required by law.

PASSED this 8th day of March, 2021.


FRANCISCO GUERRERO, MAYOR

ATTEST:


JANETH RANGEL, DEPUTY CITY CLERK

APPROVED AS TO FORM:


KERR FERGUSON LAW, PLLC
Attorneys for the City of Sunnyside

Exhibit A
Chapter 17.66
WIRELESS COMMUNICATION FACILITIES

Sections:

Article I. General

- 17.66.010 Purpose.
- 17.66.020 Definitions Applicability.
- 17.66.030 Exemptions Definitions.
- 17.66.040 WCF locations General provisions.
- ~~17.66.050 Project application review.~~
- ~~17.66.060 General Provisions.~~
- ~~17.66.070 Site development standards.~~
- ~~17.66.080 Collocation.~~
- ~~17.66.090 Facility removal~~
- ~~17.66.100 Facility relocation.~~
- ~~17.66.110 Electromagnetic field (EMF) standards compliance.~~
- ~~17.66.120 Application requirements.~~
- ~~17.66.130 Permit limitations and reservations.~~
- ~~17.66.140 Fees.~~
- ~~17.66.150 Appeals.~~
- ~~17.66.160 Rules and regulations of the City.~~
- ~~17.66.170 Severability.~~

Article II. Macro Facilities

- 17.66.050 Application requirements for macro facilities.
- 17.66.060 Procedure for macro facilities permit.
- 17.66.070 Review criteria for macro facilities.
- 17.66.080 Prioritized locations for macro facilities.
- 17.66.090 Design and concealment standards for macro facilities.
- 17.66.100 Expiration of macro facility permit.
- 17.66.110 Appeals.

Article III. Eligible Facilities Request

- 17.66.120 Definitions.
- 17.66.130 Application.
- 17.66.140 Qualification as an eligible facilities request.
- 17.66.150 Time frame for review.
- 17.66.160 Tolling of the time frame for review.
- 17.66.170 Determination that application is not an eligible facilities request.
- 17.66.180 Failure to act.

Article IV. Small Wireless Facilities

- 17.66.190 Application requirements for small wireless facilities.
- 17.66.200 Review criteria.
- 17.66.210 Permit requirements.
- 17.66.220 Modifications to small wireless facilities.
- 17.66.230 Consolidated permit.
- 17.66.240 Decorative poles for small wireless facilities.
- 17.66.250 Design and concealment standards for small wireless facilities.
- 17.66.260 New poles in the right-of-way for small wireless facilities and installations on decorative poles.
- 17.66.270 Appeals.

Article I. General

17.66.010 Purpose.

This chapter addresses the issues of location and appearance associated with wireless communication facilities (WCF). It provides adequate siting opportunities through a range of locations and options that minimize the visual impacts sometimes associated with wireless communications technologies. The siting of facilities on existing buildings or structures, collocation of several providers' facilities on a single support structure or site, and visual mitigation measures are encouraged to maintain neighborhood appearance and reduce visual clutter in the City. Among the purposes included are 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. Ensure that such standards allow competition and do not unreasonably discriminate among providers of functionally equivalent services.
- D. Encourage the design of such wireless communication facilities to be aesthetically and architecturally compatible with the surrounding built and natural environments where possible.
- E. 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. [Ord. 2013 § 3, 2000.]

17.66.020 Applicability.

- A. Applicability. The placement of any wireless communication facility in any location within the city is subject to the provisions of this chapter.

B. Permit Required. 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.

C. 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.

D. 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, with the city for the use of the city's right-of-way.

E. Administrative Approval. In order to comply with FCC Order 18-133, insofar as the same applies, permits for wireless communication facilities shall be processed administratively by the Administrator or his/her designee as a Type 1 permit under SMC 19.01.

17.66.020030 Definitions.

For the purpose of this chapter, the following terms, phrases, words, and abbreviations shall have the meanings given herein, unless otherwise expressly stated. Words not defined herein shall be given the meaning set forth in Title 47 of the United States Code and Title 47 of the Code of Federal Regulations, as amended. Words not otherwise defined shall have their common and ordinary meaning:

A. "Abandonment" or "abandoned" means: (1) to cease operation for a period of 60 or more consecutive days; (2) to reduce the effective radiated power of an antenna by 75 percent for 60 or more days; (3) to relocate an antenna at a point less than 80 percent of the height of an antenna support structure; or (4) to reduce the number of transmissions from an antenna by 75 percent for 60 or more consecutive days.

B. "Administrator" means the Planning and Community Development Supervisor or his/her designee.

BC. "Antenna" means an apparatus designed for the purpose of emitting radio frequency (RF) radiation, to be operated or operating from a fixed location pursuant to FCC authorization, for the provision of personal wireless service and any commingled information services. For purposes of this definition, the term "antenna" does not include an unintentional radiator, mobile station, or device authorized under 47 CFR Part 15 any system of electromagnetically-tuned wires, poles, rods, reflecting discs or similar devices

~~used to transmit or receive electromagnetic waves between terrestrial and/or orbital-based points, including but not limited to:~~

- ~~1. "Whip antenna" means an omnidirectional antenna, which transmits and receives radio frequency signals in a 360-degree radial pattern. Typically four inches or less in diameter.~~
- ~~2. "Panel antenna" means a directional antenna which transmits and receives radio frequency signals in a specific directional pattern of up to 120 degrees, and which is typically thin and rectangle in shape.~~
- ~~3. "Tubular antenna" means a tube typically 12 inches in diameter containing either omnidirectional or directional antennas, depending on the specific site requirement. This is often used as a means to mitigate the appearance of antennas on top of light standards and power poles.~~
- ~~4. "Parabolic (or dish) antenna" means a bowl-shaped device for the reception and/or transmission of communication signals in a narrow and specific direction.~~
- ~~5. "Ancillary antenna" means an antenna that is less than 12 inches in its largest dimension and that is not directly used to provide personal wireless communication services. An example would be a global positioning satellite (GPS) antenna.~~

GD. "Collocation" means the placement and arrangement of multiple providers' antennas and equipment on a single support structure or equipment pad area (1) mounting or installing an antenna facility on a preexisting structure, and/or (2) 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.

D. "Electromagnetic field" means the field produced by the operation of equipment used in transmitting and receiving radio frequency signals.

E. "Equipment shelter" means the structure associated with a WCF that is used to house electronics switching equipment, cooling systems, and backup power systems. FCC" or "Federal Communications Commission" means the federal administrative agency, or lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers on a national level.

F. "Minor facility" means a wireless communication consisting of up to three antennas, each of which is either (1) a panel antenna four feet in height and with an area of not more than 580 square inches; or (2) a whip antenna, no more than four inches in

diameter and no more than six feet in length; (3) a tubular antenna no more than 18 inches in diameter and six feet in height; and an associated equipment cabinet that is six feet or less in height and no more than 48 square feet in floor space. Slight size, type, dimensional variances may be allowed by the City as technology changes occur. A minor facility does not include the construction or erection of a new freestanding support structure though it may include the installation of such facility on an existing support structure. “Light pole” means a pole used primarily for lighting streets, parking areas, parks or pedestrian paths.

G. Wireless Communication Facility (WCF). “Personal wireless service facility” or “wireless communication facility” or “wireless facility” or “facility” means a wireless communication facility that is for the transmission and/or reception of radio frequency signals and which may include antennas, equipment shelter or cabinet, transmission cables, a support structure to achieve the necessary elevation, and reception and transmission devices and antennas. “Macro facility” means a large wireless communication facility that provides radio frequency coverage for a personal wireless service and is too large to meet the size or area requirements of a small wireless facility. Generally, macro cell antennas are mounted on ground-based towers, rooftops and other existing structures, at a height that provides a clear view over the surrounding buildings and terrain. Macro cell facilities typically contain antennas that are greater than three cubic feet per antenna and typically cover large geographic areas with relatively high capacity and may be capable of hosting multiple wireless service providers.

H. “Overhead facilities” means utility facilities and telecommunications facilities located above the surface of the ground, including the underground supports and foundations for such facilities.

H]. “Personal wireless services” means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined Title 47, United States Code, Section 332(e)(7)(C).

