

CITY OF MERCER ISLAND

ORDINANCE NO. 21C-12

AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON, AMENDING CHAPTERS 19.06, 19.15 AND 19.16 OF THE MERCER ISLAND CITY CODE TO REVISE STANDARDS AND REQUIREMENTS FOR SMALL AND OTHER WIRELESS COMMUNICATIONS FACILITIES; REPEALING ORDINANCE 21-08; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Federal Communications Commission issued a Declaratory Ruling and Third Report and Order (“New Rules”) relating to small cell facilities, which became effective January 15, 2019; and

WHEREAS, the New Rules significantly preempted the City’s ability to regulate the installation of small cell facilities on City-owned public rights-of-way; and

WHEREAS, Ordinance 19C-02 adopted interim design and concealment standards for the deployment of small cell facilities; and

WHEREAS, the interim design and concealment standards have been extended by City Council, most recently on May 4, 2021 through Ordinance 21-08, and the most recent extension extends the interim design and concealment standards into January 2022; and

WHEREAS, the City Council finds that deployment of small cell facilities with unregulated design and concealment standards may result in uncoordinated installations, visual blight, noise, interference with public facilities and equipment, and traffic dangers that pose harm to public health, safety, property, and welfare; and

WHEREAS, the City Council desires to adopt permanent design and concealment standards for the deployment of small cell facilities; and

WHEREAS, upon drafting of permanent design and concealment standards, City Staff identified additional areas of the Mercer Island City Code that required amendments to comply with the latest regulatory developments in the area and to clarify standards relating to processing of applications for both applicants and staff; and

WHEREAS, the City Council hereby finds that the actions set forth below are necessary to preserve the public peace, health, safety, and welfare;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Amendment of MICC 19.06.040, Wireless Communications. MICC 19.06.040, Wireless Communications, is hereby amended in the form provided in the attached Exhibit A, which is incorporated herein by reference.

- Section 2. Repeal and replacement of MICC 19.06.070, Bonding and insurance.** MICC 19.06.070, bonding and insurance, is hereby repealed and replaced in the form provided in the attached Exhibit B, which is incorporated herein by reference.
- Section 3. Adoption of MICC 19.06.075, Small wireless facility deployments—Design and concealment standards.** MICC 19.06.075, small wireless facility deployments—design and concealment standards, is hereby adopted in the form provided in the attached Exhibit C, which is incorporated herein by reference.
- Section 4. Amendment of MICC 19.15.030, Land use review types.** MICC 19.15.030, land use review types, is hereby amended in the form provided in the attached Exhibit D, which is incorporated herein by reference.
- Section 5. Repeal of MICC 19.15.190, Permit review for 6409 eligible wireless communications facilities.** MICC 19.15.190, Permit review for 6409 eligible wireless communications facilities, is hereby repealed in its entirety.
- Section 6. Amendment of MICC 19.16.010, Definitions.** MICC 19.16.010, Definitions, is hereby amended in the form provided in the attached Exhibit E, which is incorporated herein by reference. All other definitions contained in current MICC Section 19.16.010 that are not listed in Exhibit E, shall remain unchanged.
- Section 7. Repeal of Interim Design and Concealment Standards.** Ordinance 21-08, the interim design and concealment standards for small cell facilities deployment, is hereby repealed in its entirety.
- Section 8. Severability.** If any section, sentence, clause, or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, or its application held inapplicable to any person, property, or circumstance, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause, or phrase of this Ordinance or its application to any other person, property, or circumstance.
- Section 9. Publication and Effective Date.** A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City. This Ordinance shall take effect and be in full force five days after the date of publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON, AT ITS REGULAR MEETING ON JULY 20, 2021.

ATTEST:

CITY OF MERCER ISLAND

Deborah A. Estrada, City Clerk

Benson Wong, Mayor

APPROVED AS TO FORM

Bio Park, City Attorney

Date of publication: _____

Exhibit A

19.06.040 Wireless communications

This section is intended to apply to macro wireless communications facilities and other facilities that do not qualify as small wireless facilities, which are governed by MICC 19.06.070 and 19.06.075.

A. *Town Center, Commercial/Office, Business and Planned Business Zones.*

1. *Permitted Use.* Attached wireless communications facilities (“WCFs”) are permitted in the Town Center, commercial/office, business and planned business zones. WCFs with support structures are permitted in the commercial/office, business and planned business zone districts, and are not permitted in the Town Center district.

a. *Town Center Zone (TC).* The height of attached WCFs shall not exceed the height of the structure it is attached to by more than 15 feet. Wireless support structures are not allowed in the TC zone.

b. *Commercial/Office Zone (C-O).* The height of attached WCFs shall not exceed the height of the structure it is attached to by more than 10 feet. Structures shall not be located within front yard setbacks. Structures in the side and rear yards must be set back from adjacent property a distance equal to the height of the pole. New WCFs may be located on a monopole and shall not exceed 60 feet in height.

c. *Planned Business Zone (PBZ) and Business Zone (B).* The height of attached WCFs shall not exceed the height of the structure it is attached to by more than 10 feet. Structures shall not be located within the setbacks. New WCFs may be located on a monopole and shall not exceed 60 feet in height.

