ORDINANCE NO. 18-0526

AN ORDINANCE OF THE CITY OF EDGEWOOD, WASHINGTON, RELATING TO WIRELESS COMMUNICATION FACILITIES (WCF) AND THE STANDARDS AND PROCEDURES FOR PERMITTING, APPROVAL, COLLOCATION, REMOVAL, REPLACEMENT, DESIGN, AND MAINTENANCE OF NEW AND EXISTING WCFs TO CONFORM TO FEDERAL LAW AND APPLICABLE REGULATIONS; ESTABLISHING AN APPLICATION SUBMITTAL AND APPROVAL PROCESS; PROVIDING FOR TERMINATION OF NON-CONFORMING STRUCTURES; REPEALING SECTION 18.100.110 OF THE EDGEWOOD MUNICIPAL CODE (EMC); AND ADOPTING A NEW SECTION 18.100.110 TO THE EDGEWOOD MUNICIPAL CODE; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, in 1934, Congress enacted the Communications Act of 1934, creating the FCC and granting it authority over common carriers engaged in the provision of interstate or foreign communications services; and

WHEREAS, in 1996 Congress enacted Pub. L. No. 104-104, 110 Stat. 70 (the “1996 Act”), amending the Communications Act of 1934 and implementing regulations applicable to both wireless and wireline communications facilities for the purpose of removal of barriers to entry into the telecommunications market while preserving local government zoning authority except where specifically limited under the 1996 Act; and

WHEREAS, in the 1996 Act, Congress imposed substantive and procedural limitations on the traditional authority of state and local governments to regulate the location, construction, and modification of wireless facilities and incorporated those limitations into the Communications Act of 1934; and

WHEREAS, the City has adopted regulations that have been codified as part of the Municipal Code of the City establishing local requirements for the location, construction, and modification of wireless facilities; and

WHEREAS, in 2012 Congress passed the “Middle Class Tax Relief and Job Creation Act of 2012” (the “Spectrum Act”) (PL-112-96; codified at 47 U.S.C. § 1455(a)); and

WHEREAS, Section 6409 (hereafter “Section 6409”) of the Spectrum Act implements additional substantive and procedural limitations upon state and local government authority to regulate modification of existing wireless antenna support structures and base stations; and

WHEREAS, Congress through its enactment of Section 6409 of the Spectrum Act, has mandated that local governments approve, and cannot deny, an application requesting modification of an existing tower or base station if such modification does not substantially change the physical dimensions of such tower or base station; and
WHEREAS, the 1996 Act empowers the Federal Communications Commission (the “FCC”) to prescribe such rules and regulations as may be necessary in the public interest to carry out the provisions of the 1996 Act, and subsequently added portions of the 1996 Act such as Section 6409; and

WHEREAS, the FCC, pursuant to its rule making authority, adopted and released a Notice of Proposed Rulemaking in September of 2013 (In re Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies, WT Docket Nos. 13-238, 13-32; WC Docket No. 11-59; FCC 13-122) which focused in part upon whether or not the FCC should adopt rules regarding implementation of Section 6409; and

WHEREAS, on October 21, 2014, the FCC issued its report and order, WT Docket Nos. 13-238, 13-32; WC Docket No. 11-59; FCC 14-153, in the above described proceeding (the “Report and Order” or “Order”) clarifying and implementing statutory requirements related to state and local government review of infrastructure siting, including Section 6409, with the intent of facilitating and expediting the deployment of equipment and infrastructure to meet the demand for wireless capacity; and

WHEREAS, the rules adopted by the FCC in its Report and Order implementing Section 6409 are intended by the FCC to spur wireless broadband deployment, in part, by facilitating the sharing of infrastructure that supports wireless communications through incentives to collocate on structures that already support wireless facilities; and

WHEREAS, the Report and Order also adopts measures that update the FCC’s review processes under the National Environmental Policy Act of 1969 (“NEPA”) and section 106 of the National Historic Preservation Act of 1966 (“NHPA”), with a particular emphasis on accommodating new wireless technologies that use smaller antennas and compact radio equipment to provide mobile voice and broadband service; and

WHEREAS, on January 5, 2015, the FCC released an Erratum to the Report and Order making certain amendments to the provisions of the Report and Order related to NEPA and Section 106 of the NHPA; and

WHEREAS, that part of the Report and Order related to implementation of Section 6409, amends 47 C.F.R. Part 1 (PART 1 – PRACTICE AND PROCEDURE) by adding new Subpart CC § 1.40001 and establishing both substantive and procedural limitations upon local government application and development requirements applicable to proposals for modification to an existing antenna support structure or an existing base station (“Eligible Facility Request Rules”); and

WHEREAS, the Order, among other things, defines key terms utilized in Section 6409, establishes application requirements limiting the information that can be required from an applicant, implements a 60 shot clock and tolling provisions, establishes a deemed approved remedy for applications not timely responded to, requires cities to approve a project permit application requesting modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, and establishes development standards that govern such proposed modifications; and
WHEREAS, the Report and Order provides that the Eligible Facility Request Rules will be effective 90 days following publication in the Federal Register; and

WHEREAS, the Order was published in the Federal Register on Thursday, January 8, 2015, Federal Register; Vol. 80; No. 5, resulting in the Eligible Facility Request Rules becoming effective on April 8, 2015; and

WHEREAS, the Order is subject to appeal, however, even if an appeal is filed, the appeal will not automatically delay implementation of the Eligible Facility Request Rules; and

