MONROE PLANNING COMMISSION

Regular Meeting

August 24, 2020, 7:00 P.M.

Zoom online meeting

Click here to join Zoom Meeting

Call in: 253-215-8782 - Meeting ID: 862 2651 4469

806 W Main Street, Monroe, WA 98272

Commission Chair: *Bridgette Tuttle*

Commissioners: *Jay Bull, Vice Chair; Kyle Fisher*

Steve Jensen; Mike Stanger; Dionne Miller; and Liz Nugent

AGENDA

CALL TO ORDER

1. Virtual Participation Information

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

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- Meeting ID: 862 2651 4469

ROLL CALL

COMMENTS FROM CITIZENS

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

1. Virtual Participation Information

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

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

APPROVAL OF MINUTES

NONE

PUBLIC HEARING

NONE

OLD BUSINESS

1. Wireless Communication Facilities (WCF) Code Amendments
2. Monroe School District Comprehensive Plan Rezone

Documents:

OB1-WCF.pdf
OB2-AB-MSD_CP_Amend-8-24-2020.pdf

NEW BUSINESS

NONE

DISCUSSION BY COMMISSIONERS AND STAFF

ADJOURNMENT

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

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

MONROE PLANNING COMMISSION

SUBJECT:	***Review of Wireless Communication Facilities (WCF) Code Amendments***

DATE:	DEPT:	CONTACT:	PRESENTER:	ITEM:
08/24/2020	Community Development	Anita Marrero	Anita Marrero	**Old Business # 1**

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

Public Hearing:

Attachments: 1. DRAFT WCF Code

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

POLICY CONSIDERATIONS

In September 2018 the Federal Communications Commission (FCC) issued a Declaratory Ruling and Order, *FCC 18-133: Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment* ("Order"), intended to facilitate and streamline implementation of small cell deployment infrastructure. The FCC Order requires amendments to the City's municipal code. The amendments primarily pertain to, but not exclusively, small cell technology. The FCC Order became effective on January 14, 2019. The Order curtails several aspects of the authority of localities to regulate wireless communication facilities, especially small cells. The Order has two main parts:

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

The FCC Order essentially makes it easier for private companies to take local governments to court if they believe municipal policies are effectively prohibiting network investment. To comply with this order, the City is proposing a new code chapter to regulate small wireless facilities as well as updating the current WCF code, MMC 22.62 Large Wireless Communication Facilities.

DESCRIPTION/BACKGROUND

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

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

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

With the evolution of wireless technology, providers are relying on a combination of both traditional, larger cell tower equipment that can carry signals and data over a greater geographic range and newer small wireless facility technology (4G and 5G service) to increase capacity. Small cell wireless facilities feature equipment that is smaller and more densely sited than macro wireless facilities and are primarily located in the right-of-way. 5G equipment is comprised of an antenna less than 3 cubic feet, an equipment box (similar to the size of a brief case), and wiring, or "fiber". Small cell wireless facilities must be less than 50 feet tall. Typically, small cell facilities are attached to utility poles or light/traffic poles within public rights-of-way. To address small wireless facilities, the Federal Communications Commission (FCC) recently issued a declaratory ruling and third report and order (FCC 18-133) regarding municipal regulation of "small wireless facilities," which became effective on January 14, 2019. The FCC Order placed limitations on local governments to regulate size and location of small wireless facilities equipment.

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

FISCAL IMPACT

N/A

TIME CONSTRAINTS

The FCC Order became effective on January 14, 2019.

CHAPTER 22.62
WIRELESS COMMUNICATION FACILITIES (WCF)

Sections:

22.62.010 Purpose.
22.62.020 Applicability.
22.62.030 Definitions.
22.62.040 General Provisions.
22.62.050 Procedures for macro facilities.
22.62.060 **Prioritized locations for macro faclilites.**
22.62.070 Design and concealment standards for macro facilities.
22.62.08~~7~~0 Eligible Facilities Requests.
22.62.09~~8~~0 Review criteria for small wireless facilities.
22.62.100~~090~~ Procedures for small wireless facilities.
22.62.110~~00~~ Franchise application.
22.62.120~~10~~ Modifications to small wireless facilities.
22.62.130~~20~~ Hierarchy for small wireless facilities.
22.62.140~~30~~ Decorative poles for small wireless facilities.
22.62.150~~40~~ Design and concealment standards for small wireless facilities.
22.62.160~~50~~ New poles in the right-of-way for small wireless facilities.
22.62.170~~60~~ Deviations.
22.62.180~~70~~ Obsolescence and Removal.