2. *Performance Standards.* WCFs shall comply with the standards in subsection E of this section.

B. *Public Institution Zone (I-90 Corridor).*

1. *Permitted Use.* Wireless communications facilities, including antenna support structures and equipment cabinets, are permitted. Facilities must meet all of the following criteria:

a. Antennas shall not project more than two feet in height over the nearest I-90 retaining wall, unless they are located on an existing structure, and must be screened as much as possible from public views;

b. Equipment cabinet dimensions shall not exceed 480 cubic feet, should be placed underground if feasible and shall be completely screened from pedestrian and park activities with landscaping;

c. Facilities shall be within 15 feet of the pedestrian side of the I-90 retaining wall, unless they are located on an existing structure. Facilities may be located between the retaining walls in the traffic corridor;

d. Facilities shall be at least 300 feet from any single-family dwelling, unless located between and below the top of the retaining walls in the traffic corridor;

e. Applicants shall demonstrate that they have attempted to collocate on existing structures such as other wireless support structures, rooftops, light poles, utility poles, walls, etc.

2. Performance Standard and Location. Wireless communications facilities shall comply with the standards in subsection E of this section. No wireless communications facilities are allowed along the Greta Hackett Outdoor Sculpture Gallery, defined as the south side of I-90 between 76th Avenue SE and 80th Avenue SE.

C. Island Crest Way Corridor.

1. WCFs are permitted within the right-of-way boundary along Island Crest Way from SE 40th Street to SE 53rd Place and from SE 63rd to SE 68th Street. WCFs must be attached directly to and in-line with existing utility poles, with **the smallest feasible** overhang. WCF antennas shall not exceed 96 inches in length, 12 inches in width, and 12 inches in depth. The WCF must not project over the height of the pole, but a pole with a height of up to 70 feet may replace an existing pole, or a pole with a height of up to 110 feet may replace an existing pole if the WCF is being collocated with another WCF consistent with subsection F of this section. All WCFs shall be set back from adjacent residential structures by a minimum of 40 feet.

2. Performance Standards. Wireless communications facilities shall comply with the standards in subsection E of this section. Proponents shall provide an agreement with the utility pole owner granting access to the pole.

D. Residential Districts.

1. Permitted Use. WCFs are prohibited in single-family and multifamily residential zones; provided, WCFs are permitted as stated below on the following public and utility properties:

- a. South Mercer Island Fire Station, 8473 SE 68th Street. Maximum height: 60 feet;
- b. Puget Sound Energy Power Substation, 8477 SE 68th Street. Maximum height: 60 feet;
- c. Mercer Island Water Reservoir, 4300 88th Avenue SE. Maximum height: 60 feet;
- d. Island Crest Park, if the WCF is either (i) attached to an existing ballfield light standard, or (ii) attached to a new stealth designed replacement ballfield light standard located along the eastern border of Island Crest Park.

- i. Maximum number of support structures: A maximum of two support structures (existing or replacement ballfield light standards) with up to three antennas on each such support structure, unless the proposed new antenna(s) qualify as a 6409 Eligible Facility, as described in Section 19.06.040(I);

- ii. Maximum height: 110 feet; and

e. Certain rights-of-way adjacent to Clise Park.

- i. Maximum number of support structures: One stealth support structure with up to three antennas on such support structure located within the rights-of-way at the intersection of Island Crest Way, 84th Avenue SE and SE 39th Street, in a location at such intersection abutting trees and having the least visual impact while ensuring the maximum protection of mature trees.
- ii. Maximum number and location of equipment cabinets: Three equipment cabinets associated with such support structure located in that portion of the SE 39th Street or 84th Avenue SE rights-of-way adjacent to Clise Park, except that if such location does not permit the proper functioning of the WCF as determined by the Director of Community Planning and Development (“Director”) then the equipment cabinet shall be located in the Island Crest Way right-of-way adjacent to Clise Park.
- iii. Maximum height: 110 feet.