I. “Freestanding support structure,” or “support structure,” or “freestanding WCF” means any built structure, including any guy wires and anchors, to which antennas and other necessary associated hardware are mounted. Support structures may include the following:

1. “Lattice tower” means a support structure that consists of a network of crossed metal braces, forming a tower, which is usually triangular or square in cross-section.
2. “Guyed tower” means a support structure such as a pole or narrow metal framework which is held erect by the use of guy wires and anchors.
3. “Monopole” means a support structure that consists of a single steel or wood pole sunk into the ground and/or attached to a concrete pad.

J. “Existing nonresidential structure” means existing structures or buildings designed and used for nonresidential uses, but not including structures considered accessory structures to a residential use or residential site. “Service provider” is defined consistently with RCW 35.99.010(6). Service provider shall include those infrastructure companies that provide telecommunications services or equipment to enable the deployment of personal wireless services.

K. “Small wireless facility” has the same meaning as defined in 47 CFR 1.6002.

L. “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 telecommunication service (whether on its own or commingled with other types of services).

M. “Telecommunications facilities” means the plant, equipment and property including, but not limited to, cables, wires, conduits, ducts, pedestals, electronics, and other appurtenances used or to be used to transmit, receive, distribute, provide or offer wireline or wireless telecommunications service.

N. “Telecommunications service” means the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means for hire, sale, or resale to the general public. For the purpose of this subsection, “information” means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols. For the purpose of this chapter, telecommunications service excludes the over-the-air transmission of broadcast television or broadcast radio signals.

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

P. “Transmission equipment” means equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless 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.

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

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

S. “Wireless communication facilities” (WCF) means facilities used for personal wireless services.

T. "Wireline" means services provided using a physically tangible means of transmission, including without limitation wire or cable, and the apparatus used for such transmission. [Ord. 2013 § 3, 2000.]

17.66.040 WCF locations General provisions.

~~A. Nonresidential Zoning Districts. WCFs that require a new freestanding support structure may be located in any of the following types of zoning districts, as they exist now or in the future, within the City, subject to the following conditions:~~

- ~~1. B-1 Freeway Commercial. Permitted with Type II review if height of structure is less than 60 feet above ground level at site; Type V review (with conditional use permit) if such height exceeds 60 feet.~~
- ~~2. B-2 General Commercial. Permitted with Type II review if height of structure is less than 45 feet above ground level at site; Type V review (with conditional use permit) if such height exceeds 45 feet.~~
- ~~3. B-3 Retail Core. Permitted with Type II review if height of structure is less than 35 feet above ground level at site; Type V review (with conditional use permit) if such height exceeds 35 feet.~~
- ~~4. BN Neighborhood Business. Permitted with Type II review if height of structure is less than 35 feet above ground level at site; Type V review (with conditional use permit) if such height exceeds 35 feet.~~
- ~~5. PB Professional Business. Permitted with a Type II review if height of structure is less than 35 feet above ground level at site; Type V review (with conditional use permit) if such height exceeds 35 feet.~~
- ~~6. M-1 Light Industrial. Permitted with Type II review if height of structure is less than 60 feet above ground level at site; Type V review (with conditional use permit) if such height exceeds 60 feet.~~
- ~~7. M-2 Heavy Industrial. Permitted with Type II review if height of structure is less than 60 feet above ground level at site; Type V review (with conditional use permit) if such height exceeds 60 feet.~~
- ~~8. AP Airport. Permitted with Type II review.~~

~~B. Residential Districts. Except as provided in subsection (C) of this section, freestanding wireless facilities are not allowed in any of the residential zoning districts; provided, that the hearing body may approve a freestanding WCF in a residential district pursuant to a Type III review (with conditional use permit) with compliance with the provisions of SMC 17.66.060 and 17.66.070.~~

~~C. Existing Structures. WCFs may be placed in any zoning district on the following existing structures, subject to SMC 17.66.070:~~

- ~~1. On any freestanding support structure currently used by a permitted WCF; or~~
- ~~2. Minor facilities located on legally conforming nonresidential buildings and structures including, but not limited to, water towers, clubhouses, office buildings, retail buildings, industrial buildings, government buildings, school buildings, churches, light standards in parking lots and sports fields, power poles and towers;~~
- ~~3. Minor facilities located on legally conforming residential buildings and structures may be permitted with a Type V review (with conditional use permit), subject to SMC 17.66.060 and 17.66.070, and further subject to the requirement that such minor facility be site screened and any equipment cabinet be located underground or otherwise site screened as deemed appropriate by the hearing body. [Ord. 2013 § 3, 2000.]~~

A. Wireless communication facilities shall not be considered nor regulated as essential public facilities.

B. Wireless communication facilities located outside the public right-of-way may be either a primary or secondary use. A different use of an existing structure on the same lot shall not preclude the installation of a wireless communication facility.

C. Small wireless facilities, as defined in SMC 17.66.030, located within the public right-of-way pursuant to a valid franchise are outright permitted uses in every zone of the city but still require a small wireless facility permit pursuant to SMC 17.66.190 et seq.

D. The following wireless communication facilities shall be exempt from the requirement to obtain land use permits:

1. Small satellite dish antenna(s). Small dish antenna(s) less than two meters in diameter, including direct to home satellite services, when used as a secondary use of the property in all zones shall be exempt from obtaining land use permit approval. Such antennas shall not be required to obtain building permit approval, but installation must comply with any applicable provisions of the city building code.

2. Routine maintenance or repair of wireless communication facilities and related equipment (excluding structural work or changes in height or dimensions of antennas, support structures or buildings); provided, that compliance with the standards of this code is maintained and a right-of-way use permit is obtained if the wireless communication facility is located in the right-of-way.

3. Temporary WCF for emergency communications equipment in anticipation of and during a declared public emergency or emergency exercise.

4. Wireless communication facilities which legally existed or had a vested application on or prior to the effective date of the ordinance codified in this section; except that this exemption does not apply to modifications of such facilities.

5. Governmentally operated wireless communication devices for public safety radio systems, ham radio and business radio systems.

~~17.66.050 Project application review.~~

~~A. All WCF applications requesting the construction of a new freestanding support structure or which do not meet the definition of a minor facility shall require a Type II, Type III or Type V review as specified in SMC 17.66.040 and defined in SMC Title 19.~~

~~B. WCFs that do not include the construction of a freestanding support structure and are defined as a minor facility shall be processed as Type II Review under SMC Title 19. [Ord. 2013 § 3, 2000]~~

~~17.66.060 General provisions.~~

~~A. Principal or Accessory Use. Wireless communication facilities will be considered either principal or accessory uses. A different use of an existing structure on the same lot shall not preclude the installation of a WCF on that lot.~~

~~B. FCC Licensing. The applicant must demonstrate that it is licensed by the FCC if it is required to be licensed under FCC regulations. The applicant, if not the telecommunications service provider, shall submit proof of lease agreements with a FCC-licensed telecommunications provider if they are required to be licensed by the FCC.~~

~~C. Lot Size. For purposes of determining whether the installation of a wireless telecommunications facility complies with zoning district development standards, such as, but not limited to, setback and lot coverage requirements, the dimensions of the entire lot shall control, even though a wireless telecommunications facility is located on a leased parcel within that lot.~~

~~D. Signs. No wireless telecommunications equipment shall be used for the purpose of mounting signs or message displays of any kind.~~

~~E. Lighting. Wireless facilities shall not be artificially lighted unless required by the FAA or other applicable authority.~~

~~F. Permanent Mounting Required. All commercial wireless telecommunications facilities shall be installed, erected, or mounted in a manner that is intended to be permanent. Temporary and mobile commercial facilities are not allowed.~~

~~G. Cumulative Effects. The City shall consider the cumulative visual effects of wireless facilities mounted on existing structures and/or located on a given permitted site~~

in determining whether the additional permits can be granted so as to not adversely affect the visual character of the City.