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22.62.010 Purpose.

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

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

22.62.020 Applicability.

The placement of any wireless communication facility in any location within the City is subject to the provisions of this chapter.
A. Any person holding a license from the FCC to provide wireless communications services who desires to place any wireless communication facility within the boundaries of the C~~c~~ity must apply to the C~~c~~ity for the appropriate wireless communication facility permit.
B. Lease Required. In addition to the requirement of obtaining the appropriate wireless communication facility permit, if all or a portion of the wireless communication facility will be located upon a City-owned

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

22.62.030 Definitions.

For the purpose of this chapter, except when a different definition is required by MMC 22.62.080~~110~~, Eligible Facilities Requests, the following terms are defined as follows:

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

Antenna(s): Means an apparatus designed for the purpose of emitting radio frequency (RF) radiation, to be operated or operating from a fixed location pursuant to Commission authorization for the provision of personal wireless service and any commingled information services. For purposes of this definition, the term "antenna" does not include an unintentional radiator, mobile station, or device authorized under 47 CFR Part 17.

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

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

Antenna facility: Means an antenna and associated antenna equipment.

Collocation: Means:

A. Mounting or installing an antenna facility on a preexisting structure; and/or

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

Provided, that, for purposes of eligible facilities requests, “collocation” means the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

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

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

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

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

Network provider: Network provider means:

A. A wireless service provider; or

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

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

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

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

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

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

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

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

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

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

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A. The reconstruction of a permanent WCF and limited to a duration of twelve (12) months from the date of approval unless an extension is requested at least thirty (30) days prior to the expiration date; or

B. Large scale events are limited to the duration of the event, plus ten (10) days prior to the event and ten (10) days after; or

C. Emergency communications equipment in anticipation of and during a declared public emergency or emergency exercise.

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

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

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

22.62.040 General Provisions.

A. Applicable Development. The regulations, requirements, and standards contained in MMC Chapter 22.62, Wireless Communication Facilities, shall apply to:

1. New ~~large wireless communication~~ facilities;
2. New small wireless ~~communication~~ facilities; and
3. Modifications to and/or collocation with existing wireless communication facilities.

B. Exemptions. The following are exempt from the provisions of this chapter and shall be permitted in all zoning districts:

1. Routine maintenance, replacement, or repair of wireless communication facilities or related equipment, excluding structural work or changes in height, type, or dimensions of towers or base stations; provided, that compliance with the standards of this chapter are maintained;
2. Emergency repair or maintenance of a wireless communication facility, provided a building permit application is filed for the emergency repair or maintenance of a wireless communication facility within seven (7) working days after such emergency activity is started;

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

C. Prohibitions. The following wireless communication support structures are prohibited in all zoning districts within the city:
1. Lattice towers
2. Guyed wire towers

22.62.050 Procedures for macro facilities permit.

A. Review Process.
1. Permits and Approvals Required.
a. Wireless Communication Facility Permit. A wireless communication facility permit is required for any wireless communication facility unless specifically exempted.
b. Conditional Use Permit. A conditional use permit is required for any wireless communication facility located in any single-family residential zone pursuant to MMC 22.64.
c~~b~~. Building Permit. A building permit is required for any wireless communication facility unless specifically exempted.
d~~c~~. Right-of-Way Disturbance Permit. A right-of-way disturbance permit is required for any wireless communication facility located within public rights-of-way unless specifically exempted.

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

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

utilities, all conduits, cables, wires, hand holes, junctions, meters, disconnect switches and any other ancillary equipment or construction necessary to construct the wireless facility to the extent the applicant is responsible for installing such electrical and fiber utilities and related conduits, cables, wires, and other improvements.