WCFs on the above properties may be attached or have a monopole structure. Except as to the Puget Sound Energy Substation referred to above, equipment cabinets shall be placed underground if feasible. In Island Crest Park, 84th Avenue SE or SE 39th Street right-of-way, the Director may allow or require the equipment cabinets to be placed aboveground if there is a significant benefit to the parks by either the retention of trees and/or vegetation or the improvement of park uses. Any aboveground equipment cabinet must be properly screened consistent with subsection (E)(3) of this section. The setback of the support structure from any adjacent residential property line shall be equal to the height of the support structure except in Island Crest Park or those rights-of-way described in subsection (D)(1)(e) of this section, where the setback of the support structure shall be 40 feet from any residential structure.

E. Performance Standards.

1. *Attached WCFs.* Attached WCFs which are visible to the traveling public and/or neighboring residences shall be designed to blend in with the existing structure and be placed in a location which is as unobtrusive as possible to the traveling public and/or neighboring residences consistent with the proper functioning of the WCF, and use color matching to blend in with the structure to which it is attached. If the aesthetic impacts cannot be mitigated by placement and color solutions, the WCF can be required to be screened.
2. *WCFs with Support Structures.* WCFs with support structures shall be designed to blend into the existing site and be placed in a location which is as unobtrusive as possible consistent with the proper functioning of the WCF, and use colors to blend into the existing site. If the aesthetic impacts cannot be mitigated by placement and color solutions, the WCF can be required to be screened with landscaping and/or fencing.
3. *Equipment Cabinets.* Equipment cabinets that are visible to the traveling public and/or neighboring residences shall be designed to blend in with existing surroundings, be placed underground if feasible, or placed in a location as unobtrusive as possible consistent with proper functioning of the WCF, and use colors to blend in with the adjacent surroundings. Screening may be required using landscaping or fencing.

€5. Priority Locations. WCFs shall be located only in the zones and properties described in this chapter and a WCF applicant shall locate any WCF in the following siting priority consistent with proper functioning of the WCF:

- a. Public properties described in subsections B and D of this section;
- b. Town Center, commercial/office and planned business zones described in subsection A of this section; and
- c. Island Crest Way corridor described in subsection C of this section.

F. Shared Facilities and Collocation. Collocation is highly encouraged. The applicant shall collocate the WCF with an existing WCF site unless the applicant can demonstrate to the **Director's** satisfaction that such collocation is not feasible due to radio interference, usable signal, other engineering reason, property owner's refusal to lease property, 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 WCFs.

G. Electromagnetic Radiofrequency Emissions. The City recognizes that the Federal Telecommunications Act of 1996 gives the Federal Communications Commission sole jurisdiction in the field of regulation of radio-frequency (RF) emissions and WCFs which meet FCC standards shall not be conditioned or denied on the basis of RF impacts. As part of a complete application under this chapter, applicants shall provide to the **City** an affidavit signed by a licensed RF engineer stating that the proposed installation is compliant with applicable federal RF regulations.

H. When there are more than six antennas at one site, the Director shall deem that site full and deny additional antennas, unless the antenna qualifies as a 6409 Eligible Facility.

I. *6409 Eligible Facilities*. 6409 eligible facilities shall be reviewed in accordance with 47 CFR Section 1.6100_Wireless Facility Modifications, or as hereafter amended.

1. Time Frame for Review. Within 60 days of the date on which an applicant submits a request seeking approval under this section, the City shall approve the application unless it determines that the application is not covered by 47 CFR 1.6100 (or as hereafter amended).

2. Tolling of the Time Frame for Review. The 60-day period begins to run when the application is filed, and may be tolled only by mutual agreement or in cases where the City determines that the application is incomplete. The time frame for review is not tolled by a moratorium on the review of applications.

- a. To toll the time frame for incompleteness, the City must provide written notice to the applicant within 30 days of receipt of the application, clearly and specifically delineating all missing documents or information. Such delineated information is limited to documents or information only to the extent reasonably related to determining whether the request meets the requirements of 47 CFR Section 1.6100 or as hereafter amended. The City cannot require an applicant to submit any other documentation, including but not limited to: documentation intended to illustrate the need for such wireless facilities or to justify the business decision to modify such wireless facilities.

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

c. Following a supplemental submission, the City will have 10 days to notify the applicant 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 subsection (2)(a) of this section. Second or subsequent notices of incompleteness may not specify missing documents or information that were not delineated in the original notice of incompleteness.

3. Failure to Act. In the event the City fails to approve or deny a request seeking approval under this section within the time frame for review (accounting for any tolling), the request shall be deemed granted. The deemed grant does not become effective until the applicant notifies the City in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.

J. *Removal of WCFs.* If a WCF becomes obsolete or unused, it must be removed **at the applicant's sole cost and expense** within six months of cessation of operation at the site. K. Amateur Radio Facilities. Amateur Radio (ham) Towers shall be permitted by right in all zones, pursuant to the FCC Order entitled Amateur Radio Preemption, 101 FCC 2nd 952 (1985). Any height restrictions applicable to Amateur Radio (ham) Towers may be waived by the Director upon a showing by the applicant that the proposed Amateur Radio (ham) Tower is the minimum necessary for the facility to function as proposed.