H. ~~Business License Registration. All WCFs shall obtain and maintain a City of Sunnyside business license prior to the issuance of any permits.~~

I. ~~Site Screening. Wireless facilities shall be screened or camouflaged by employing the best available technology. This may be accomplished by use of compatible materials, location, color, stealth technologies, and/or other tactics to achieve acceptable and adequate screening or camouflage, as determined by the appropriate hearing body, of the facility as viewed from public streets or residential properties. All screening and camouflaging is subject to the approval of the City.~~

J. ~~Environmental Review. Any freestanding WCF that exceeds 60 feet in height above ground level at site requires appropriate environmental review under the State Environmental Policy Act (SEPA), including but not limited to, SEPA checklist or other review deemed appropriate by the lead agency. [Ord. 2013 § 3, 2000.]~~

~~17.66.070 Site development standards.~~

All WCFs shall be constructed, erected or built in accordance with the following site development standards:

A. ~~Minor wireless facilities may be mounted on certain residential and nonresidential buildings or structures in accordance with the limitations in SMC 17.66.040(C); provided, that the following conditions are met:~~

- ~~1. The WCF is collocated on an existing WCF freestanding support structure;
or~~
- ~~2. The WCF consists of a minor facility as follows:
 - ~~a. The combined antenna(s) and support structure shall not extend more than 15 feet above the existing or proposed roof structure. Antenna(s) may be mounted to rooftop appurtenances provided they do not extend beyond 15 feet above the roof proper; and~~
 - ~~b. The antennas are mounted on the building such that they are located and designed to minimize visual and aesthetic impacts to surrounding land uses and structures and shall, to the greatest extent practical, blend into the existing environment.~~~~

B. ~~New freestanding wireless facilities, all exempt repair and maintenance, and all other WCFs not meeting the definition of a minor facility, shall conform to all of the following site development standards:~~

- ~~1. Monopoles and lattice towers shall be the only freestanding support structures allowed in the City unless the applicant submits supporting evidence and the hearing body agrees in written findings that another type of support structure is needed to meet the applicant's technical and network location requirements;~~
- ~~2. Installation of a new freestanding facility shall only be accepted in residential zoning districts if the applicant can show that other nonresidential zoning districts within the City cannot meet the applicant's technical and network location requirements;~~
- ~~3. Installation of a freestanding facility shall be denied if placement of the antennas on an existing structure can meet the applicant's technical and network location requirements;~~
- ~~4. The applicant shall demonstrate that the WCF is the minimum height required to function satisfactorily. For the purpose of future collocation the City may allow freestanding support structures to be built higher than the minimum required for the technical and networking requirements of the applicant if the applicant guarantees future collocation of other WCFs on the freestanding support structure. Height shall be measured to the top of the antenna(s);~~
- ~~5. A freestanding WCF, including the support structure and associated electronic equipment, shall comply with all required setbacks of the zoning district in which it is located. Larger setbacks shall be encouraged for freestanding WCFs requesting location next to residential uses or zones;~~
- ~~6. Freestanding wireless facilities shall be designed and placed on the site in a manner that takes maximum advantage of existing trees, mature vegetation, and structures so as to:
 - ~~a. Use existing site features to screen as much of the total facility as possible from prevalent views; and/or~~
 - ~~b. Use existing site features as a background so that the total facility blends into the background with increased sight distances;~~~~
- ~~7. In reviewing the proposed placement of a wireless facility on the site and any associated landscaping, the City may make a condition of the permit that the applicant supplement existing trees and nature vegetation to more effectively screen the facility; and~~
- ~~8. Support structures, antennas, and any associated hardware shall be painted a nonreflective color or color scheme appropriate to the background against which the facility would be viewed from a majority of points within its viewshed. A proposed color or color scheme shall be approved by the City.~~

~~C. Electronics equipment enclosures shall conform to the following:~~

- ~~1. Screening of WCF equipment enclosures shall be provided, subject to the approval of any hearing body as applicable, with one or a combination of the following: underground, fencing, walls, landscaping, structures, or topography which will block the view of the equipment shelter as much as practicable from any street and/or adjacent properties. Screening may be located anywhere between the enclosure and the above-mentioned viewpoints. Landscaping for the purposes of screening shall be maintained in a healthy condition; and~~
- ~~2. No wireless equipment reviewed under this section shall be located within required building setback areas.~~

~~D. Security fencing, if used, shall conform to the following:~~

- ~~1. No fence shall exceed six feet in height or such other height as required in applicable municipal code or zoning code.~~
- ~~2. Security fencing shall be effectively screened from view through the use of appropriate landscaping materials; and~~
- ~~3. Chain link fences shall be painted or coated with a nonreflective color and shall have a minimum three-foot-deep area to be planted with approval plant species in a manner that will complete screen fencing. [Ord. 2013 § 3, 2000.]~~

~~17.66.080 Collocation.~~

~~The intent of collocation is to encourage several providers to use the same structure or site to keep the number of wireless facilities sites to a minimum as a means of reducing the overall visual effects throughout the community. The following procedures are required to further the intent of WCF collocation:~~

~~A. A permittee shall cooperate with other WCF providers in collocating additional antennas on support structures and/or on existing buildings and sites, provided said proposed collocates have received a permit for such use at said site from the City. A permittee shall allow other providers to collocate and share the permitted site, provided such shared use does not give rise to a substantial technical level impairment of the permitted use (as opposed to a competitive conflict or financial burden). Property leases or licenses for property to be used to locate WCF, excluding minor facilities, shall contain a nonexclusivity clause authorizing collocation of other WCF, subject to the provisions of this chapter and section.~~

~~B. A signed statement indicating that the applicant agrees to allow for the potential collocation of additional WCF equipment by other providers on the applicant's structure or within the same site location shall be submitted by the applicant as part of the permit~~

application. If an applicant contends that future collocation is not possible on its site, the applicant must submit a technical study documenting that such collocation is not possible. [Ord. 2013 § 3, 2000.]

17.66.090 — Facility removal.

In instances where a WCF is to be removed, the removal shall be in accordance with the following procedures:

A. ~~The operator of a WCF shall notify the City upon the discontinued use of a particular facility. The WCF shall be removed by the facility owner within 90 days of the date the site's use is discontinued, it ceases to be operational, the permit is revoked, or if the facility falls into disrepair or is abandoned. Disrepair includes structural features, paint, landscaping, or general lack of maintenance which could result in safety or visual impacts; and~~

B. ~~If the provider fails to remove the facility upon 90 days of its discontinued use, the responsibility for removal falls upon the landholder on which the facility has been located. Upon failure or refusal of the provider to remove the facility within 90 days of its discontinued use, the landholder shall have 30 days in which to obtain all necessary permits for demolition and/or removal of such facility and shall have up to 60 days thereafter to remove such facility. If the landholder fails or refuses to obtain the necessary permit(s), or fails or refuses to remove such facility within the time specified, the City or its designee may enter upon such property and remove such facility, or cause such to be removed, and shall be entitled to recover all costs of such removal from the landholder or its successor in interest. As an additional remedy, the City may charge a lien against such property in the amount of the costs incurred by the City in removing such facility, or in causing such to be removed. The City's right to recover its costs incurred in such removal shall be conditioned upon compliance with the following procedures:~~

~~1. The City shall notify the landholder in writing that it will remove such facility, or cause such to be removed, and recover costs thereof from such landholder or its successor in interest, and will attach a lien against such property representing any unreimbursed costs of such removal incurred by the City.~~

~~2. Such written notice shall be delivered to the landholder, or its successor in interest, at least 30 days prior to the scheduled date of removal of such facility. Delivery shall be deemed complete upon deposit of such notice in the United States Postal Service mail, postage prepaid, addressed to the last known address of the landholder.~~

~~3. The landholder, or its successor in interest, shall have 10 days after delivery of such notice to appeal such decision to the City Council. The appeal must be in writing and must describe specific reasons why such removal should not occur. The written appeal must be received by the City at the office of the City Manager, 818 Edison Avenue, Sunnyside, Washington 98944, no later than 5:00 p.m. on the~~

tenth day in order to be considered timely. If the tenth day falls on a weekend or holiday, the deadline will be extended to 5:00 p.m. on the next business day.

4. If no timely appeal is received by the City, the City Council may by resolution authorize the City to enter upon such property and remove such facility and authorize the recovery of costs incurred thereby from the landholder, and/or its successor in interest, and/or the imposition and foreclosure of a lien against such property in the amount of costs incurred by the City in removing such facility, together with interest thereon at the rate permitted by law.

5. If a timely appeal is filed, the City Council shall hold a quasi-judicial hearing to consider such appeal and may affirm, modify or withdraw the notice of abatement, or removal, and may by resolution authorize the City to enter upon such property and remove such facility, or cause such to be removed, and authorize the recovery of costs incurred thereby from the landholder, and/or its successor in interest, and/or imposition and foreclosure of a lien against such property in the amount of such costs incurred by the City in removing such facility, together with interest thereon at the rate permitted by law.