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

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

3. Permit Type. Except for where otherwise specified, applications for wireless communication facility permits shall follow the procedures for a Type I permit review, pursuant to MMC Chapter 22.84.030, Types of Project Permits.

4. Public Notice. Wireless communication facility permits shall be subject to all applicable noticing requirements in MMC 22.84.050, Public Notice Requirements.

5. Public Hearing. Pursuant to MMC Table 22.84.060(B)(2): Decision Making and Appeal Authorities, a public hearing is not required for wireless communication facility permit applications.

6. Decision. The zoning administrator may approve, deny, or conditionally approve all or any portion of the sites proposed in the wireless communication facility permit application. Denial of one or more wireless facility locations within a submission described in subsection (A)(2)(c) of this section shall not be the sole basis for denial of other locations or applicant's entire application for wireless facilities.

7. Third Party Review. The zoning administrator or their designee shall route project permit applications to consultants as the zoning administrator determines necessary. All costs of consultant review shall be billed to the project applicant.

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

9. Permit for Modifications and Collocations to Wireless Facilities. Modifications to and/or collocations with existing wireless facilities shall conform to the following requirements:

a. Permit Required. Unless otherwise exempted pursuant to MMC 22.62.020(B), if an applicant desires to make modifications to wireless facilities, including but not limited to expanding or changing the antenna type, increasing the equipment enclosure size, placing additional pole-mounted or ground-mounted equipment, or modifying the concealment elements, then the applicant shall apply for a wireless communication facility permit.

b. Permit Not Required. A wireless communication facility permit shall not be required for routine maintenance and repair of a wireless facility within the right-of-way, or the replacement of an antenna or equipment of similar size, weight, and height; provided, that such replacement does not defeat the concealment elements used in the original deployment of the wireless facility

and does not impact the structural integrity of the pole. Further, a wireless communication facility permit shall not be required for replacing equipment within the equipment enclosure or reconfiguration of fiber or power to the wireless facilities. A right-of-way disturbance permit may be required for such routine maintenance, repair, or replacement.

22.62.060 Prioritized locations for macro facilities.

A. Priority of locations.

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

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

B. Siting priority on public property.

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

with the following requirements:

a. The facilities will not interfere with the purpose for which the city-owned property is intended;
b. The facilities will have no significant adverse impact on surrounding private property;
c. The applicant shall obtain adequate liability insurance naming the city as loss payee and commit to a lease agreement that includes equitable compensation for the use of public land and other necessary provisions and safeguards. The city shall establish fees after considering comparable rates in other cities, potential expenses, risks to the city, and other appropriate factors;
d. The applicant will submit a letter of credit, performance bond, or other security acceptable to the city to cover the costs of removing the facilities;
e. The lease shall provide that the applicant must agree that in the case of a declared emergency or documented threat to public health, safety or welfare and following reasonable notice the city may require the applicant to remove the facilities at the applicant's expense. Telecommunication facilities serving essential government services and other government agencies shall have priority over other users.
f. The applicant must reimburse the city for any actual and reasonable costs that the city incurs because of the presence of the applicant's facilities;
g. The applicant must obtain all necessary land use approvals; and
h. The applicant must cooperate with the city's objectives to encourage co~~-~~locations and limit the number of tower~~WCF~~ sites needed.

3. Special Requirements for Parks. The use of city-owned parks for macro facilities brings with it special concerns due to the unique nature of these sites. The placement of macro~~personal wireless service~~ facilities in a park will be allowed only when the following additional requirements are met:

a. The park board has reviewed and made a recommendation regarding proposed macro facilities to be located in the park and this recommendation must be forwarded to the city council for consideration;
b. In no case shall macro facilities be allowed in designated critical areas (except aquifer recharge areas) unless they are co-located on existing facilities;
c. Before macro facilities may be located in public parks, visual impacts and disruption of normal public use shall be mitigated;
d. Macro facilities may be located in public parks that are adjacent to an existing commercial or industrial zone;
e. Macro facilities may be located in park maintenance facilities.