L. Any design criteria required to make a facility into a stealth facility (i.e. intended to make the facility look like something other than a wireless tower or base station) shall be considered concealment elements for purposes of future eligible facilities requests.

M. Temporary Wireless Communications Facilities. Temporary Wireless Communications Facilities shall be permitted in all zones and subject to the Type I land use review process pursuant to MICC Chapter 19.15. Temporary Wireless Communications Facilities may not be deployed for more than thirty (30) days except in case of emergency or natural disaster, in which case the Director may authorize a longer period of deployment.

Exhibit B

19.06.070 Small wireless facilities deployment.

The following provisions establish standards for small wireless facilities deployments; provided, however, that any small wireless facilities or small wireless facilities network component which is not exempt from SEPA review shall also comply with Chapter 19.21 MICC or as hereafter amended:

- A. **Small Wireless_Facility Approval Required.** Small wireless facilities are permitted in all zoning designations subject to a Type II land use review process pursuant to Chapter 19.15 MICC. In addition to the small wireless facility approval, one or more right-of-way use permits may also be required for small wireless facility deployment.
- B. **Previously Approved Small Wireless Facilities on Existing or Replacement Utility Poles.** Eligible small wireless facilities permitted under the provisions of a franchise approval prior to the adoption of these standards shall be considered to have satisfied the design and concealment standards when installed and maintained in accordance with the franchise agreement.
- C. **Hollow poles that can conceal equipment and appurtenances are preferred.**
- D. **Replacement Pole – Street light standard.** With the express permission of the City, a street light standard may be installed to support a new small wireless facility. The design of the street light standard shall be in accordance with the City requirements in effect at the time. Wherever feasible, all equipment and cabling shall be internal to the replacement street light standard, or concealed through the design and implementation of a concealment plan.
- E. **Undergrounded Utility Areas.** An applicant desiring to locate any aboveground infrastructure in an undergrounded utility area shall provide a separate, standalone pole. Pole design must be approved by the City pursuant to MICC 19.06.075. However, notwithstanding the above, all backhaul, electricity, cabling and components of small wireless facilities other than antenna(s) and the pole shall be located underground to the extent feasible and all wiring, cabling to the antenna(s) or other equipment that cannot be undergrounded shall be internal to the standalone pole or concealed through the design and implementation of a concealment plan. Further, notwithstanding any other provision in the MICC to the contrary, guy poles located within or adjacent to Undergrounded Utility Areas shall not be used to support any small wireless facilities.
- F. **Notwithstanding any provision of MICC 19.15.030, there shall be no appeal to the Hearing Examiner of permits issued pursuant to this Section, in order to comport with the permit processing timelines set forth in 47 CFR 1.6003 (or as hereafter amended). However, nothing in this section is intended to affect any potential right of any party to any applicable judicial appeal.**

Exhibit C

19.06.075 Small wireless facility deployments – Design and concealment standards.

Small wireless facility deployments, whether permitted on the right-of-way pursuant to a franchise or in accordance with this chapter, shall conform to the design standards set forth in this section.

A. Small Wireless Facility Deployment Design Standards – General Requirements. All small wireless facility deployments shall comply with the following provisions:

1. Ground-mounted equipment in the rights-of-way is prohibited unless such facilities are placed underground or the applicant can demonstrate that pole-mounted or undergrounded equipment is infeasible. If ground-mounted equipment is necessary, then the applicant shall submit a concealment plan pursuant to subsection G of this section. Generators located in the rights-of-way are prohibited, except in case of emergency or natural disaster.
2. Noiseless small wireless facilities are required if feasible. If noiseless facilities are not feasible, then the facility with the lowest noise profile is required. In any event, no small wireless facility equipment shall be operated so as to produce noise in violation of Chapter 8.24 MICC.
3. Small wireless facilities are not permitted on traffic signal poles.
4. Placement of replacement poles and new poles and any associated equipment shall comply with state and federal laws and regulations including the Americans with Disabilities Act (ADA), City construction and sidewalk standards, and shall maintain the path of travel in order to provide a clear and safe passage within the rights-of-way.
5. Consistent with the provisions of subsection (4) above, replacement poles shall be located as near as possible to the existing pole subject to approval by the City Engineer. The applicant must remove the abandoned pole promptly upon installation of the replacement pole and restore the right of way, including paving and/or sidewalks to provide clear and safe passage, **at its sole cost and expense.**
6. Any signage on equipment enclosures shall be of the minimum size and number possible to achieve the intended purpose; provided, that signs are permitted as concealment element techniques where appropriate.
7. Antennas and related equipment shall not be illuminated except for security reasons, required by a federal or state authority, or unless approved as part of a concealment plan.
8. Side arm mounts for antennas or equipment are prohibited.
9. A small wireless facility on a pole shall have the least possible visible impact by utilizing the smallest antenna(s) and equipment feasible.
10. Antennas, equipment enclosures, and ancillary equipment, conduit, and cable shall be located within the building or pole to the maximum extent feasible.
11. Antennas, equipment enclosures and ancillary equipment, conduit, and cable shall match the color and visual character of the building or pole upon which they are attached to the extent City.