C. As an alternative or additional remedy, the City may enforce any bond required pursuant to application approval, which bond secures performance of the WCF provider and/or landowner to remove or cause the removal of any facility upon discontinued use in accordance with this section. [Ord. 2013 § 3, 2000.]

17.66.100 — Facility relocation.

A. In instances when the City deems it necessary for construction, alteration, repair, or improvement of the right-of-way for purposes of the public welfare, health or safety, the City may require WCF(s) to relocate authorized facilities. In such instances, the City shall notify the WCF and shall specify the date by which the relocation shall be completed. In calculating the date that relocation must be completed, the City shall consult with the affected WCF(s) and consider the extent of facilities to be relocated, the WCF's requirements, and the construction sequence for the relocation, within the City's overall project construction sequence and constraints, to safely complete the relocation. WCFs shall complete the relocation by the date specified, unless the City, or a reviewing court, establishes a later date for completion, after a showing by the WCF that the relocation cannot be completed by the date specified using the best efforts and meeting safety and service requirements.

B. WCFs may not seek reimbursement for their relocation expenses from the City under subsection (A) of this section except:

1. Where the WCF had paid for the relocation cost of the same facilities at the request of the City within five years before the new request for relocation, the WCF's share of the cost of relocation will be paid by the City;

~~2. In the event aerial to underground relocation of existing authorized facilities is required by the City pursuant to this section, for WCF(s) with an ownership share of the aerial supporting structures, the incremental cost of the underground compared to aerial relocation, or as provided in any approved tariff if less, will be paid by the City; or~~

~~3. Where the City requests relocation pursuant to this section solely for aesthetic purposes, unless otherwise agreed by the parties.~~

~~C. Where a project is primarily for private benefit, the private party or parties shall reimburse the cost of relocation in the same proportion to their contribution to the costs of the project.~~

~~D. The City may require relocation of facilities at the WCF's expense in the event of an unforeseen emergency that creates an immediate threat to the public safety, health or welfare. [Ord. 2013 § 3, 2000.]~~

~~17.66.110 — Electromagnetic field (EMF) standards compliance.~~

~~All WCFs shall be operated in compliance with the following standards:~~

~~A. The applicant shall comply with federal standards for EMF emissions. Upon written request by the City, the applicant shall submit a project implementation report, which provides cumulative field measurements of radio frequency (EMF) power densities of all antennas installed at the subject site. The report shall quantify the EMF emissions and compare the results with established federal standards. Said report shall be subject to review and approval by the City for consistency with the project proposal report and the adopted Federal standards. If on review the City finds that the WCF does not meet federal standards, the City may revoke or modify the permit. The applicant shall be given a reasonable time based on the nature of the problem to comply with the federal standards. If the permit is revoked, then the facility shall be removed pursuant to SMC 17.66.090.~~

~~B. The applicant shall ensure that the WCF will not cause localized interference with the reception of area television or radio broadcasts. If on review of a registered complaint the City finds that the WCF interferes with such reception, the City may revoke or modify the permit. The applicant shall be given a reasonable time based on the nature of the problem to correct the interference. If the permit is revoked, then the facility shall be removed pursuant to SMC 17.66.090. [Ord. 2013 § 3, 2000.]~~

~~17.66.120 — Application requirements.~~

~~Applications for a WCF shall be on a form prescribed by the City of Sunnyside. Applications shall be processed in accordance with SMC Title 19 as presently constituted or hereafter amended. In addition to the information required by the City of Sunnyside, the applicant must provide any combination of site plans, maps, surveys, technical reports, or written narratives that operate to convey all of the following information:~~

A. ~~Photo simulations of the proposed facility as viewed from affected residential properties and public rights of way at varying distances.~~

B. ~~A copy of any lease or license which includes a provision that (1) the applicant and landowner agree they will allow collocation of additional WCFs by other providers on the applicant's structure or within the same site location, subject to SMC 17.66.080; and (2) the applicant and landowner agree to remove the facility within 90 days after abandonment, and agree to allow the City or its designee to enter upon such property to remove, or cause to be removed, such abandoned facility in accordance with the procedures of SMC 17.66.090; and (3) the applicant and landowner agree to be bound by the terms of this chapter and applicable law.~~

C. ~~If the proposal includes installation of a new freestanding facility in a residential zoning district the applicant shall demonstrate in writing that other nonresidential zoning districts within the City cannot meet the applicant's technical and network location requirements.~~

D. ~~If the proposal is the installation of a freestanding facility the applicant shall demonstrate in writing that the placement of the antennas on an existing structure cannot meet the applicant's technical and network location requirements.~~

E. ~~Copies of any environmental documents required by any federal or State agency, including the City if applicable. These shall include the environmental assessment required by FCC Para 1.13.07, or State Environmental Policy Act (SEPA) if required by the City. In the event that a FCC environmental assessment is not required, a statement that describes the specific factors that obviate the requirement for an environmental assessment is required.~~

F. ~~A full site plan shall be required for all sites, showing the tower, antenna, antenna support structure, building, fencing, buffering, access, and all other items required in this chapter. The site plan shall clearly indicate the location, the specific placement of the facility on the site, the type and height of the proposed WCF, on-site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed facility, the location of existing structures, trees, and other significant site features, the type and location of plant materials used to screen the facility, fencing, proposed color(s), and any other proposed structures. The site plan shall not be required if the antenna is to be mounted on an existing structure.~~

G. ~~A current map showing the location and service area of the proposed WCF, and a map showing the locations and service areas of other WCFs operated by the applicant and those proposed by the applicant that are close enough to impact service within the City.~~

H. ~~A legal description of the parcel(s) and parcel number(s).~~

~~I. The appropriate distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.~~

~~J. The method of fencing, the finished color, and, if applicable, the method of camouflage and illumination, if required.~~

~~K. A letter signed by the applicant stating the WCF will comply with all Washington State Department of Transportation (WSDOT) Aviation Division and FAA regulations and EIA Standards and all other applicable federal, State and local laws and regulations, attaching copies of any WSDOT (Aviation Division) and FAA approved certificates.~~

~~L. Certification that the antenna usage will not interfere with other adjacent or neighboring transmission or reception functions.~~

~~M. At the time of site selection, the applicant should demonstrate how the proposed site fits into its overall network within the City. This shall include a service area coverage chart for the proposed facility that depicts the extent of coverage and corresponding signal quality at the proposed facility height and at least one height lower than that proposed.~~

~~N. Certification of the costs of removal of the facility in the event such removal is necessary or required pursuant to SMC 17.66.090, together with bonding or other security satisfactory to the City, sufficient to cover such costs of removal. Such bond shall be in favor of the City, or other party satisfactory to the City, with a surety company as surety, conditioned that such person or persons shall faithfully perform such removal when and as required pursuant to SMC 17.66.090. [Ord. 2013 § 3, 2000.]~~

~~17.66.130 Permit limitations and reservations.~~

~~Approved permits issued by the City for WCFs shall be subject to and/or restricted by the following permit limitations and reservations:—~~

~~A. The City reserves the right to review any currently approved WCF use under federal, State or local regulations as they exist now or may be amended in the future. If the City reviews any WCF it shall give the operator of the facility at least three months' written notice to prepare any information needed to review the WCF. The renewal application will be under an administrative Type II review. In ruling on said renewal, the City shall consider all the existing regulations and laws affecting the application that is appropriate to the technology and use.~~

~~B. Construction of a WCF shall commence within one year from the date of the City's approval, with opportunity for a six-month extension. If not used within one year, or within the extension period, the permit shall become null and void.~~

~~C. The permittee/operator of the WCF shall and does, upon approval of the permit, agree to indemnify, protect, defend, and hold harmless the City, its Council members,~~

~~Planning Commission members, officers, employees, agents, and representatives from and against any and all liabilities, losses, damages, demands, claims, and costs, including court costs and attorney's fees incurred by the City arising directly or indirectly from (1) the City's approval and issuance of the permit; (2) the City's approval or issuance of any permit or action, whether discretionary or nondiscretionary, in connection with the use contemplated in the permit; and (3) applicant's installation and operation of the facility allowed by the permit, including, without limitation, any electromagnetic fields or other energy waves or emissions. Permittee/operator compliance with this indemnity provision is an express condition of the permit, and this indemnity provision shall be binding upon any and all of the permittees/operators, successors and assigns. By signing the application, the applicant agrees to be bound by this provision.~~