WHEREAS, the City Council finds that it is required under Section 6409 of the Spectrum Act and the Eligible Facility Request Rules established in the Order, to adopt and implement local development and zoning regulations that are consistent with Section 6409 and the Order; and

WHEREAS, an Environmental Checklist for a non-project action was prepared under the State Environmental Policy Act (RCW Chapter 43.21.C), pursuant to Washington Administrative Code Chapter 197-11, and a determination of Non-Significance ("DNS") was issued on the 20th day of June, 2018; and

WHEREAS, in accordance with RCW 36.70A.106 and WAC 365-196-630, a notice of intent to adopt the proposed new development regulations was sent to the State of Washington Department of Commerce and to other state agencies to allow for a 60-day review and comment period, which comment period ended prior to adoption of this ordinance; and

WHEREAS, the Planning Commission held a Public Hearing to receive public testimony regarding the proposed code amendment at their July 9, 2018 meeting; and

WHEREAS, after the public hearing, the Planning Commission recommended approval, with modifications of the draft code and forwarded their recommendation to City Council; and

WHEREAS, the City Council held a public hearing on August 14, 2018; and

WHEREAS, the City Council considered this ordinance, the Planning Commission’s recommendation, and the public’s input received during the prior public hearings at its regular City Council meeting of August 28, 2018; and

WHEREAS, the City Council finds that the proposed development and zoning regulations are reasonable and necessary in order bring the City’s development regulations into compliance with the mandate imposed upon the City by Congress pursuant to Section 6409 and the regulations imposed upon the City by the FCC pursuant to its Report and Order, and are therefore in the public interest; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, DO ORDAIN AS FOLLOWS:
Section 1. Section 18.100.110 of the Edgewood Municipal Code is hereby repealed.

Section 2. A new Section 18.100.110 to the Edgewood Municipal Code is hereby adopted, all as set forth in Attachments A and B, which are attached hereto and incorporated herein by this reference.

Section 3. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 4. Effective Date and Publication. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. This ordinance shall take effect and be in full force five (5) days after the date of publication.


[Signature]
Daryl Eadinger, Mayor

ATTEST/AUTHENTICATED:

[Signature]
Rachel Pitzel, City Clerk

APPROVED AS TO FORM:

[Signature]
Carol Morris, CITY ATTORNEY

DATE OF PUBLICATION:
EFFECTIVE DATE:
Title 10 – Use Provisions
Chapter 10.40 -- Wireless Communications Facilities.

A. Purpose. The purpose of this Division is:
1. To protect the community’s natural beauty, visual quality and safety while facilitating the reasonable and balanced provision of wireless communication services. More specifically, it is the City’s goal to minimize the visual impact of WCFs on the community, particularly in and near residential zones;
2. To promote and protect the public health, safety, and welfare, preserve the aesthetic character of the Edgewood community, and to reasonably regulate the development and operation of WCFs within the City to the extent permitted under State and federal law;
3. To minimize the impact of WCFs by establishing standards for siting design and screening;
4. To encourage the collocation of antennas on existing structures, thereby minimizing new visual impacts and reducing the potential need for new towers that are built in or near residential zones by encouraging that WCFs first be located on buildings, existing towers or utility poles in public rights-of-way;
5. To protect residential zones from excessive development of WCFs;
6. To ensure that towers in or near residential zones are only sited when alternative facility locations are not feasible;
7. To preserve the quality of living in residential areas which are in close proximity to WCFs;
8. To preserve the opportunity for continued and growing service from the wireless industry;
9. To preserve neighborhood harmony and scenic viewsheds and corridors;
10. To accommodate the growing need and demand for wireless communication services;
11. To establish clear guidelines and standards and an orderly process for expedited permit application review intended to facilitate the deployment of wireless transmission equipment, to provide advanced communication services to the City, its residents, businesses and community at large;
12. To ensure City zoning regulations are applied consistently with federal telecommunications laws, rules, regulations and controlling court decisions;
13. To encourage the use of Distributed Antenna Systems (DAS) and other small cell systems that use components that are a small fraction of the size of macrocell deployments, and can be installed with little or no impact on utility support structures, buildings, and other existing structures;
14. To provide regulations which are specifically not intended to, and shall not be interpreted or applied to, (1) prohibit or effectively prohibit the provision of personal wireless services, (2) unreasonably discriminate among functionally equivalent service providers, or (3) regulate WCFs and wireless transmission equipment on the basis of the environmental effects of radio frequency emissions to the extent that such emissions comply with the standards established by the Federal Communications Commission; and

15. To implement Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (“Spectrum Act”), as interpreted by the Federal Communications Commission’s (“FCC” or “Commission”) Acceleration of Broadband Deployment Report & Order, which requires a state or local government to approve any Eligible Facilities Request for a modification of an existing tower or base station that does not result in a substantial change to the physical dimensions of such tower or base station.

B. Exemptions. The following are exempt from the provisions of this Div. 10.4 and shall be permitted in all zones:

1. Industrial processing equipment and scientific or medical equipment using frequencies regulated by the Federal Communications Commission (FCC).
2. Antennas and related equipment, no more than three feet in height, that are being stored, shipped, or displayed for sale.
3. Facilities used for purposes of public safety, such as, but not limited to, police, hospitals, and the regional 911 system.
4. Wireless radio towers, equipment, facilities, and associated appurtenances utilized for temporary emergency communications in the event of a disaster.
5. Licensed amateur (ham) radio stations.
6. Satellite dish antennas less than two meters in diameter, including direct to home satellite services, when used as a secondary use of the property.
7. Personal wireless service facilities, which existed on or prior to February 14, 1998; except that this exemption does not apply to modifications of existing facilities.
8. Routine maintenance or repair of a personal wireless service facility and related equipment (excluding structural work or changes in height or dimensions of antennas, towers, or buildings); provided, that compliance with the standards of this section are maintained.
9. Subject to compliance with all other applicable standards of this code, a building permit application need not be filed for emergency repair or maintenance of a personal wireless service facility until 30 days after the completion of such emergency activity.
10. Automated meter reading systems are permitted on utility poles provided any equipment mounted on the poles is less than 14 inches by 12 inches by 12 inches for the structure and associated antennas are less than 18
inches from the structure. This exemption shall be allowed in all zoning areas; however, structures are allowed only on power poles for the intended use of the power poles owner and may not be leased to other users.