This provision shall not be applied to limit the number of permits issued when no alternative sites are reasonably available nor to impose a technological requirement on the service provider.

13. Any design criteria required to make a facility into a stealth facility (i.e. intended to make a facility look like something other than a wireless tower or base station) shall be considered concealment elements for the purposes of future eligible facilities requests.

B. Small Wireless Facilities Attached to Nonwooden Poles. Small wireless facilities attached to existing or replacement nonwooden light poles and other nonwooden poles in the right-of-way or poles outside of the right-of-way shall conform to the following design criteria in addition to the general requirements set forth in subsection A of this section:

1. Antennas and the associated equipment enclosures shall be sited and installed in a manner which minimizes the visual impact on the streetscape by either:
 - a. Fully concealing the antennas and associated equipment fully within the pole; or
 - b. Through a concealment plan which provides an equivalent or greater impact reduction pursuant to subsection G of this section.
2. All conduit, cables, wires, and fiber must be routed internally in the light pole. Conduit, cables, wires, and fiber extending outside the pole to connect with externally mounted antennas or equipment shall be located within shrouds, canisters, or sleeves color matched with the support pole.
3. An antenna on top of an existing pole may not extend more than six feet above the height of the existing pole and the diameter may not exceed 16 inches, measured at the top of the pole, unless the applicant can demonstrate that more space is needed. The antennas shall be integrated into the pole design so that they appear as a continuation of the original pole, including colored, powder coated, or other permanent coloration, to match the pole, and shall be shrouded or screened to blend with the pole. All cabling and mounting hardware/brackets from the bottom of the antenna to the top of the pole shall be fully concealed and integrated with the pole and shall color match the pole.
4. In addition to the increased antenna height allowed in subsection (B)(3) of this section, the height of any replacement pole may not extend more than 10 feet above the height of the existing pole or the minimum additional height necessary for adequate clearance from electrical wires, whichever is greater.
5. Any replacement nonwooden pole shall substantially conform to the design of the pole it is replacing, or the applicable City pole design standards, if the pole to be replaced does not comply with the City pole design standards at time of application.
6. The diameter of a replacement pole shall comply with applicable setback and sidewalk clearance requirements, ADA requirements, and if a replacement light standard then with the City's lighting requirements.
7. For facilities collocated with nonwireless uses, the use of the pole for the siting of a small wireless facility shall be considered secondary to the primary function of the pole. If the primary

function of a pole serving as the host site for a small wireless facility becomes unnecessary, the pole shall not be retained for the sole purpose of accommodating the small wireless facility and the small wireless facility and all associated equipment shall be promptly removed at the applicant's sole cost and expense, unless a permit is obtained pursuant to MICC 19.06.070, including new review under this section MICC 19.06.075.

C. Wooden Pole Design Standards. Small wireless facilities located on wooden poles shall conform to the following design criteria in addition to the general requirements set forth in subsection A of this section:

1. The wooden pole at the proposed location may be replaced with a taller pole for the purpose of accommodating a small wireless facility; provided, that the replacement pole shall not exceed a height that would exceed the height limits to qualify as a small wireless facility.
2. A pole extender may be used instead of replacing an existing pole but may not increase the height of the existing pole if such an extension would exceed the height limits to qualify as a small wireless facility. The pole extender shall be painted to approximately match the color of the pole and shall substantially match the diameter of the pole measured at the top of the pole.
3. Replacement wooden poles may either match the approximate color and materials of the replaced pole or shall be the standard new wooden pole used by the pole owner in the City.
4. Antennas, equipment enclosures, and all ancillary equipment, boxes, and conduit shall be colored, powder coated, or have other permanent coloration, to match the approximate color of the surface of the wooden pole on which they are attached.
5. Panel antennas shall not be mounted on the side of a pole more than 12 inches from the surface of the wooden pole, measured from the exterior surface of the pole to the furthest extent of the panel antenna.
6. Antennas should be placed in an effort to minimize visual clutter and obtrusiveness. Multiple antennas are permitted on a wooden pole; provided, that each antenna enclosure shall not be more than three cubic feet in volume, with a cumulative total antenna volume not to exceed 12 cubic feet.
7. In addition to the increased antenna height allowed in subsection (C)(2) of this section, a canister antenna may be mounted on top of an existing wooden pole, which may not exceed the height requirements described in subsection (C)(1) of this section. A canister antenna mounted on the top of a wooden pole shall be consistent with the volume limit contained in the definition of small wireless facilities. Any canister antenna shall be colored or painted to match the pole. The canister antenna must be placed to look as if it is an extension of the pole. In the alternative, the applicant may propose a side-mounted canister antenna, so long as the inside edge of the antenna is no more than 12 inches from the surface of the wooden pole. All cables shall be concealed either within the canister antenna or within a sleeve between the antenna and the wooden pole that is colored to match the wooden pole.
8. In addition to the increased antenna height allowed in subsection (C)(2) of this section, an omnidirectional antenna may be mounted on the top of an existing wooden pole, provided