~~D. The City reserves the right to require a WCF that is constructing, relocating, or placing ducts or conduits in public rights-of-way provide the City with additional duct or conduit and related structures necessary to access the conduit; provided, that:~~

- ~~1. The City enters into an agreement with the WCF consistent with RCW 80.36.150, intended, unless otherwise agreed, to recover the incremental costs of the WCF service provider. If the City makes the additional duct or conduit and related access structures available to any other entity for the purposes of providing telecommunications or cable television service for hire, sale, or resale to the general public, the rates to be charged, as set forth in the contract with the entity that uses the conduit or duct, shall recover at least the fully allocated costs of the WCF service provider. The WCF service provider shall state both contract rates in the contract. The City shall inform the WCF service provider of the use, and any change in use, of the requested duct or conduit and related access structures to determine the applicable rate to be paid by the City.~~
- ~~2. Except as otherwise agreed by the WCF service provider and the City, the City shall agree that the requested additional duct or conduit space and related access structures will not be used by the City to provide telecommunications or cable television service for hire, sale, or resale to the general public.~~
- ~~3. The City shall not require that the additional duct or conduit space be connected to the access structures and vaults of the WCF service provider.~~
- ~~4. The value of the additional duct or conduit requested by the City shall not be considered a public works construction contract.~~
- ~~5. This section shall not affect the provisions of an institutional network by a cable television provider under federal law.~~

~~E. The City reserves the right to enter into lease and/or license agreements with WCF service providers regarding use of, or placement upon, City owned public property of WCFs and support structures, as authorized or permitted by law. Lease and/or license fees for such use or placement of such facilities and support structures shall be negotiated~~

by the parties, together with other terms and conditions, including but not limited to term of lease or license, renewals thereof, location and any other items consistent with applicable law and this chapter. [Ord. 2013 § 3, 2000.]

17.66.140 — Fees.

A. ~~All WCF Type II review applications shall be charged a fee as specified in SMC 2.02.020(C).~~

B. ~~All WCF Type III or Type V review applications shall be charged a fee of \$400.00, or a Type III or Type V review fee as defined in the City's adopted fee schedule, whichever is more.~~

C. ~~In addition to the application fee, the applicant shall reimburse the City for costs of professional engineers and other consultants hired by the City to review and inspect the applicant's proposal when the City is unable to do so with its existing staff resources. By way of illustration and not limitation, these professional services may include engineering and technical review, legal review, planning review, environmental review, preparation of a detailed statement pursuant to Chapter 43.21C RCW, critical areas review, financial and accounting review, soils review, and mechanical and structural engineering review. In the event that a project requires professional services beyond that which is included in the base fee, the applicant shall reimburse the City at a rate of 100 percent of the actual cost of said professional services. The City may require the applicant to deposit an amount with the City to cover anticipated costs of retaining professional services or consultants. In any event, if the anticipated or estimated costs exceed \$5,000, the City will notify the applicant prior to incurring any costs described in this section.~~

D. ~~The amount of the fees charged for WCF applications shall be adjusted in accordance with the following procedures:~~

~~The Consumer Price Index or Urban Consumers (CPI-U) for Western Type C cities Area Index 1977 equals 100 (hereafter called the "Index") published by the Bureau of Labor Statistics of the United States, Department of Labor, shall be determined as of January 1, 2000, and as of each January 1st thereafter. Beginning January 1, 2001, if the index is higher or lower on any January 1st than the index as of the preceding January 1st, then the application fee commencing January 1st shall be increased or decreased 100 percent of such change in the index. If the publication of the index should be discontinued, the City shall thereafter accept comparable statistics on the cost of living for the City of Seattle as they shall be comparable and published by an agency of the United States or a responsible financial periodical of recognized authority selected by the Mayor.~~

E. ~~The SEPA checklist/application fee, if such environmental review is required, is specified in SMC 2.02.020(C), or such other amount established by ordinance of the City from time to time. [Ord. 2172 § 1, 2007; Ord. 2013 § 3, 2000.]~~

17.66.150 — Appeals.

~~Appeals shall follow the procedures in SMC Title 19. [Ord. 2013 § 3, 2000.]~~

~~**17.66.160 Rules and regulations of the City.**~~

~~Nothing in this title shall operate to restrict or limit the City's ability to adopt and enforce all appropriate ordinances establishing requirements for telecommunications carriers' and providers' use of the rights of way and public property, taxes authorized by law including the tax authorized by RCW 35.21.865, procedures for application and approval of telecommunication business registrations, telecommunications rights of way use authorizations, franchises and facilities leases, and describing violations and establishing penalties. Nothing in this chapter shall operate to release in whole or in part any applicant for a WCF facility from the obligation to comply with such ordinances, rules and regulations of the City of Sunnyside. [Ord. 2013 § 3, 2000.]~~

~~**17.66.170 Severability.**~~

~~If any section, clause or phrase of this chapter should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this chapter. [Ord. 2013 § 3, 2000.]~~

Article II. Macro Facilities

17.66.050 Application requirements for macro facilities.

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

B. Applications for a macro facility shall be filed with the administrator on forms prescribed by the city. All applications shall be accompanied by a filing fee and other applicable fees as required by resolution or ordinance. Each application shall contain the following:

1. The name, address, phone number and authorized signature on behalf of the applicant;
2. If the proposed site is not owned by the city, the name, address and phone number of the owner and a signed document or lease confirming that the applicant has the owner's permission to construct the macro facility;
3. A statement identifying the nature and operation of the macro facility;
4. A vicinity sketch showing the relationship of the proposed use to existing streets, structures and surrounding land uses, and the location of any nearby

bodies of water, wetlands, critical areas or other significant natural or manmade features;

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

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

7. An explanation of the technical need for the macro facility; this may include but is not limited to capacity or coverage requirements;

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

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

17.66.060 Procedure for macro facilities permit.

A. Application. Upon receipt of a complete application for a macro facility, the application shall be processed administratively pursuant to SMC 19.02.

B. Review. The administrator shall review the application for conformance with the application requirements and review criteria to determine whether the application is consistent with this chapter.

C. Decision. A permit may be granted, granted with conditions pursuant to this chapter and the code, or denied. Any condition reasonably required to enable the proposed use to meet the standards of this chapter and code may be imposed. If no reasonable condition(s) can be imposed that ensure the application meets such requirements, the application shall be denied.

D. Conditions. Conditions imposed under this chapter shall constitute permanent regulations on the exercise of the approved use. Each permit issued by the city shall be conditioned to:

1. Require the permittee to allow collocation of proposed macro facilities on the permittee's site, unless the permittee demonstrates that collocation will

substantially impair the technical operation of the existing macro facilities to a substantial degree.

2. Require the permittee to maintain the macro facility in a state of good repair and to maintain or replace, if necessary, vegetation and landscaping required as a condition of approving the permit.

3. Require the permittee to notify the city of any sale, transfer, assignment of a site or a macro facility within 60 days of such event.

4. Require the permittee to comply with the provisions of this title and all other applicable city ordinances and rules and regulations.

17.66.070 Review criteria for macro facilities.

No application for a macro facility may be approved unless all of the following criteria are satisfied:

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

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

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

D. The proposed use is in accord with the comprehensive plan.

E. The proposed use complies with this chapter and all other provisions of this code.

F. The administrator shall review the application for conformance with the following criteria:

1. Compliance with prioritized locations pursuant to SMC 17.66.080.

2. Compliance with design standards pursuant to SMC 17.66.090.

G. Nonresidential Zoning Districts. Macro facility that require a new freestanding support structure may be located in any of the following types of zoning districts, as they exist now or in the future, within the City, subject to the following conditions:

1. B-1 Freeway Commercial. Permitted with Type II review if height of structure is less than 60 feet above ground level at side; Type V review (with conditional use permit) if such height exceeds 60 feet.

2. B-2 General Commercial. Permitted with Type II review if height of structure is less than 45 feet above ground level at site; Type V review (with conditional use permit) if such height exceeds 45 feet.

3. B-3 Retail Core. Permitted with Type II review if height of structure is less than 35 feet above ground level at site; Type V review (with conditional use permit) if such height exceeds 35 feet.

4. BN Neighborhood Business. Permitted with Type II review if height of structure is less than 35 feet above ground level at site; Type V review (with conditional use permit) if such height exceeds 35 feet.