3. Separation Distance. In all residential and commercial districts, macro facilities shall be separated by a distance equal to or greater than one thousand three hundred twenty linear feet (one-quarter mile), except when the applicant demonstrates that collocation upon the nearby WCF is not feasible pursuant to MMC 22.62.030(G). WCF's that are collocated upon a single support structure shall count as a single WCF for the purposes of this subsection.

D. Freestanding Macro Facilities. Macro facilities attached to freestanding support structures, as described in MMC 22.62.050(B)(1)(a), shall conform to the following requirements:

1. All freestanding support structures, including monopoles and towers, that exceed 85 feet in height shall be designed to accommodate two or more wireless communications facilities.
2. Antennas not exceeding 15 feet in height which extend above the freestanding support structure shall not be calculated as part of the height of the wireless communication support structure.
3. Freestanding support structures, antennas, and antenna arrays, together with any associated antenna mount, shall be designed utilizing the narrowest dimensions possible, and in no instance shall they extend further, as measured horizontally, from the centerline of the monopole than a distance of 15 feet.
4. Collocation on an existing freestanding support structure shall be encouraged.
5. The equipment shelter or cabinet used to house radio electronics equipment and the associated cabling connecting the equipment or cabinet to the freestanding support structure shall be concealed, camouflaged, or placed underground.

E. Attached Macro Facilities. Macro facilities attached to existing buildings, as described in MMC 22.62.050(B)(1)(b), shall conform to the following requirements:
1. Attached antennas may exceed the height limitation by 15 feet so long as they are affixed to the side of an existing building or mounted on the rooftop of the building and architecturally blend with the building.
2. Buildings that are nonconforming with respect to height may be used, provided the antenna's do not exceed a height of 15 feet above the existing structure. Placement of an antenna on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure.
3. Attached wireless facilities shall be placed in a location, which is as unobtrusive as possible consistent with the proper functioning of the WCF.
4. The interruption of architectural lines or horizontal or vertical reveals is discouraged.
5. New architectural features such as columns, pilasters, corbels, or other ornamentation that conceal antennas may be used if they complement the architecture of the existing building.
6. Wireless facilities shall utilize the smallest mounting brackets necessary, in order to provide the smallest offset from the building.
7. Skirts or shrouds shall be utilized on the sides and bottoms of antennas in order to conceal mounting hardware, create a cleaner appearance, and minimize the visual impact of the antennas. Exposed cabling/wiring is prohibited.
8. The applicant must provide approval from the building owner, including consent that the wireless design meets the building owner's design requirements.
9. If the aesthetic impacts cannot be mitigated by placement and color solutions, the WCF can be required to be screened.

22.62.070 Design and concealment standards for macro facilities.

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

A. Land Use.
1. Wireless communication facilities are permitted in all zones.
2. Wireless communication facilities shall not be allowed on buildings which are designated as solely residential in use, except for those structures that contain three or more attached dwelling units.

B. Separation Distance. In all residential and commercial districts, macro facilities shall be separated by a distance equal to or greater than one thousand three hundred twenty linear feet (one-quarter mile), except when the applicant demonstrates that collocation upon the nearby WCF is not feasible pursuant to MMC 22.62.070(H). WCF's that are collocated upon a single support structure shall count as a single WCF for the purposes of this subsection.

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

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

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

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

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

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

1. All WCF's and antennas shall be a nonreflective color, approved by the zoning administrator, which blends into the nearby surroundings of the WCF so as to minimize the visual impact of the support structure or antennas.

2. New WCF's shall be located in such a manner that, to the extent feasible, existing trees and/or buildings and other structures on the site are used to screen the WCF from view from roadways, residences, and other properties; provided, however, that all WCF's shall be designed in a manner which minimizes the need for removal of existing trees.

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

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

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

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

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

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

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

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

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

O. Equipment Shelters and Cabinets.

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

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

22.62.080 Eligible Facilities Requests.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22.62.090 Review criteria for small wireless facilities.

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

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

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

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

B. Eligible Facilities Requests. The design approved in a small wireless facility permit shall be considered concealment elements and such facilities may only be expanded upon submittal of an Eligible Facilities Request described in MMC 22.62.080, when the modification does not defeat the concealment elements of the small wireless facility, or under MMC 22.62.120, as provided in that section.