such antenna is no more than four feet in height and is mounted directly on the top of a pole or attached to a sleeve made to look like the exterior of the pole as close to the top of the pole as technically feasible. All cables shall be concealed within the sleeve between the bottom of the antenna and the mounting bracket.

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

10. Equipment for small wireless facilities must be attached to the wooden pole, unless otherwise permitted to be ground-mounted pursuant to subsection A of this section. The equipment must be placed in the smallest enclosure possible for the intended purpose, but in no event can wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing equipment on the structure, exceed 28 cubic feet in volume. The applicant is encouraged to place the equipment enclosure behind any banners or road signs that may be on the pole if such banners or road signs are allowed by the pole owner.

11. Notwithstanding the dimensional standards above, the size of any small wireless facility on the wooden pole shall be as small as feasible.

12. For facilities collocated with nonwireless uses, the use of the wooden pole for the siting of a small wireless facility shall be considered secondary to the primary function of the pole. If the primary function of a pole serving as the host site for a small wireless facility becomes unnecessary, the pole shall not be retained for the sole purpose of accommodating the small wireless facility and the small wireless facility and all associated equipment shall be promptly removed at the applicant's sole cost and expense, unless a permit is obtained pursuant to MICC 19.06.070, including new review under this section MICC 19.06.075.

13. All cables and wires shall be routed through conduit along the outside of the pole. The outside conduit shall be colored, powder coated, or have other permanent coloration, to match the pole. The number and size of conduits shall be minimized to the number technically necessary to accommodate the small wireless facility.

D. Small Wireless Facilities Attached to Existing Buildings. Small wireless facilities attached to existing buildings shall conform to the following design criteria:

1. Small wireless facilities may be mounted to the sides of a building if the antennas do not interrupt the building's architectural theme.
2. The interruption of architectural lines or horizontal or vertical reveals is discouraged.
3. New architectural features such as columns, pilasters, corbels, or other ornamentation that conceal antennas may be used if they complement the architecture of the existing building.
4. Small wireless facilities shall utilize the smallest mounting brackets necessary in order to provide the smallest offset from the building and any brackets must match the color of the building.

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

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

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

1. Each strand-mounted facility shall not exceed three cubic feet in volume;
2. Only one strand-mounted facility is permitted per cable between any two existing poles;
3. The strand-mounted devices shall be placed as close as possible to the nearest utility pole, in no event more than six feet from the pole unless a smaller distance is infeasible or a greater distance is required by the pole owner for safety clearance;
4. No strand-mounted device shall be located in or above the portion of the roadway open to vehicular traffic or over any pedestrian walkway;
5. Ground-mounted equipment to accommodate such strand-mounted facilities is not permitted, except when placed in preexisting equipment cabinets;
6. Pole-mounted equipment for strand-mounted facilities shall meet the requirements for pole-mounted small wireless facilities; and
7. Such strand-mounted devices must be as small as technologically possible and with the minimum exterior cabling or wires (other than the original strand) necessary to meet the technological needs of the facility.

F. New Poles in the Rights-of-Way for Small Wireless Facilities.

1. New poles within the rights-of-way are only permitted if the applicant can establish that:
 - a. 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 rights-of-way such as a public park, public property, building, transmission tower or in or on a nonresidential use in a residential zone whether by roof or panel-mount or separate structure;
 - b. The proposed wireless communications facility receives approval for a concealment plan, as described in subsection G of this section;
 - c. The proposed wireless communications facility also complies with the Shoreline Master Program and SEPA, if applicable; and
 - d. No new poles shall be located in a critical area or associated buffer required by the City's critical areas ordinance, except when determined to be exempt pursuant to said ordinance.