5. PB Professional Business. Permitted with a Type II review if height of structure is less than 35 feet above ground level at site; Type V review (with conditional use permit) if such height exceeds 35 feet.

6. M-1 Light Industrial. Permitted with Type II review if height of structure is less than 60 feet above ground level at site; Type V review (with conditional use permit) if such height exceeds 60 feet.

7. M-2 Heavy Industrial. Permitted with Type II review if height of structure is less than 60 feet above ground level at site; Type V review (with conditional use permit) if such height exceeds 60 feet.

H. Residential Districts. Except as provided in subsection (C) of this section, freestanding macro wireless facilities are not allowed in any of the residential zoning districts; provided, that the hearing body may approve a freestanding WCF in a residential district pursuant to a Type III review (with conditional use permit) with compliance with the provisions of SMC 17.66.060 and 17.66.070.

1. Existing Structures. WCFs may be placed in any zoning district on the following existing structures, subject to SMC 17.66.070:

2. On any freestanding support structure currently used by a permitted WCF;
or

3. Minor facilities located on legally conforming nonresidential buildings and structures including, but not limited to, water towers, clubhouses, office buildings, retail buildings, industrial buildings, government buildings, school buildings, churches, light standards in parking lots and sports fields, power poles and towers;

4. Minor facilities located on legally conforming residential buildings and structures may be permitted with a Type V review (with conditional use permit), subject to SMC 17.66.060 and 17.66.070, and further subject to the requirement that such minor facility be site screened and any equipment cabinet be located

underground or otherwise site screened as deemed appropriate by the hearing body.

17.66.080 Prioritized locations for macro facilities.

Wireless communication facilities shall be located in the following prioritized order of preference:

A. Collocation with existing macro facility(ies) or another existing public facility/utility facility (i.e., existing or replacement PUD pole or an existing monopole/tower).

B. Collocation on existing buildings and structures located in nonresidential zones.

C. Collocation on existing buildings and structures in residential zones not used for residential use (e.g., religious facility or public facility).

D. New monopole structure proposed in the B-1, B-2, B-3, BN, PB, M-1 or M-2 zone districts, where the sole purpose is for wireless communication facilities. Said monopole structure shall be the minimum height necessary to serve the target area; however, the structure shall be designed to allow extensions to accommodate the future collocation of additional antennas and support equipment. Further, the monopole structure shall comply with the setback requirements of the commercial or business zone districts, as applicable. In no case shall the antenna be of a height that requires illumination by the Federal Aviation Administration (FAA).

17.66.090 Design and concealment standards for macro facilities.

All macro facilities shall be constructed or installed according to the following standards:

A. Macro facilities must comply with applicable Federal Communications Commission (FCC), Federal Aviation Administration (FAA), state, and city regulations and standards.

B. Antennas shall be located, mounted and designed so that visual and aesthetic impacts upon surrounding land uses and structures are minimized, and so that they blend into the existing environment. Panel and parabolic antennas shall be screened from residential views and city right-of-way.

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

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

a. Using existing site features to screen the macro facility from prevalent views; and

b. Using existing or new site features as a background in a way that the macro facility blends into the background.

2. As a condition of permit approval, the city may require the applicant to supplement existing trees and mature vegetation to screen the facility.

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

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

D. Equipment facilities shall be placed underground if applicable, or, if above ground, shall:

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

2. Not be located within required building setback areas.

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

1. The height of the barrier shall not exceed six feet if located in a setback area, unless the administrator determines additional height is necessary and then it can be up to eight feet. In all other areas the height shall be restricted by the height limitations in the zoning district. The height is measured from the point of existing or finished grade, whichever is lower, at the exterior side of the barrier to the highest point of the barrier;

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

a. Placement of landscape vegetation shall include areas outside of the barrier and shall obscure the site within three years; and

b. Landscaping and the design of the barrier shall be compatible with other nearby landscaping, fencing and freestanding walls; and

3. If a chain link fence is allowed in the zone district it shall be vinyl slates.

F. Macro facilities may not (1) produce noise in excess of the limitation set forth in Chapter 9.34.060 SMC; and (2) not be used for mounting signs, billboards or message displays of any kind.

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

H. Review of applications for collocation of macro facilities on an existing structure shall be 90 days, and the review period for deployment of a macro facility using a new structure shall be 150 days. The review period may be tolled only by mutual agreement by the city and the applicant or in cases where the city determines that the application is incomplete and specifically identifies the missing information or documentation needed. Such notice of an incomplete application must be effectuated within 30 days, or the application is deemed complete. In the event notice of an incomplete application is given the tolling period shall commence from when the notice is effectuated until the time where the applicant supplements with the requested information or documentation.

17.66.100 Expiration of macro facility permit.

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

17.66.110 Appeals.

Appeals of decisions under this chapter shall be filed and processed pursuant to Yakima County Superior Court.

Article III. Eligible Facilities Request (Modification of an existing tower or base station)

17.66.120 Definitions.

A. Definitions. The following definitions shall apply to eligible facilities requests only as described in this section:

1. "Base station" means 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 backup 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 eligible facilities request application is filed with the city, does not support or house equipment described in subsections (A)(1)(a) and (b) of this section.

2. "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 communication purposes.

3. "Eligible facilities request" means any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving:

a. Collocation of new transmission equipment;

b. Removal of transmission equipment; or

c. Replacement of transmission equipment.

4. "Eligible support structure" means any tower or base station as defined in this section; provided, that it is existing at the time the relevant application is filed with the city.

5. "Existing" means 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.

6. 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 right-of-way, it increases the height of the tower by more than 10 percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10 percent or more than 10 feet, whichever is greater;

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

7. "Tower" means any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services,

as well as unlicensed wireless services and fixed wireless services such as microwave backhaul and the associated site.

8. “Transmission equipment” means equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless 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.

17.66.130 Application.

The city shall prepare and make publicly available an application form used 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.

17.66.140 Qualification as an eligible facilities request.

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

17.66.150 Time frame for review.

Applications for an eligible facilities request are reviewed by the administrator or his/her designee, who will approve the application within 60 days of the date an applicant takes the first step in a Sunnyside’s application process and submits written documentation showing that a proposed modification is an eligible facility request, unless the administrator or designee determines that the application does not qualify under SMC 17.66.120(A)(3).

17.66.160 Tolling of the time frame for review.

The 60-day review period begins to run when the an applicant takes the first step in Sunnyside’s application process and submits written documentation showing that a proposed modification is an eligible facility request, unless the administrator or designee determines that the application does not qualify under SMC 17.66.120(A)(3). The 60-day review period may be tolled only by mutual agreement by the city and the applicant or in cases where the city determines that the application is incomplete. The time frame for review of an eligible facilities request is not tolled by a moratorium on the review of applications.

A. To toll the time frame for incompleteness, the city shall provide written notice to the applicant within 30 days of receipt of the application, clearly and specifically delineating all missing documents or information required in the application.

B. The time frame for review begins running again when the applicant makes a supplemental submission in response to the city's notice of incompleteness.

C. Following a supplemental submission, the city will notify the applicant within 10 days if the supplemental submission did not provide the information identified in the original notice delineating missing information. The time frame is tolled in the case of second or subsequent notices pursuant to the procedures identified in this subsection. Second or subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.

17.66.170 Determination that application is not an eligible facilities request.

If the city determines that the applicant's request does not qualify as an eligible facilities request, the city shall deny the application. Otherwise, the city shall approve the request.

17.66.180 Failure to act.

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

Article IV. Small Wireless Facilities

17.66.190 Application requirements for small wireless facilities.

A. Applicability. Any application for a small wireless facility both inside and outside of the right-of-way shall comply with the application requirements for a small wireless facility permit described in this chapter. For small wireless facilities inside the right-of-way, the applicant must also comply with the requirements adopted pursuant to SMC Title 12 and franchises or leases agreements. The small wireless facility permits are issued by the administrator as administrative decisions pursuant to SMC Title 19.

B. Consolidated Permits. All permits, leases, and franchises necessary for the deployment of small wireless facilities shall be consolidated for review and a decision rendered to the full extent feasible within the presumptively reasonable time periods established by federal law. Where multiple permits have different time periods under federal law, the review period for all such permits shall be the longest single period of time. Applicants are allowed to apply for franchises or leases independently of an application for a small wireless facility permit.

C. Pre-Application meeting. A pre-application meeting is encouraged prior to submitting an application for a wireless communications facility permit.