C. New Wireless Communication Antenna Arrays -- permitted in all zones with administrative use permit as long as they meet the following requirements:
   1. Concealment and design requirements (as set forth in Div. 10.4.(F)(5) and (6); and
   2. Attached to or inside of an existing or replacement nonresidential structure with a maximum additional height of no more than 15 feet above the existing structure, or the minimum necessary to meet the required safety clearances or pole owner’s requirements.

D. Distributed Antenna Systems and Small Cells.
   1. Siting.
      a. Distributed Antenna Systems (DAS) and Small Cells are permitted in all zones as long as they meet the following requirements:
         i. DAS and Small Cells in public right-of-way subject to the City’s approval of a master use permit/franchise agreement under EMC Title 12.
         ii. DAS and Small Cells require an administrative use permit and a building permit if their installation requires construction of a new utility support structure or building;
         iii. DAS and Small Cells do not require an administrative use permit or building permit if the height of a replacement structure, including antennas, is no more than the greater of: (1) fifteen feet taller than the existing utility support structure; or (2) the minimum height necessary to provide the required safety clearances from transmission or distribution lines and pole owner requirements.
      b. Multiple Site DAS and Small Cells are permitted, per the following requirements:
         i. An administrative use permit for multiple distributed antennas that are part of a larger overall DAS network;
         ii. An administrative use permit for multiple small cells paced to provide wireless coverage in a contiguous area;
         iii. For locations in the public right-of-way, a single master use permit/franchise agreement (Title 12 EMC) may be used for multiple node locations in DAS and/or small cell networks throughout the City.
      a. All related equipment, including but not limited to ancillary equipment, radios, cables, associated shrouding, microwaves, and conduit which are mounted on utility support structures shall not be mounted more than six (6) inches from the surface of the support structure, unless a
further distance is technically required, and is confirmed in writing by the support structure owner.

b. Equipment for small cell facilities must be attached to the utility support structure, unless otherwise permitted to be ground mounted. The equipment must be placed in the smallest enclosure possible for the intended purpose. The equipment enclosure may not exceed seventeen (17) cubic feet. Multiple equipment enclosures may be acceptable if designed to more closely integrate with the support structure design and does not cumulatively exceed seventeen (17) cubic feet. The applicant shall place the equipment enclosure behind any banners or road signs that may be on the support structure, if such banners or road signs are allowed by the pole owner and provided by the City.

c. An applicant who desires to enclose its antennas and equipment within a unified enclosure may do so, provided that such unified enclosure does not exceed four (4) cubic feet. To the extent possible the unified enclosure shall be placed so as to appear as an integrated part of the utility support structure or behind banners or signs. The unified enclosure may not be placed more than six (6) inches from the surface of the support structure, unless a further distance is technically required and confirmed in writing by the support structure owner.

d. Small cell facilities mounted on cables strung between existing utility poles shall conform to all of the following standards:
   i. Each strand mounted facility shall not exceed (3) cubic feet in volume;
   ii. Only one strand mounted facility is permitted per cable between any two existing poles;
   iii. The strand mounted devices shall be placed as close as possible to the nearest utility pole, in no event more than six (6) feet from the pole unless a greater distance is technically necessary or required by the pole owner for safety clearance;
   iv. No strand mounted device shall be located in or above the portion of the roadway open to vehicular traffic;
   v. Ground mounted equipment to accommodate such strand mounted facilities is not permitted, except when placed in pre-existing equipment cabinets;
   vi. Pole mounted equipment for strand mounted facilities shall meet the requirements of for pole mounted small cells; and
   vii. Such strand mounted devices must be installed to cause the least visual impact and with the minimum exterior cabling or wires (other than the original strand) necessary to meet the technological needs of the facility.
E. Standards -- Towers.
1. Prohibition. Only monopole towers are permitted in the City. Lattice towers and guyed towers are prohibited.
2. Siting. An administrative use permit is required to site a new tower in accordance with the criteria contained in Table 1 and Table 2. In addition, the location shall be subject to any additional siting priorities set forth in this chapter.

<table>
<thead>
<tr>
<th>Zoning District</th>
<th>Located in Public Right-of-way (ROW)</th>
<th>Maximum Tower Height [2]</th>
<th>Stealth Design</th>
<th>Setback from Property Lines (does not apply within ROW)</th>
</tr>
</thead>
<tbody>
<tr>
<td>C, MUR, TC, Public [1]</td>
<td>Yes</td>
<td>60'</td>
<td>See Footnote 1</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>No</td>
<td>60'</td>
<td>See Footnote 1</td>
<td>20'</td>
</tr>
<tr>
<td>BP, I [1]</td>
<td>(allowed in ROW only if less than or equal to 70')</td>
<td>100'</td>
<td>See Footnote 1</td>
<td>20'</td>
</tr>
</tbody>
</table>

[1] Stealth design is required if an applicant constructs a tower in or within 150 feet of a residential zone.
[2] Tower heights of up to 120 feet can be requested through a Conditional Use Permit (CUP), where compatibility can be fully addressed.