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

1. The concealment plan shall minimize the visual obtrusiveness of wireless communications facility installations to the extent feasible. The proposed pole or structure shall have similar designs to existing neighboring poles in the rights-of-way, including similar height, to the extent feasible, and similar coloration and shape. 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 or otherwise integrated into the design of the structure. Use of a unified enclosure equal to or less than four cubic feet in volume may be permitted in meeting these criteria. This requirement shall be applied in a manner which does not dictate the technology employed by the service provider nor unreasonably impair the technological performance of the equipment chosen by the service provider.

2. If the Director has already approved a concealment plan either for the applicant or another wireless communications facility along the same public right-of-way or for the same pole type, then the applicant shall utilize a substantially similar concealment plan, unless it can show that such concealment plan is not feasible, or that such deployment would undermine the generally applicable design standards.

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

Exhibit D

MICC Chapter 19.15.030 Land use review types.

There are four categories of land use review that occur under the provisions of the development code.

A. *Type I.* Type I reviews are based on clear, objective and nondiscretionary standards or standards that require the application of professional expertise on technical issues.

B. *Type II.* Type II reviews are based on clear, objective and nondiscretionary standards or standards that require the application of professional expertise on technical issues. The difference between Type I and Type II review is that public notification shall be issued for Type II decisions.

C. *Type III.* Type III reviews require the exercise of discretion about nontechnical issues.

D. *Type IV.* Type IV reviews require discretion and may be actions of broad public interest. Decisions on Type IV reviews are only taken after an open record hearing.

E. The types of land use approvals are listed in Table A of this section. The required public process for each type of land use approval are listed in Table B of this section.

Table A. Land Use Review Type

Type I	Type II	Type III	Type IV
<ul style="list-style-type: none"> • Home business • Seasonal development limitation waiver • Nonmajor single-family dwelling building permits • Tree removal permit • Right-of-way permit • Special needs group housing safety determination 	<ul style="list-style-type: none"> • Modified wireless communication facilities (6409 per 47 CFR 1.40001) • Lot line revision • Setback deviations • Final plat^{2, 3} • Code official design review • Accessory dwelling unit • Parking variances (reviewed by City Engineer) 	<ul style="list-style-type: none"> • New and modified wireless (non-6409) eligible facility • SEPA threshold determination • Critical areas determination (wetland/watercourse buffer averaging/reduction) • Temporary encampment⁴ • Short plat alteration and vacations • Preliminary short plat 	<ul style="list-style-type: none"> • Preliminary long plat approval • Conditional use permit • Variance • Critical areas reasonable use exception • Long plat alteration and vacations • Parking variances (reviewed by design commission)

Type I	Type II	Type III	Type IV
<ul style="list-style-type: none"> • Tenant improvement/change of use • Shoreline exemption¹ • Critical areas determination (steep slope alteration) • Final short plat • Temporary commerce on public property • Site development permits • Transportation concurrency certificate 	<ul style="list-style-type: none"> • Small Wireless Facility Deployment 	<ul style="list-style-type: none"> • Development code interpretations • Major single-family dwelling building permit • Shoreline substantial development permit¹ • Shoreline revision (substantial development)¹ 	<ul style="list-style-type: none"> • Variance from short plat acreage limitation • Wireless communication facility height variance • Planned unit development • Design commission design review • Permanent commerce on public property • Shoreline conditional use permit (SCUP)⁵ • Shoreline variance⁵ • Shoreline revision (variance and SCUP)

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Exhibit E

MICC Chapter 19.16.010 Definitions.

Antenna Array: A single or group of antenna elements and associated mounting hardware, feed lines, 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 Support Structure: A vertical projection composed of metal or other material with or without a foundation that is designed for the purpose of accommodating antennas at a desired height. Types of support structures include the following:

1. Guyed antenna support structure - a style of antenna support structure consisting of a single truss assembly composed of sections with bracing incorporated. The sections are attached to each other and the assembly is attached to a foundation and supported by a series of wires that are connected to anchors placed in the ground or on a building.
2. Lattice antenna support structure - a tapered style of antenna support structure that consists of vertical and horizontal supports with multiple legs and cross-bracing and metal crossed strips or bars to support antennas.
3. Monopole antenna support structure - a style of antenna support structure consisting of a single shaft usually composed of two or more hollow sections that are in turn attached to a foundation. This type of antenna support structure is designed to support itself without the use of guy wires or other stabilization devices. These facilities are mounted to a foundation that rests on or in the ground. These facilities may also include flagpoles, monopines, or new utility poles and new miscellaneous poles.

Collocation: Mounting or installing an antenna facility on a pre-existing structure and/or modifying a structure for the purpose of mounting or installing an antenna facility on that structure. However, for the purposes of eligible facilities requests (6409 eligible facilities), the term shall mean as defined in 47 CFR 1.6100 (or as hereafter amended).