D. Application Process. The administrator is authorized to establish franchise and other application forms to gather the information required by these ordinances from applicants and to determine the completeness of the application process as provided herein.

1. Franchise. The process typically begins with and depends upon approval of a franchise for the use of the public right-of-way to deploy small wireless facilities if any portion of the applicant's facilities are to be located in the right-of-way, consistent with the standards and specifications adopted by City. An applicant with a franchise application for the deployment of small wireless facilities in the city may proceed to directly apply for a small wireless facility permit and related approvals. An applicant may utilize phased development.

2. Small Wireless Facility Permits. The application requires specification of the small wireless facility components and locations as further required in the small wireless facility permit application described in subsection E of this section. Prior to the issuance of a small wireless facility permit, the applicant shall pay a permit fee as set forth by the city by resolution or ordinance.

3. Associated Permit(s). The applicant shall attach all associated permits requirements such as applications or check lists required under the critical areas or SEPA ordinances. Applications for deployment of small wireless facilities on decorative poles or for new poles shall comply with the requirements in SMC 18.04.

4. Leases. An applicant who desires to attach a small wireless facility on any utility pole or light pole owned by the city shall include an application for a lease as a component of its application. Leases for the use of utility poles, light poles, or other public property, structures or facilities shall be submitted to the city council for approval.

E. Small Wireless Facility Permit Application. The following information shall be provided by all applicants for a small wireless facility permit.

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

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

b. The specific trees, structures, improvements, facilities, lines and equipment, and obstructions, if any, that applicant proposes to temporarily or permanently remove or relocate and a landscape plan for protecting, trimming, removing, replacing, and restoring any trees or areas to be disturbed during construction.

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

d. If the site location includes a new replacement light pole, then the applicant must submit a photometric analysis of the roadway and sidewalk within 150 feet of the existing light.

2. The applicant must show written approval from the owner of any pole or structure for the installation of its small wireless facilities on such pole or structure. Such written approval should include approval of the specific pole, engineering and design standards, as well as assurances that the specific pole can withstand wind and seismic loads, from the pole owner, unless the pole owner is the city. Submission of the lease agreement between the owner and the applicant is not required. For city-owned poles or structures, the applicant must obtain a lease from the city prior to or concurrent with the small wireless facility permit application and must submit as part of the application the information required in the lease for the city to evaluate the usage of a specific pole.

3. The applicant is encouraged to batch the small wireless facility sites within an application in a contiguous service area.

4. Any application for a small wireless facility located in the right-of-way adjacent to a parcel zoned for residential use shall demonstrate that the applicant has evaluated the following:

a. Whether a small wireless facility is currently installed on an existing pole in front of the same residential parcel. If a small wireless facility exists, then the applicant must demonstrate that no technically feasible alternative location exists which is not in front of the same residential parcel.

b. Whether the proposed small wireless facility can be screened from residential view by choosing a pole location that is not directly in front of a window or views. The applicant must demonstrate that no technically feasible alternative location exists which is not directly in front of a window or views.

5. Any application for a small wireless facility permit which contains an element which is not exempt from SEPA review shall simultaneously apply under Chapter 43.21C RCW and SMC Title 18. Further, any application proposing small wireless facilities in critical areas (pursuant to Chapter 18.06 SMC) must indicate that the application is exempt or comply with the review processes in such codes.

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

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

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

9. A traffic control plan and right-of-way use permit as required by this code.

10. Proof of a valid Sunnyside business license.

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

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

17.66.200 Review criteria.

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

1. In any zone, upon application for a small wireless facility 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 adopted pursuant to this article.

2. Vertical clearance shall be reviewed by the 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 Chapter 9.34 SMC.

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.

6. The administrator may authorize deviations from the strict application of the design and concealment standards when strict application of the standards is technically infeasible and strict application of the standard would effectively exclude the wireless provider from providing service to the community. Any deviation shall be the minimum necessary and no waiver shall authorize a deviation that would cause the facility to exceed the definition of small wireless facility.

B. Public Works Department. All small wireless facility deployment applications shall be reviewed by the Public Works Department pursuant to SMC Title 12 and any franchise agreement or lease. The administrator's decision shall be final and is appealable pursuant to Yakima County Superior Court.

C. 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 SMC 17.66.120 through 17.66.180 when the modification does not defeat the concealment elements of the small wireless facility.

D. Review of Facilities. Review of the site locations proposed by the applicant shall be governed by the provisions of 47 U.S.C. Sections 253 and 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 nondiscriminatory manner with other service providers, utilizing supporting infrastructure, which is functionally equivalent, that is, service providers whose facilities are similarly situated in terms of structure, placement, or cumulative impacts. 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.

E. Withdrawal. Any applicant may withdraw an application submitted at any time, provided the withdrawal is in writing and signed by all persons who signed the original application or their successors in interest. When a withdrawal is received, the application shall be deemed null and void. If such withdrawal occurs prior to the 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 administrator's decision, there shall be no refund of all or any portion of such fee.

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

G. Applications for Small Cell permits shall be approved or denied within the following time frames:

1. The review period shall be 60 days for attachments or collocations to an existing structure.
2. The review period shall be 90 days for an application to deploy a small wireless facility using a new pole, tower, or structure.

H. For an initial application to deploy small wireless facilities, if the city notifies the applicant on or before the 10th day after submission that the application is materially incomplete, and clearly and specifically identifies the missing documents or information and the specific rule or regulation creating the obligation to submit such documents or information, the time frame shall restart at zero on the date on which the applicant submits all the documents and information identified by the siting authority to render the application complete.

17.66.210 Permit requirements.

A. The grantee of any permit shall comply with all of the requirements within the small wireless facility permit.

B. Post-Construction As-Builts. Upon request, within 30 days after construction of the small wireless facility, the grantee shall provide the city with as-builts of the small wireless facilities demonstrating compliance with the permit and site photographs.

C. Permit Time Limit. Construction of the small wireless facility must be completed within 12 months after the approval date by the city. The grantee may request one extension to be limited to six months, if the applicant provides an explanation as to why the small wireless facility cannot be constructed within the original 12-month period.

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

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

17.66.220 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 fiber or power to the small wireless facility. Right-of-way use permits may be required for such routine maintenance, repair or replacement consistent with Chapter 12 SMC.

17.66.230 Consolidated permit.

A. The issuance of a small wireless facility permit grants authority to construct small wireless facilities in the right-of-way in a consolidated manner to allow the applicant, in most situations, to avoid the need to seek duplicative approval by both the public works and planning and community development. If the applicant requires a new franchise to utilize the right-of-way, the franchise approval may be consolidated with the small wireless facility permit review if requested by the applicant. As an exercise of police powers pursuant to RCW 35.99.040(2), the small wireless facility permit is not a right-of-way use permit, but instead a consolidated public works and land use permit and the issuance of a small wireless facility permit shall be governed by the time limits established by federal law for small wireless facilities.

B. To the extent they do not conflict with the requirements of this chapter, the general standards applicable to the use of the right-of-way described in Title 12 SMC shall apply to all small wireless facility permits.

17.66.240 Decorative poles for small wireless facilities.

A. Applications for small wireless facilities attached to decorative poles must comply with SMC 17.66.260.

17.66.250 Design and concealment standards for small wireless facilities.

Small wireless facility deployments permitted in accordance with this chapter shall conform to the following design standards:

A. Small wireless facilities attached to existing or replacement non-wooden light poles and other non- wooden poles in the right-of-way or non-wooden poles outside of the right-of-way shall minimize to the extent possible the antenna and equipment space and shall use the smallest amount of enclosure technically necessary to fit the equipment and antennas.