C. Review of Facilities. Review of the site locations proposed by the applicant shall be governed by the provisions of 47 USC 253 and 47 USC 332 and other applicable statutes, regulations and case law. Applicants for franchises and the small wireless facility permits shall be treated in a competitively neutral and non-discriminatory manner with other service providers, utilizing supporting infrastructure which is functionally equivalent, that is, service providers whose facilities are similarly situated in terms of structure, placement, or cumulative impacts. Small wireless facility permit review under this Chapter shall neither prohibit nor have the effect of prohibiting the ability of an applicant to provide telecommunications services.

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

E. Supplemental Information. Failure of an applicant to provide supplemental information as requested by the Zoning Administrator within ninety~~sixty~~ (90~~6~~0) days of notice by the Zoning Administrator shall be deemed a denial of that application, unless an extension period has been approved by the Zoning Administrator.

22.62.100 Procedures for small wireless facilities.

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

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

structures and where such replacement will take place; and

4. Detailed schematics and visual renderings of the facilities.

B. Conduit and/or ground-mounted equipment necessary for and intended for use in the deployment shall also be specified regardless of whether these facilities are constructed by the applicant or leased from an infrastructure provider.

C. Failure to provide sufficient detail may result in a later need to request a deviation in the facility if significant elements of the facility were not shown on the originally approved franchise exhibit. Failure to include significant elements may also result in the requirement that new or undocumented elements complete the approval process.

22.62.110 Franchise application.

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

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

22.62.120 Modifications to small wireless facilities.

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

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

22.62.130 Hierarchy for small wireless facilities.

The City's preference is for the applicant to attach small wireless facilities to replacement light poles. If a light pole exists within 150 feet of a wooden pole, the applicant shall utilize the light pole unless the

applicant can demonstrate, to the satisfaction of the Zoning Administrator, that the light pole has been evaluated and is not possible for either technical feasibility or aesthetic reasons.

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

22.62.140 Decorative poles for small wireless facilities.

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

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

22.62.150 Design and concealment standards for small wireless facilities.

A. General Provisions.

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

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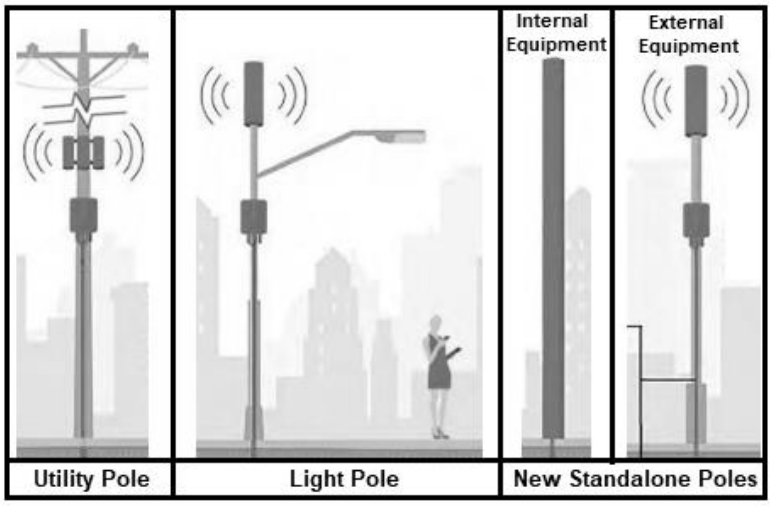
Figure 22.62.040: Poles Permitted as Support Structures for Small Wireless Facilities



2. Signage and Identification. No signage, message, or identification other than the manufacturer's identification is allowed to be portrayed on any antenna, and any such signage on equipment enclosures shall be of the minimum amount feasible~~possible~~ to achieve the intended purpose; provided, that signs are permitted as concealment techniques where appropriate. Safety signage is allowed, as required by applicable laws and regulations.
3. Lighting. Antennas and related equipment shall not be illuminated except as required by a federal or state authority, or unless approved as part of a light standard.
4. Encroachment. Small wireless facilities may not encroach onto or over private property or property outside of the right-of-way without the property owner's express written consent.