<table>
<thead>
<tr>
<th>Zoning District</th>
<th>Maximum Tower Height [2]</th>
<th>Stealth Design</th>
<th>Setback from Property Lines (does not apply within ROW)</th>
</tr>
</thead>
<tbody>
<tr>
<td>SF, MR [3]</td>
<td>60’</td>
<td>Required</td>
<td>20’</td>
</tr>
</tbody>
</table>

[3] Stealth design is required if an applicant constructs a tower in or within 50 feet of a residential zone.
[4] An additional 20 feet in height in these zones is allowed if applicant uses stealth design.

3. Tower Sharing and Collocation. New WCF facilities must, to the maximum extent feasible, collocate on existing towers or other structures of a similar height to avoid construction of new towers, unless precluded by zoning constraints such as height, structural limitations, inability to obtain authorization by the owner of an alternative location, or where an alternative location will not meet the service coverage objectives of the applicant. Applications for a new tower must address all existing towers
or structures of a similar height within 1/2 mile of the proposed site as follows: (a) by providing evidence that a request was made to locate on the existing tower or other structure, with no success; or (b) by showing that locating on the existing tower or other structure is infeasible.

4. Preferred Tower Locations. In addition to the development standards in this chapter, an applicant for a tower must submit documentation to demonstrate that there is a need for a new tower if it is to be located in a residential zone or within one hundred fifty (150) feet of an existing residential lot. An evaluation of the operational needs of the wireless communications provider, alternative sites, alternative existing facilities upon which the proposed antenna array might be located, and collocation opportunities on existing support towers within one-half mile of the proposed site shall be provided. Evidence shall demonstrate that no practical alternative is reasonably available to the applicant. All new towers proposed to be located in a residential zone or within 150 feet of a residential zone are permitted only after application of the following siting priorities, ordered from most-preferred to least-preferred. In addition, the applicant for a tower located in a residential zone or within 150 feet of a residential zone shall address these preferences in an alternative sites analysis provided with the complete application.

a. City-owned or operated property and facilities, that are not in residential zones or located within 150 feet of residential zones;

b. Industrial zones and business park zones (I & BP);

c. Nonresidential (not SF or MR) zones;

d. City-owned or operated property and facilities in any zone;

e. Commercial, mixed use residential, town center & public zones (C, MUR, TC & Public);


5. Compliance with Code. The proposed tower shall satisfy all of the provisions and requirements of this Div. 10.4.

6. Public Notice. In addition to the notice requirements of EMC Chapter 18.40 and Section 18.50.040 for a conditional use permit, tower proposals in residential zones and within 150 feet of a residential zone shall include the following public notice:

a. A black and white architectural elevation and color photo simulation rendering of the proposed WCF; and

b. The sign required by EMC 18.40.180 shall include that same architectural elevation and color photo simulation combination selected by the City that depicts the visual impact of the WCF.

F. General Development Standards Applicable to WCF’s. The following criteria shall be applied in approving, approving with conditions or denying a permit for a WCF. Unless otherwise provided in this chapter, WCF construction shall be consistent with the development standards of the zoning district in which it is located.

1. Height. Refer to Tables 1 and 2.
2. Setback Requirements.
   a. Refer to Tables 1 and 2 for towers.
   b. All equipment shelters, cabinets or other on-the-ground ancillary equipment shall be buried or meet the setback requirement of the zone in which located. Notwithstanding the setbacks provided for in Tables 1 and 2, when a residence is located on an adjacent parcel, the minimum side setback from the lot line for a new tower must be equal to the height of the proposed tower, unless:
      i. The tower is constructed with breakpoint design technology. If the tower has been constructed using breakpoint design technology, the minimum setback distance shall be equal to 110 percent (110%) of the distance from the top of the structure to the breakpoint level of the structure, or the applicable zone’s minimum side setback requirements, whichever is greater. (For example, on a 100-foot tall monopole with a breakpoint at eighty feet, the minimum setback distance would be twenty-two feet (110 percent of twenty (20) feet, the distance from the top of the monopole to the breakpoint] or the minimum side yard setback requirements for that zone, whichever is greater.) Provided, that if an applicant proposes to use breakpoint design technology to reduce the required setback from a residence, the issuance of building permits for the tower shall be conditioned upon approval of the tower design by a structural engineer.
      ii. Landscaping. All landscaping shall be installed and maintained in accordance with this chapter. Existing on-site vegetation shall be preserved to the greatest extent reasonably possible and disturbance of the existing topography shall be minimized. The Director may grant a waiver from the required landscaping based on findings that a different requirement would better serve the public interest.
      iii. Tower bases, when fenced (compounds), or large equipment shelters (greater than three feet by three feet by three feet), shall be landscaped. Tower bases shall be screened by fencing and landscaping, which will encompass a five-foot radius around the fenced area.
      iv. If fencing is installed, it shall consist of decorative masonry or wood fencing.
      v. Visual Impact. All WCFs in residential zones and within 150 feet of residential zones, including equipment enclosures, shall be sited and designed to minimize adverse visual impacts on surrounding properties and the traveling public to the greatest extent reasonably possible, consistent with the proper functioning of the WCF. Such WCFs and equipment enclosures shall be integrated through location and design to blend in with the existing characteristics of the site. Such WCFs shall also be designed to either resemble the surrounding landscape and
other natural features where located in proximity to natural surroundings, or be compatible with the urban, built environment, through matching and complimentary existing structures and specific design considerations such as architectural designs, height, scale, color and texture, and/or be consistent with other uses and improvements permitted in the relevant zone.