1. The antennas and equipment shall be located using the following methods:

a. Concealed completely within the pole or pole base. Antennas and the associated equipment enclosures (including disconnect switches and other appurtenant devices) shall be fully concealed within the pole, unless such concealment is otherwise technically infeasible, or is incompatible with the pole design. If within the pole base, the base shall meet the ADA requirements and not impact the pedestrian access route.

b. Located on a pole. If located on a pole, antennas and the associated equipment enclosures (including disconnect switches and other appurtenant devices) must be camouflaged to appear as an integral part of the pole.

i. The antenna(s) shall be placed as close to the surface of the pole as possible but may not be more than 12 inches off the surface of the pole, and only if such distance is necessary for antenna tilt and technical need. Each antenna may not exceed three cubic feet in volume.

ii. The equipment shall be placed as close to the surface of the pole as possible but may not be more than six inches off the surface of the pole. The equipment must be placed in the smallest enclosure possible for the technical need of the small wireless facility. The equipment enclosure and all other wireless equipment associated with the utility pole, including wireless equipment associated with the antenna (including conduit) and any preexisting associated equipment on the pole, may not exceed 28 cubic feet. Multiple equipment enclosures may be acceptable if designed to more closely integrate with the pole design and do not cumulatively exceed 28 cubic feet. The applicant is encouraged to place the equipment enclosure behind any banners or road signs that may be on the pole; provided, that such location does not interfere with the operation of the banners or signs, or the operation of the small wireless facility.

iii. A unified antenna and equipment enclosure shall be placed as close to the surface of the pole as possible, but not more than 12 inches off the pole if necessary for antenna tilt and technical need. The unified equipment enclosure shall be the smallest size technically necessary but shall not exceed the dimensional requirements of subsection (A)(1)(b)(ii) of this section.

c. To the extent possible, the equipment enclosures shall be placed so as to appear as an integrated part of the pole or behind banners or signs; provided, that such location does not interfere with the operation of the banners or signs, or the operation of the small wireless facility.

d. The applicant may propose a side-mounted canister antenna, so long as the inside edge of the antenna is no more than six inches from the surface of the pole.

2. Underground in a utility vault. If located underground, the access lid to the equipment enclosure shall be located outside the footprint of any pedestrian curb ramp and shall have a nonskid surface meeting ADA requirements if located within an existing pedestrian access route.

3. On private property. If located on private property, the applicant shall provide documentation establishing the lease or easement right and permission of the property owner to locate the small wireless facility on the private property.

4. The furthest point of any equipment enclosure may not extend more than 28 inches from the face of the pole. Any equipment or antenna enclosures must meet WSDOT height clearance requirements. Applicants are encouraged to place the equipment enclosure as close to the antennas as physically and technically possible, unless such placement would cause a greater aesthetic impact.

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

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

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

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

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

10. The use of the pole for the siting of a small wireless facility shall be considered secondary to the primary function of the pole. If the primary function of a pole serving as the host site for a small wireless facility becomes unnecessary, the pole shall not be retained for the sole purpose of accommodating the small

wireless facility and the small wireless facility and all associated equipment shall be removed.

B. Wooden Pole Design Standards. Small wireless facilities located on wooden poles shall conform to the following design criteria:

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

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

3. Replacement wooden poles must either match the approximate color and materials of the replaced pole or shall be the standard new wooden pole used by the pole owner in the city. Alternatively, the applicant may replace the wooden pole with a non-wooden pole upon the determination of the pole owner; provided, that the new pole is hollow and incorporates internal power and fiber conduit for the small wireless facility.

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 wooden pole on which they are attached.

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

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

7. A canister antenna may be mounted on top of an existing wooden pole, which may not exceed the height requirements described in subsection (B)(1) of this section. A canister antenna mounted on the top of a wooden pole shall not exceed 16 inches, measured at the top of the pole, and shall be colored or painted

to match the pole. The canister antenna must be placed to look as if it is an extension of the pole. In the alternative, the applicant may propose a side-mounted canister antenna, so long as the inside edge of the antenna is no more than 12 inches from the surface of the wooden pole. All cables shall be concealed either within the canister antenna or within a sleeve between the antenna and the wooden pole.

8. The furthest point of any antenna or equipment enclosure may not extend more than 28 inches from the face of the pole. Any equipment or antenna enclosures must meet WSDOT height clearance requirements.

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

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

11. Equipment for small wireless facilities must be attached to the wooden pole, unless otherwise permitted to be ground-mounted pursuant to subsection (E)(1) of this section. The equipment must be placed in the smallest enclosure possible for the intended purpose. The equipment enclosure and all other wireless equipment associated with the utility pole, including wireless equipment associated with the antenna and any preexisting associated equipment on the pole, may not exceed 28 cubic feet. Multiple equipment enclosures may be acceptable if designed to more closely integrate with the pole design and do not cumulatively exceed 28 cubic feet. The applicant is encouraged to place the equipment enclosure behind any banners or road signs that may be on the pole; provided, that such location does not interfere with the operation of the banners or signs.

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

provided, that such location does not interfere with the operation of the banners or signs.

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

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

15. The diameter of a replacement pole shall comply with the city's setback and sidewalk clearance requirements.

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

C. Small wireless facilities attached to existing buildings shall conform to the following design criteria:

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

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

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

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

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

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

D. Small wireless facilities mounted on cables strung between existing utility poles shall conform to the following standards:

1. Each strand-mounted facility shall not exceed three cubic feet in volume;
2. Only one strand-mounted facility is permitted per cable between any two existing poles;
3. The strand-mounted devices shall be placed as close as possible to the nearest utility pole, in no event more than five feet from the pole unless a greater distance is technically necessary or is required by the pole owner for safety clearance;
4. No strand-mounted device shall be located in or above the portion of the roadway open to vehicular traffic;
5. Ground-mounted equipment to accommodate a shared mounted facility is not permitted except when placed in preexisting equipment cabinets;
6. Pole-mounted equipment shall comply with the requirements of subsections A and B of this section;
7. Such strand-mounted devices must be installed to cause the least visual impact and without excess exterior cabling or wires (other than the original strand); and
8. Strand-mounted devices placed adjacent to non-wooden poles shall comply with all applicable state and federal electrical codes.

E. General Requirements.

1. Ground-mounted equipment in the right-of-way is prohibited, unless the applicant can demonstrate that pole-mounted or undergrounded equipment is technically infeasible. If ground-mounted equipment is necessary, then the applicant shall submit a concealment element plan. Generators located in the right-of-way are prohibited.
2. No equipment shall be operated so as to produce noise in violation of Chapter 9.34 SMC.
3. Small wireless facilities are not permitted on traffic signal poles unless denial of the siting could be a prohibition or effective prohibition of the applicant's ability to provide telecommunications service in violation of 47 U.S.C. Sections 253 and 332.
4. Replacement poles and new poles shall comply with the Americans with Disabilities Act (ADA), city construction and sidewalk clearance standards, city ordinance, and state and federal laws and regulations in order to provide a clear

and safe passage within the 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 the public welfare, health or safety.

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

6. No signage, message or identification other than the manufacturer's identification or identification required by governing law and these standards is allowed to be portrayed on any antenna or equipment enclosure. Any permitted signage shall be located on the equipment enclosures and be of the minimum amount possible to achieve the intended purpose (no larger than four by six inches); provided, that signs are permitted as concealment element techniques where appropriate.

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

8. Side arm mounts for antennas or equipment must be the minimum extension necessary and the inside edge of the antenna may be no more than 12 inches from the surface of the pole.

9. The preferred location of a small wireless facility on a pole is the location with the least visual impact. No small wireless facility shall be located within 250 feet of another small wireless facility unless denial of the siting could be a prohibition or effective prohibition of the applicant's ability to provide telecommunications service in violation of 47 U.S.C. Sections 253 and 332.

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

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

12. The city may consider the cumulative visual effects of small wireless facilities mounted on poles within the right-of-way when assessing proposed siting locations so as to not adversely affect the visual character of the city. Siting locations along the frontage of properties designated as federal, state or local historic landmarks, city public parks or enhancement areas are discouraged unless approved by the city to prevent a prohibition or effective prohibition of telecommunications service. This provision shall not be applied to limit the number of permits issued when no alternative sites are reasonably available nor to impose a technological requirement on the applicant.

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

17.66.260 New poles in the right-of-way for small wireless facilities and installations on decorative poles.

A. New poles within the right-of-way or 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 nonresidential 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 SMC 17.66.250 (E);

3. The proposed small wireless facility receives approval for a concealment element design, as described in subsection C of this section;

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 (Chapter 18.06 SMC), 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 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 fiber and power connections.

1. The applicant shall first establish that its small wireless facility cannot be located on an alternative location within 500 feet of the decorative pole without constituting an effective prohibition of telecommunications service in violation of federal law.

2. 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 (C)(3) of this section.

3. If the 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 (C)(4) of this section.

4. 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 administrator 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) of this section, the 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 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.

17.66.270 Appeals.

Appeals related to small wireless facilities permit decisions located in the right-of-way shall be filed in Yakima County Superior Court.