



BUCKLEY CITY COUNCIL MEETING AGENDA
June 11, 2019
Multi-Purpose Center, 811 Main Street
City Council Meeting
Opening 7:00 P.M.

Call to Order
Pledge of Allegiance
Roll Call of Council Members

Next Ordinance #10-19
Next Resolution #19-04
Next Agenda Bill #AB19-055

A. Citizen Participation

Time Limit of Three Minutes (Citizens wishing to speak are encouraged to sign up at City Hall by Wednesday prior to the Council Meeting)

B. Staff Reports

C. Main Agenda

- | | | |
|----|--|--------|
| 1. | ORD No. ____-19 Recommendation for Mariglobal Rezone | Pg. 7 |
| 2. | ORD No. ____-19 Amending BMC, Small Cell Telecommunication Devices | Pg. 22 |
| 3. | Buckley/DSHS AG Land Appraisal | Pg. 96 |
| 4. | Spiketon Culvert Replacement Project Bid Award | Pg. 98 |

D. Consent Agenda

- | | | | |
|----|----|---|---------|
| 5. | A. | Approve Minutes of May 28, 2019, City Council Meeting | Pg. 102 |
| | | Approve Minutes of June 4, 2019, City Council – Study Session | Pg. 105 |
| | B. | Transfer Voucher | Pg. 106 |

E. Committee Reports

- | | | |
|-----|---|------------|
| 6. | Mayor's Report | Johnson |
| 7. | Administration, Finance & Public Safety | Tremblay |
| 8. | Transportation & Utilities | B. Burkett |
| 9. | Community Services | S. Burkett |
| 10. | Council Member Comments & Good of the Order | |

Council may add and take action on other items not listed on this agenda



CITY OF BUCKLEY ♦ PO BOX 1960 ♦ BUCKLEY, WA 98321
360-829-1921 ♦ Fax 360-829-2659 ♦ <http://www.cityofbuckley.com>

CITY OF BUCKLEY MEETING LIST

June 2019

June 10	10:30 AM	Buckley Hall Board (City Hall)
June 11	9:30 AM	Admin/Finance/Public Safety (City Hall)
June 11	7:00 PM	City Council
June 17	7:00 PM	Planning Commission
June 18	7:00 PM	Transportation & Utilities (City Hall)
June 20	1:00 PM	Community Services (City Hall)
June 25	9:30 AM	Admin/Finance/Public Safety (City Hall)
June 25	7:00 PM	City Council

The above meetings will be held in the Multi-Purpose Center located at 811 Main Street unless otherwise noted.
Last Revised June 6, 2019



June 2019

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3 <i>7:00 Planning Commission</i>	4 <i>7:00 City Council Study Session</i>	5	6	7	8
9	10 <i>10:30 Buckley Hall Board</i>	11 <i>9:30 A/F/PS 7:00 City Council</i>	12	13	14	15
16	17 <i>7:00 Planning Commission</i>	18 <i>7:00 Transp. & Utilities</i>	19	20 <i>1:00 Community Services</i>	21 	22 <i>Buckley Jr. Log Show</i>
23	24	25 <i>9:30 A/F/PS 7:00 City Council</i>	26	27	28	29 <i>Buckley Log Show</i>
30 <i>Buckley Log Show</i>						