Equipment Enclosure: An enclosure used to house any wireless communication facility transmission related 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 utility pole, light pole, or other type of pole.

Existing Wireless Communication Facility: A constructed tower or base station is existing for purposes of this section if it has been reviewed and approved under the applicable City 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.

Macro Wireless Communications Facility: Any wireless communication facility that does not meet the definition of small wireless facility.

Pole Extender: An object affixed between a utility pole and pole top mounted equipment (e.g. a small cell antenna) for the purpose of increasing the height of the pole top mounted equipment above the pole.

Regulated Improvements: Any development of any property within the City, except:

1. Property owned or controlled by the City; or
2. Single-family dwellings and the buildings, structures and uses accessory thereto;
3. Wireless communications structures, including associated support structures and equipment cabinets; or
4. Small wireless facilities or small wireless facility networks.

Satellite Dish Antenna: 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 means a facility that meets each of the following conditions:

- (1) The facility -
 - (i) Is mounted on a structure 50 feet or less in height including their antennas; or
 - (ii) Is mounted on a structure no more than 10 percent taller than other adjacent structures; or
 - (iii) Does not extend an existing structure on which it is located to a height of more than 50 feet or by more than 10 percent, whichever is greater;
- (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;
- (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;
- (4) The facility does not require antenna structure registration with the Federal Communications Commission;
- (5) The facility is not located on Tribal lands, as defined under 36 CFR 800.16(x); and
- (6) The facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 CFR § 1.1307(b).

Small Wireless Facility Network: a collection of interrelated small wireless facilities designed to deliver personal wireless services.

Stealth Design: Wireless communications facilities designed to resemble something other than a wireless facility. Examples of stealth design include architecturally screened roof-mounted antennas, facilities integrated into architectural elements, and facilities designed to blend with or be integrated into light poles, utility poles, trees, steeples, or flag poles.

Substantial Change, Wireless Communication Facility: A modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

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

a. 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;

2. 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 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;

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

4. It entails any excavation or deployment outside the current site, except that, for towers other than towers in the public rights-of-way, it entails any excavation or deployment of transmission equipment outside of the current site by more than 30 feet in any direction. The site boundary from which the 30 feet is measured excludes any access or utility easements currently related to the site;

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

6. 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 in 47 CFR Section -1.6100(b)(7)(i) through (b)(7)(iv) or as hereafter amended.

Temporary Wireless Communications 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 typically used for large-scale events, or to provide wireless coverage in the event an existing permanent WCF is removed to allow for construction activity at the underlying site.

Tower: Any structure built for the sole or primary purpose of supporting any Federal Communications Commission-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and

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

Traffic Signal Pole: A Utility Pole that supports equipment used for controlling traffic including but not limited to traffic lights, rapid flashing beacons, speed radar, or school zones flasher.

Undergrounded Utility Areas: A geographic area in which existing overhead electric and communication facilities are to be or have been converted to underground facilities.

Utilities: Facilities providing infrastructure services by a public utility or private utility regulated by the state through fixed wires, pipes, or lines. Such facilities may include water, sewer, storm water facilities (lines, ditches, swales and outfalls) and private utilities such as natural gas lines, telecommunication lines, cable communication lines, electrical lines and other appurtenances associated with these utilities. "Utilities" does not include wireless communication facilities, but do include small wireless facilities.

Utility Pole: A structure designed and used primarily for the support of electrical wires, telephone wires, or television cable and may also include lighting. A new utility pole originally constructed for the purpose of providing support for a Wireless Communication Facility (WCF) shall be regulated as a new Antenna Support Structure.

Wireless Communication Facility Site: For towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground. The current boundaries of a site are the boundaries that existed as of the date that the original support structure or a modification to that structure was last reviewed and approved by the City, or a State or other local government, if the approval of the modification occurred prior to the Spectrum Act or otherwise outside of the 6409(a) Eligible Facilities process.

Wireless Communications:

1. Attached Wireless Communications Facility (Attached WCF): An antenna array that is attached to an existing building or structure, including utility poles, with any accompanying attachment structure, transmission cables, and an equipment cabinet which may be located either inside or outside of the attachment building or structure.
2. Wireless Communications Facility (WCF): Any unstaffed facility for the transmission and/or reception of radio frequency signals usually consisting of antennas, an equipment cabinet, transmission cables, and a support structure to achieve the necessary elevation.
3. Wireless Communications Support Structure (Support 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 comingled with other types of services). A structure designed and constructed specifically to support an antenna array, and may include a monopole tower, lattice tower, guy-wire support tower or other similar structures.-Any structure which is used to attach an attached WCF to an existing building or structure (hereinafter "attachment structure") shall be excluded from the definition of and regulations applicable to support structures.