vi. Use of Stealth Design/Technology. Stealth design is required in residential zones and to the extent shown in Tables 1 and -2. Stealth and concealment techniques must be appropriate given the proposed location, design, visual environment, and nearby uses, structures, and natural features. Stealth design shall be designed and constructed to substantially conform to surrounding building designs or natural settings, so as to be visually unobtrusive. Stealth design that relies on screening WCFs in order to reduce visual impact must screen all substantial portions of the facility from view. Stealth and concealment techniques do not include incorporating faux-tree designs of a kind that are not native to the Pacific Northwest.

vii. Lighting. For new towers, only such lighting as is necessary to satisfy FAA requirements is permitted. All FAA-required lighting shall use lights that are designed to minimize downward illumination. Security lighting for the equipment shelters or cabinets and other on-the-ground ancillary equipment is also permitted as long as it is down shielded to keep light within the boundaries of the site. Motion detectors for security lighting are encouraged in residential zones or adjacent to residences.

viii. Noise. At no time shall transmission equipment or any other associated equipment (including, but not limited to, heating and air conditioning units) at any wireless communication facility emit noise that exceeds the applicable limit(s) established in EMC 18.90.140(E).

ix. Signage. No facilities may bear any signage or advertisement(s) other than signage required by law or expressly permitted or required by the City.

x. Code compliance. All facilities shall at all times comply with all applicable federal, state and local building codes, electrical codes, fire codes and any other code related to public health and safety.

xi. Building-mounted WCFs.
   a. In residential zones, all transmission equipment shall be concealed within existing architectural features to the maximum extent feasible. Any new architectural features proposed to conceal the transmission equipment shall be designed to mimic the existing underlying structure, shall be proportional to the existing underlying structure or
conform to the underlying use and shall use materials in similar quality, finish, color and texture as the existing underlying structure.

b. In residential zones, all roof-mounted transmission equipment shall be set back from all roof edges to limit visibility from the right-of-way the maximum extent feasible.

c. In all other zones, antenna arrays and supporting transmission equipment shall be installed so as to camouflage, disguise, or conceal them to make them closely compatible with and blend into the setting or host structure.

xii. WCFs in the public rights-of-way.

a. Preferred locations. Facilities shall be located as far from residential uses as feasible, and on main corridors and arterials to the extent feasible. Facilities in the rights-of-way shall maintain at least a two hundred (200) foot separation from other wireless facilities (except with respect to DAS or Small Cells), except when collocated or on opposite sides of the same street.

b. Pole-mounted or tower-mounted equipment. All pole-mounted and tower-mounted transmission equipment shall be mounted as close as possible to the pole or tower so as to reduce the overall visual profile to the maximum extent feasible while still maintaining required safety clearances. All pole-mounted and tower-mounted transmission equipment shall be painted with flat, non-reflective colors that blend with the visual environment.

c. Exception from Setback Requirements. Setbacks do not apply to facilities in the right-of-way, as shown in Tables 1 and -2.

xiii. Accessory Equipment. In residential zones, all equipment shall be located or placed in an existing building, underground, or in an equipment shelter or cabinet that is (a) designed to blend in with existing surroundings, using architecturally compatible construction and colors; and (b) located so as to be unobtrusive as possible consistent with the proper functioning of the WCF.

xiv. Spacing of Towers. Towers shall maintain a minimum spacing of one-half mile, unless it can be demonstrated that physical limitations (such as topography, terrain, tree cover or location of buildings) in the immediate service area prohibit adequate service by the existing facilities or that collocation is not feasible.

xv. Entire Lot Controls. For purposes of determining whether the installation of a WCF complies with development standards, such as, but not limited to, setback and lot coverage requirements, the dimensions of the entire lot shall control, even though a WCF is located on a leased parcel within that lot.
xvi. Back-up Power Sources. The City encourages proposed WCFs to include back-up power sources, such as batteries or generators, to maintain wireless service in the event of an emergency, such as a natural disaster. So long as the WCF otherwise complies with this chapter, a WCF using such back-up power during an emergency will be presumed to neither be detrimental to the public health, safety, and general welfare, nor injurious to, or adversely affect, the uses, property, or improvements adjacent to and in the vicinity of the site upon which the proposed use is proposed to be located.

G. Final Inspection.
1. A Certificate of Occupancy will only be granted upon satisfactory evidence that the WCF was installed in substantial compliance with the approved plans and photo simulations.
2. Failure to Comply. If it is found that the WCF installation does not substantially comply with the approved plans and photo simulations, the applicant immediately shall make any and all such changes required to bring the WCF installation into compliance.

H. Maintenance.
1. All wireless communication facilities must comply with all standards and regulations of the FCC and any other State or federal government agency with the authority to regulate wireless communication facilities.
2. The site and the wireless communication facilities, including all landscaping, fencing and related transmission equipment must be maintained at all times in a neat and clean manner and in accordance with all approved plans.
3. All graffiti on wireless communication facilities must be removed at the sole expense of the permittee after notification by the City to the owner, operator, or both of the WCF.
4. If any FCC, state or other governmental license or any other governmental approval to provide communication services is ever revoked as to any site permitted or authorized by the City, the permittee must inform the City of the revocation within thirty (30) days of receiving notice of such revocation.