B. Small Wireless Facilities Attached to Pole Facilities. Any small wireless facility attached to a pole, as described in MMC 22.62.040(A)(1)(a-d), shall conform to the following requirements:

1. New standalone poles for small wireless facilities shall not exceed 10 percent above the maximum height of the zoning district in which it is located or fifty feet, whichever is greater.
2. An existing pole at the proposed location of the small wireless facility may be replaced with a taller pole for the purpose of accommodating a small wireless facility; provided, that the replacement pole shall not exceed a height that is a maximum of 10 feet taller than the existing pole or the height allowed by MMC 22.62.040(C)(1), whichever is greater, unless a further height increase is required and confirmed in writing by the pole owner, and such height extension is the minimum extension necessary to provide sufficient separation and/or clearance from electrical and wireline facilities.

3. A “pole extender,” which is an object affixed between the pole and the antenna for the purpose of increasing the height of the antenna above the pole, may be used instead of replacing an existing utility or light pole, pursuant to the following conditions:

a. A pole extender shall not increase the height of the existing pole by more than 10 feet or the height allowed by MMC 22.62.040(C)(1), whichever is greater, unless a further height increase is required and confirmed in writing by the pole owner.

b. Such height extension proposed is the minimum extension necessary to provide sufficient separation and/or clearance from electrical and wireline facilities.

c. The pole extender shall be painted to approximately match the color of the pole.

d. The pole extender shall substantially match the diameter of the pole measured at the top of the pole.

4. Antennas, equipment enclosures, and all ancillary equipment, boxes, and conduit shall be colored or painted to match the approximate color of the surface of the pole on which they are attached, to the extent technically feasible.

5. Panel antennas shall not exceed three cubic feet in volume and shall not be mounted more than 12 inches from the surface of the pole unless additional distance is required by the pole owner.

6. A canister antenna may be mounted on top of an existing or replacement pole, which must not exceed the height requirements described in subsection (C)(1) of this section. A canister antenna mounted on the top of a pole shall not exceed the diameter of the pole by more than 12 inches or be more than a total of 16 inches in diameter, whichever is greater, and shall be colored or painted to match the pole, to the extent technically feasible. The canister antenna must be placed to look as if it is an extension of the pole. In the alternative, the applicant may install a side-mounted canister antenna, so long as the inside edge of the antenna is no more than 12 inches from the surface of the pole. All cables shall be concealed either within the canister antenna or within a sleeve between the antenna and the pole, to the extent technically feasible.

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

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

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

10. Replacement poles and new poles shall comply with the Americans with Disabilities Act (ADA), city construction and sidewalk clearance standards, and city, state, and federal laws and regulations in order to provide a clear and safe passage within the right-of-way. Further, the location of any replacement or new pole must be physically possible, comply with applicable traffic warrants, not

interfere with utility or safety fixtures (e.g., fire hydrants, traffic control devices), and not adversely affect public health, safety, or welfare.

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

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

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

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

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

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

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

C. Small Wireless Facilities Attached to Buildings. Small wireless facilities attached to existing buildings, as described in MMC 22.62.040(A)(1)(c), shall conform to the following requirements:

1. New architectural features such as columns, pilasters, corbels, or other ornamentation that conceal antennas may be used if they complement the architecture of the existing building.

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

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

4. To the extent technically feasible, small wireless facilities shall be painted and textured to match the adjacent building surfaces.

5. The applicant must provide approval from the building owner, including consent that the small wireless design meets the building owner's design requirements.

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

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

1. The proposed small wireless facility cannot be located on an existing utility pole or light pole,

electrical transmission tower or on a site outside of the public right-of-way such as a public park, public property, building, transmission tower or in or on a non-residential use in a residential zone whether by roof or panel-mount or separate structure;

2. The proposed small wireless facility complies with the applicable requirements of MMC 22.62.150;
3. The proposed small wireless facility receives approval for a concealment element design, as described in MCMC Section 1. Article IV.17.29.270C) below;
4. The proposed small wireless facility complies with SEPA, if applicable; and
5. No new poles shall be located in a critical area or associated buffer required by the City's Critical Areas Management ordinance (MMC Chapter 22.80), except when determined to be exempt pursuant to said ordinance.