I. Discontinuation of Use.
1. Any WCF that is no longer needed and its use is discontinued shall be reported immediately by the service provider to the Community Development Director. Discontinued facilities shall be completely removed within six months and the site restored to its pre-existing condition.
2. There shall also be a rebuttable presumption that any WCF that is regulated by this chapter and that is not operated for a period of six (6) months shall be considered abandoned. This presumption may be
rebutted by a showing that such WCF is an auxiliary back-up or emergency utility or device not subject to regular use or that the WCF is otherwise not abandoned. For those WCFs deemed abandoned, all equipment, including, but not limited to, antennas, poles, towers, and equipment shelters associated with the WCF shall be removed within six (6) months of the cessation of operation. Irrespective of any agreement among them to the contrary, the owner or operator of such unused facility, or the owner of a building or land upon which the WCF is located, shall be jointly and severally responsible for the removal of abandoned WCFs. If the WCF is not thereafter removed within ninety (90) days of written notice from the City, the City may remove the WCF at the owner of the property’s expense or at the owner of the WCF’s expense, including all costs and attorneys’ fees. If there are two or more wireless communications providers collocated on a single support structure, this provision shall not become effective until all providers cease using the WCF for a continuous period of six (6) months.

J. Limits on Issued Permits. Approved conditional and administrative permits for PWSFs shall be restricted by the following permit limitations.
1. An approved permit shall be valid for one (1) year from the date of the City’s approval, with an opportunity for a six (6) month extension. If not issued within the validity timeframe, i.e., within 12 or 18 months, the permit shall become null and void.
2. The terms and conditions of an issued, but unused permit, for a PWSF shall expire five (5) years after the effective date of the permit approval.

K. Costs Associated with Review of Applications.
1. 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. These professional services may include but are not limited to: engineering, technical reviews, legal, planning, hearing examiner, environmental review, critical areas review, financial, accounting, soils, mechanical and structural engineering.
2. The technical expert review may include, but is not limited to (a) the accuracy and completeness of the items submitted with the application; (b) the applicability of analysis and techniques and methodologies proposed by the applicant; (c) the validity of conclusions reached by the applicant; and (d) whether the proposed WCF complies with the applicable approval criteria set forth in this chapter. The selection of the third-party expert may be by mutual agreement between the provider and the city, or at the discretion of the city, with a provision for the provider and interested parties to comment on the proposed expert and review his or her qualifications. The applicant shall pay the cost for any independent consultant fees, along with applicable overhead recovery, through a deposit, estimated by the City, paid within ten (10) days of the City’s request. When the City requests such payment, the application
shall be deemed incomplete for purposes of application processing timelines. In the event that such costs and fees do not exceed the deposit amount, the City shall refund any unused portion within thirty (30) days after the final permit is released or, if no final permit is released, within thirty (30) days after the City receives a written request from the applicant. If the costs and fees exceed the deposit amount, then the applicant shall pay the difference to the City before the permit is issued.

L. Eligible Facilities Requests.
1. Procedure. This Div. 10.4(L) describes the sole and exclusive procedure for review and approval of a proposed facilities modification which the applicant asserts is subject to review under Section 6409 of the Spectrum Acct. In the event that any part of an application for a project permit approval includes a proposed facilities modification, the proposed facilities modification portion of the application shall be reviewed under this Div. 10.4(L).
2. Non-conforming structures. This Div. 10.4(L) shall not apply to a proposed facility modification to an eligible support structure that is not a legally conforming, or legally nonconforming structure at the time the completed eligible facilities modification application is filed with the City.
3. Replacement. This Div. 10.4(L) shall not apply to a proposed facility modification to an eligible support structure that will involve replacement of the tower or base station.
4. SEPA Review. Unless otherwise provided by law or regulation, decisions pertaining to eligible facilities requests are exempt from the requirements of RCW 43.21C.030(2)(c).
5. Application. An application for an Eligible Facilities Modification and supplemental submittals is received by the City upon the date such application is filed with the City. In order to be complete, the application must include all of the information and materials required in Article 16 of this Code.
6. Determination of Completeness. The City shall, within 21 days after receipt of the application, review the application under the procedures set forth in Subsection F below.
   a. Within 60 days of the date on which an applicant submits an application seeking approval for an Eligible Facilities Request, the City shall either approve the application (unless the application is tolled as set forth in Subsection F below), or determine that the application is not covered by an Eligible Facilities Request.
   b. An Eligible Facilities application shall be approved, and an Eligible Facilities Permit issued, upon determination by the City that the proposed facilities modification is subject to this Section and that it does not substantially change the physical dimensions of an Eligible Support Structure. An Eligible Facilities application shall be denied upon written determination by the City that the proposed facilities
modification is not subject to this Section or will substantially change the physical dimensions of an Eligible Support Structure. A proposed facilities modification will substantially change the physical dimensions of an eligible support structure if it meets any of the substantial change criteria in Article 15 (Definitions).

c. An Eligible Facilities Modification Permit issued pursuant to this Div. 10.4.(L), and any application that has been deemed approved, shall be and is conditioned upon compliance with any generally applicable building, structural, electrical, and health/safety codes.

8. Tolling of Timeframe for Review. The application review period begins to run when the application is received, and may be tolled when the City determines that the application is incomplete and provides notice of an incomplete application; or by mutual agreement between the City and the applicant.

a. To toll the timeframe for an incomplete application, the City must provide written notice to the applicant within 30 days of receipt of the application, specifically delineating all missing documents or information required in the application.

b. The timeframe for review begins running again when the applicant makes a supplemental submission in response to the City’s notice of incomplete application.

c. Following a supplemental submission by the applicant, the City will notify the applicant within 10 days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in this Subsection F. Second or subsequent notices of incompleteness may not specify missing documents or information that were not delineated in the original notice of incomplete application.

9. Failure to Act. In the event that the City fails to approve or deny an Eligible Facilities Request within the timeframe for review in Div. 10.4.(L)(8) above (accounting for any tolling), the request shall be deemed approved. The deemed approval 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 approved.
Title 15 – Definitions
Chapter 15.20 – Definitions
Section 15.20.010 -- Wireless Communications Facilities

A.

1. **Abandon.** When an owner of a Support Structure intends to permanently and completely cease all business activity associated therewith.

2. **Accessory Equipment.** Any equipment serving or being used in conjunction with a Telecommunications Facility or Support Structure. This equipment includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or other structures.

3. **Adequate public facilities.** Facilities which have the capacity to serve development without decreasing levels of service below minimums established by the City in the Comprehensive Plan.

4. **Amateur Radio Tower.** A facility used for personal, non-commercial radio licensed by the Federal Communications Commission.

5. **Antenna.** 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, and includes, but is not limited to:

   a. Whip antenna(s): An omni-directional antenna which transmits and receives radio frequency signals in a 360-degree radial pattern, typically four inches or less in diameter.

   b. Panel antenna(s): A directional antenna which transmits and receives radio frequency signals in a specific directional pattern of up to 120 degrees, typically thin and rectangular in shape.

   c. Tubular antenna(s): A hollow tube typically twelve (12) inches in diameter containing either omni-directional or directional antennas, depending on the specific site requirement. Often used as a means to mitigate the appearance of antennas on top of light standards and power poles.

   d. Parabolic (or dish) antenna(s): A bowl-shaped device for the reception and/or transmission of communications signals in a narrow and specific direction.

   e. Ancillary antenna(s): An antenna that is less than twelve (12) inches in its largest dimension and that is not directly used to provide personal wireless communications services. An example would be a global positioning satellite (GPS) antenna.

6. **Antenna Array.** A single or group of antenna elements and associated mounting hardware, transmission lines, or other appurtenances which share a common attachment device such as a mounting frame or mounting support structure for the sole purpose of transmitting or receiving electromagnetic waves.
B. Base station. The structure or equipment at a fixed location that enables wireless communications licensed or authorized by the FCC, between user equipment and a communications network. The term does not encompass a tower as defined in this Code or any equipment associated with a tower.

a. The term Base Station includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

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

c. The term Base Station includes any structure other than a tower that, at the time an eligible facilities modification application is filed with the City under this Code, supports or houses equipment described in paragraphs a-b above, and that has been reviewed and approved under the applicable zoning or siting process, or under another State, county or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

d. The term Base Station does not include any structure that, at the time a completed eligible facilities modification application is filed with the City, does not support or house equipment described in paragraphs a-c above.

C. Carrier on Wheels or Cell on Wheels (COW). A portable self-contained Telecommunications Facility that can be moved to a location and set up to provide wireless services on a temporary or emergency basis. A COW is normally vehicle-mounted and contains a telescoping boom as the Antenna support structure.

2. Collocation. The mounting or installation of transmission equipment on an existing support structure for the purpose of transmitting, receiving, or both transmitting and receiving radio frequency signals for communication purposes. When applied to Eligible Facilities Requests, Collocation means the mounting or installation of transmission equipment on an eligible support structure.

3. Concealed Telecommunications Facility. Any Telecommunications Facility that is integrated as an architectural feature of an Existing Structure or any new Support Structure designed so that the purpose of the Facility or Support Structure for providing wireless services is not readily apparent to a casual observer. Concealment shall also refer to an eligible support structure and transmission facility designed to look like some feature other than a wireless tower or base station.

D. None

E. Electromagnetic field (EMF). The field produced by the operation of equipment used in transmitting and receiving radio frequency signals.
2. **Eligible Facilities Request.** 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.

3. **Eligible Support Structure.** Any existing 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 under this Chapter.

4. **Equipment shelter.** The structure associated with a PWSF that is used to house electronic switching equipment, cooling systems, and back-up power systems.

5. **Existing.** As applied to a tower or base station, means a constructed tower or base station that has been reviewed and approved under the applicable zoning process of the City or another agency with jurisdiction. With regard to a telecommunications facility, it is a previously erected Support Structure or other structure, e.g., buildings or water tanks, to which Telecommunications Facilities may be attached.

F.

1. **FAA.** The Federal Aviation Administration.
2. **FCC.** The Federal Communications Commission.

G.

1. **Guyed Tower.** A support structure, such as a pole or narrow metal framework, which is held erect by the use of wires, anchors, or a combination of wires and anchors. This definition is used whether the tower is partially, temporarily, or additionally guyed.

H. None

I. None

J. None

K. None

L.

1. **Lattice Tower.** A support structure that consists of a network of crossed metal braces, forming a tower which is usually triangular or square in cross-section.
M. 

1. **Major Modifications.** Improvements to existing Telecommunications Facilities or Support Structures that result in a Substantial Increase to the Existing Structure. Collocation of new Telecommunications Facilities to an existing Support Structure without Replacement of the structure shall not constitute a Major Modification.

2. **Microcell.** A wireless communications facility consisting of an antenna that is either:
   
   a. Four feet in height and with an area of not more than 580 square inches; or
   
   b. If a tubular antenna, no more than twelve (12) inches in diameter and no more than six feet high.