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

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

1. If the applicant desires to place the small wireless facility on a Decorative Pole, and the City has created a small wireless facility standard for such type of Decorative Pole in the Standard Specification and Details, then the applicant is encouraged to first consider using the Decorative Pole design adopted for small wireless facilities from the Standard Specification and Details. The applicant, upon a showing that using the Standard Decorative Pole design is either technically or physically infeasible, or that a modified pole design will not comply with the City's ADA, or sidewalk clearance requirements and/or would violate electrical or other safety standards, may deviate from the adopted standard Decorative Pole design and propose a concealment element design consistent with subsection 2 below.
2. If the Zoning Administrator has already approved a concealment element design either for the applicant or another small wireless facility along the same public right-of-way or for the same pole type, then the applicant shall utilize a substantially similar concealment element design, unless it can show that such concealment element design is not physically or technically feasible, or that such deployment would undermine the generally applicable design standards, in such case, the applicant shall propose a concealment element design consistent with subsection 3 below.
3. The concealment element design should seek to minimize the visual obtrusiveness of the small wireless facility. The proposed pole or structure should have similar designs to existing neighboring poles in the right-of-way, including similar height to the extent technically feasible. If the proposed small wireless facility is placed on a replacement pole, then the replacement pole shall be of the same general design as the pole it is replacing, unless the Community Development Department otherwise approves a variation due to aesthetic or safety concerns. Any concealment element design for a small wireless facility should attempt to mimic the design of such pole and integrate the small wireless facility into the design of the pole. Other concealment methods include, but are not limited to, integrating the installation

with architectural features or building design components, utilization of coverings or concealment devices of similar material, color, and texture - or the appearance thereof - as the surface against which the installation will be seen or on which it will be installed, landscape design, or other camouflage strategies appropriate for the type of installation. Applicants are required to utilize designs in which all conduit and wirelines are installed internally in the structure, to the extent technically feasible.

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

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

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

22.62.170 Deviations.

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

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

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

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

1. The deviation is consistent with the purpose of the development standard for which the deviation is sought.

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

22.62.180 Obsolescence and Removal.

A. A wireless communication facility shall be removed by the facility owner within six (6) months of the date it ceases to be operational or if the facility falls into disrepair. Disrepair includes structural features, paint, landscaping, or general lack of maintenance which could result in safety or visual impacts. Whenever a wireless communication facility ceases operation or falls into disrepair as provided in this section and as determined by either the designated official or the network provider, the entire wireless communication facility shall be removed, including but not limited to all antennas, antenna supports, feeder lines, equipment enclosures, equipment, conduit, and the concrete pad upon which the structure is located. The facility owner may apply for an extension of time within those six (6) months if resuming operation of the facility is expected. The designated official, at his sole discretion, may extend the time for a period not to exceed six (6) months upon written request by the owner.

B. Removal upon Undergrounding. A WCF must be removed at no expense to the City if collocated on an electrical system facility or utility support structure that is subsequently undergrounded.

C. Abandonment. In the event that a licensed carrier fails to give notice, the facility shall be considered abandoned upon the City's discovery of discontinuation of operation. Upon such abandonment, the provider shall have 60 days or additional period of time determined in the reasonable discretion of the City within which to:

1. Reactivate the use of the facility or transfer the facility to another provider who makes actual use of the facility; or
2. In the event that abandonment as defined in this chapter occurs due to relocation of an antenna at a lower point on the antenna support structure, reduction in the effective radiated power of the antenna or reduction in the number of transmissions from the antennas, the operator of the tower

shall have six months from the date of effective abandonment to co-locate another service on the tower. If another service provider is not added to the tower, then the operator shall promptly dismantle and remove the portion of the tower that exceeds the minimum height required to function satisfactorily. Notwithstanding the foregoing, changes which are made to personal wireless facilities which do not diminish their essential role in providing a total system shall not constitute abandonment. However, in the event that there is a physical reduction in height of substantially all of the provider's towers in the city or surrounding area then all of the towers within the city shall similarly be reduced in height.