3. **Minor facility.** A wireless communications facility consisting of up to three (3) antennas, each of which is either:
   
   a. Four (4) feet in height and with an area of not more than 580 square inches;
   
   b. If a tubular antenna, no more than twelve (12) inches in diameter and no more than six (6) feet high; and the associated equipment cabinets that are less than or equal to six (6) feet in height and no more than forty-eight (48) square feet in floor area; or
   
   c. A whip antenna which is four (4) inches or less in diameter and no more than fifteen (15) feet in length.

4. **Minor Modification.** Improvements to Existing Structures that result in some material change to the Facility or Support Structure but of a level, quality or intensity that is less than a Substantial Increase. Minor Modifications include the Replacement of the Structure.

5. **Monopole.** A single tubular support structure erected as a freestanding pole supporting one or more Antenna. A Monopole is not a Tower.

N. None

O. 

1. **Ordinary Maintenance.** Ensuring that Telecommunications Facilities and Support Structures are kept in good operating condition. Ordinary Maintenance includes inspections, testing and modifications that maintain functional capacity, aesthetic and structural integrity. Ordinary Maintenance includes replacing Antennas of a similar size, weight, shape and color and Accessory Equipment within an existing Telecommunications Facility and relocating the Antennas of approved Telecommunications Facilities to different height levels on an existing Monopole or tower upon which they are currently located. Ordinary Maintenance does not include Minor and Major Modifications.

P. 

1. **Personal Wireless Service Facilities.** Unstaffed facilities that are used for the transmission or reception, or both, of personal wireless services, including, but not necessarily limited to, antenna arrays, transmission cables, equipment shelters and support structures.
Q. None

R.

1. **Replacement.** Constructing a new Support Structure of proportions and of equal height or such other height that would not constitute a Substantial Increase to a pre-existing Support Structure in order to support a Telecommunications Facility or to accommodate Collocation and removing the pre-existing Support Structure.

S.

1. **Site.** For towers other than towers in the public rights-of-way, shall mean and refer to the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other Eligible Support Structures, shall mean and be further restricted to, that area in proximity to the structure and to other transmission equipment already deployed on the ground.

2. **Small cells.** Compact WCFs containing their own transceiver equipment and function like cells in a mobile network but provide a smaller coverage area than traditional macrocells. Small cells must meet the parameters in Subsections a-b below. For purposes of these definitions, volume is a measure of the exterior displacement, not the interior volume of the enclosures. Antennas or equipment concealed from public view in or behind an otherwise approved structure or concealment are not included in calculating volume.

   a. Small Cell Antenna: Each antenna shall be no more than three (3) cubic feet in volume.

   b. Small Cell Equipment. Each equipment enclosure shall be no larger than seventeen (17) cubic feet in volume. Associated conduit, mounting bracket or extension arm, electric meter, concealment, telecommunications demarcation box, ground-based enclosures, battery back-up power systems, grounding equipment, power transfer switch, and cut-off switch may be located outside the primary equipment enclosure(s) and are not included in the calculation of equipment volume.

3. **Small cell network.** A collection of interrelated small cell facilities designed to deliver personal wireless services.

4. **Spectrum Act.** The “middle Class Tax Relief and Job Creation Act of 2012,” (Public Law 112-96; codified at 47 U.S.C. Sec. 1455(a)).

5. **Stealth design.** Technology that minimizes the visual impact of wireless communications facilities by camouflaging, disguising, screening, and/or blending into the surrounding environment. Examples of stealth design include but are not limited to facilities disguised as trees, flagpoles, bell towers, utility and light poles, and architecturally screened roof-mounted antennas.

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 not in a public right-of-way, it increases the height of the tower by more than ten (10) percent or by the height of one (1) additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than ten (10) percent, or by more than ten (10) feet, whichever distance is greater;
b. For towers not in a public right-of-way, it involves adding an appurtenance to the body of the tower what would protrude from the edge of the tower more than twenty (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 (6) feet;

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

d. It entails any excavation or deployment outside the current site;

e. It would defeat the concealment elements of the eligible support structure; or

f. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in this definition of “Substantial Change,” Subsections a-f.

7. **Support Structure.** Any built structure, including any guy wires and anchors, to which antennas and other necessary associated hardware is mounted. Support structures may include, but are not limited to Lattice Towers; Guyed Towers; Monopoles; or Existing nonresidential structures that are identified in this chapter to which a PWSF may be attached with certain conditions.

T. 

1. **Telecommunications Facility.** Any unmanned facility established for the purpose of providing wireless transmission of voice, data, images or other information including, but not limited to, cellular telephone service, personal communications service (PSC) and paging service. A Telecommunications Facility can consist of one or more Antennas and Accessory Equipment or one base station.

2. **Tower.** 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.

3. **Tower Height.** The vertical distance measured from the base of the tower structure at grade to the highest point of the structure including the antenna. A lightning rod, not to exceed ten (10) feet in height, may be exempted from the tower height measurement.

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

1. **Unified Enclosure.** A small cell facility providing concealment of antennas and equipment within a single enclosure.

2. **Utility Support Structure.** Utility poles or utility towers supporting electrical, telephone, cable, or other similar facilities; street light standards; pedestrian light standards; traffic light structures; traffic sign structures; or water towers.

V. None

W.

1. **Wireless Communications Facilities or WCF.** A staffed or unstaffed facility or location for the transmission or reception of radio frequency (RF) signals or other wireless communications or other signals for commercial communications purposes, typically consisting of one or more antennas or group of antennas, a tower or attachment support structure, transmission cables and other transmission equipment and an equipment enclosure or cabinets.

X. None

Y. None

Z. None