3. Dismantle and remove facility. If the tower, antenna, foundation, and facility are not removed within the sixty-day time period or additional period of time allowed by the city, the city may remove such tower, antenna, foundation, and related facility at the provider's expense. If there are two or more providers co-locating on a facility, except as provided for in the paragraph above, this provision shall not become effective until all providers cease using the facility.
4. At the earlier of sixty days from the date of abandonment without reactivating or upon completion of dismantling and removal, city approval for the facility shall automatically expire.

DRAFT

MONROE PLANNING COMMISSION

SUBJECT:	***DISCUSSION - Remand of Application no. CPA2018-01 from the 2018 - 2019 Annual Comprehensive Plan Amendment Docket back to Planning Commission from City Council***

DATE:	DEPT:	CONTACT:	PRESENTER:	ITEM:
08/24/2020	Community Development	Shana Restall	Shana Restall	**Old Business # 2**

Planning Commission Discussion:	04/22/2019, 06/24/2019, 07/08/2019, and 10/28/2019
Public Hearing:	10/28/2019, continued to 11/11/2019 (Planning Commission)
City Council Discussion:	11/19/2019, 12/10/2019, and 01/14/2020
Attachments:	N/A

REQUESTED ACTION:

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

POLICY CONSIDERATIONS

On January 14, 2020, City staff requested a decision form City Council on the items docketed for the 2018 - 2019 Annual Comprehensive Plan Amendment cycle. At the meeting City Council approved the Monroe and Snohomish School Districts Capital Facility Plans and associated fee amendments to the Monroe Municipal Code. However, City Council opted to remand the Monroe School Districts proposed Comprehensive Plan/Rezone back to Planning Commission for further review and recommendation. During the City Council's deliberation, they noted the split recommendation of denial from the Planning Commission. The Council expressed their respect and appreciation for work the Planning Commission did on the proposed amendment, but were not comfortable moving forward with a decision on a split recommendation from the Commission. The Council directed the Commission to conduct additional review and have more discussion on the proposal prior to holding a second public hearing.

DESCRIPTION/BACKGROUND

Only the proposed Comprehensive Plan amendments placed on the Final Docket are eligible to be considered for approval by the City Council. Placement of an item on the Final Docket by Council means the application warrants in-depth consideration, but in no way implies eventual adoption or approval of the proposal. For the 2018 – 2019 docket, the City Council selected one (1) citizen-initiated and two (2) City-initiated Comprehensive Plan amendment applications the City-initiated amendments were approved by City Council on January 14, 2020. The following citizen-initiated amendment was remanded back to Planning Commission:

CPA2018-01: Citizen-Initiated Comprehensive Plan Amendment from the Monroe School District for an Amendment to the Comprehensive Plan Future Land Use Map (FLUM) and Concurrent Rezone (File No. RZ2018-01). The Monroe School District is proposing an amendment to the 2015 – 2035 Comprehensive Plan Future Land Use Map (FLUM) to change the designation of the site known as Marshall Field and Memorial Stadium (Snohomish County tax parcel numbers 27060100100400, 27060100205100, and 27060100404500) from an "Institution" designation to a "Multifamily" designation. Concurrent with the proposed comprehensive plan amendment, the applicant submitted a rezone request to change the site's zoning from "Institutional (IN)" to

"Multifamily Residential (R25)." Attachment 2 is a copy of the allowed uses for the Institutional and Multifamily zones, as found in Table 22.18.030 (Multi-family) and Table 22.32.030 (Institutional Zoning).

The subject site is approximately 12.41 acres in area, is situated in the vicinity of N. Kelsey Street and West Columbia Street, and is currently accessed from West Columbia Street. The subject properties are largely surrounded by single-family residential uses with St. Mary of the Valley church to the west and Sky Valley Educational Center to the east. The site is largely vacant and was formerly used as a sports fields for the Monroe School District. However, according to the District, the site is no longer used for formal education programs, and does not lend itself to future school facilities. The District does not use the site for school athletic programs of other school program uses.

FISCAL IMPACT

N/A

TIME CONSTRAINTS

Discussion and questions regarding the annual docket process and comprehensive plan amendment procedures, and establish a second public hearing date to receive additional public comment.