A. CITIZEN PARTICIPATION

B. STAFF REPORTS

C. MAIN AGENDA



CITY COUNCIL AGENDA BILL

City of Buckley
PO Box 1960
Buckley, WA 98321

ITEM INFORMATION			
SUBJECT:		Agenda Date: June 11, 2019 AB19-055	
Ord. No. ____-19 adopting the findings and conclusions of the Hearing Examiner's recommendation for the Mariglobal Rezone Cost Impact: \$ Fund Source: Timeline:	Department/Committee/Individual	Created	Reviewed
	Mayor Pat Johnson		X
	City Administrator – Dave Schmidt		X
	City Attorney – Phil Olbrechts		X
	City Engineer – Dominic Miller		
	City Clerk – Treva Percival		X
	Finance Dept – Sheila Bazzar		
	Building Official – Mike Deadmond		
	Fire Dept – Chief Predmore		
	Parks & Rec Dept – Kevin Caviezel		
	Planning Dept – Leticia Wallgren	X	X
	Police Dept – Chief Arsanto		
Municipal Court – Jessica Cash			
	PW/Utilities – Chris Banks		
Attachments: Council Memo, Exhibit A: Hearing Examiner's Recommendation, and Exhibit B: Ordinance adopting findings and conclusions of the hearing examiner's recommendation for the Mariglobal Rezone			
SUMMARY STATEMENT: In May 2018, the city council approved a rezone for Mariglobal Inc. At that time, the findings and conclusions of the recommendation of the Hearing Examiner should have been adopted by ordinance and the ordinance should have been recorded with Pierce County but that did not happen. The ordinance is before the council today to adopt the findings and conclusions of the previously approved rezone.			
COMMITTEE REVIEW AND RECOMMENDATION:			
RECOMMENDED ACTION: MOVE to Approve Ord. No. 10-19 adopting the findings and conclusions of the Hearing Examiner's recommendation for the Mariglobal Rezone and Directing Staff to Update the Zoning Map to Reflect the Rezone.			
RECORD OF COUNCIL ACTION			
Meeting Date	Action	Vote	

CITY OF BUCKLEY

P.O. Box 1960 ♦ Buckley, WA 98321 ♦ (360) 761-7801

<http://www.cityofbuckley.com/>; <http://www.codepublishing.com/WA/Buckley/>

MEMO



To: Mayor Pat Johnson
City Council Members
From: Associate Planner Leticia Wallgren
Date: June 6, 2019
Re: Previously approved Mariglobal Rezone; File # RZ-17-000; adoption of findings and conclusions by ordinance and staff direction to update the rezone map to reflect the rezone.

Mayor Johnson and Members of the City Council,

Attached are the following documents:

- **Exhibit A**: Report and Recommendation of the Hearing Examiner
- **Exhibit B**: Ordinance adopting the findings and conclusions of the hearing examiner's report

See below for a summary, history, and timeline of the subject project referred to as the Mariglobal Rezone. Detailed information can be found in the attached hearing examiner report & recommendation (**exhibit A**).

- **May 2015**: A building permit and application was submitted by the previous owner with Mariglobal Inc. as a co-applicant. The use, historically, was agriculture; the use will be continued.
- **July 2016**: Mariglobal Inc. completed the purchase of the subject parcel.
- **Early 2017**: After review of a survey submitted by the applicant, the city discovered encroachments onto a neighboring parcel. The encroachments were buildings constructed by the previous owner whom, we assume, was unaware that the area where the encroachments were discovered was not a part of his lot. The encroachments include a shed and the corner of a building. This could be remedied by either tearing down the buildings or moving the lot line.
- **March 2017**: Mariglobal Inc. applied for a Boundary Line Adjustment (BLA) in order to absorb the small slice of land between their parcel and the Copperwynd subdivision; this also happens to be the portion of land where the encroachments were discovered. See page 1 of the city staff report for a visual representation. The area labeled "transfer area" is the only portion of parcel B to be absorbed by parcel A (the Mariglobal parcel). During review of the BLA, it was discovered that parcel A and parcel B contained two different zoning designations resulting in the need for a rezone of the transfer area. The BLA has undergone a complete review and is approved contingent on the approval of the rezone.
- **November 2017**: Mariglobal Inc. applied for a rezone. The site-specific rezone is a quasi-judicial process that requires a hearing and a recommendation from the hearing examiner to the legislative body; in this case, the legislative body is the city council.
- **March 2018**: A hearing was conducted on March 28, 2018. The hearing included a presentation by associate planner, Leticia Wallgren who presented the findings in the staff report to deputy

hearing examiner, Terrence McCarthy. There was no public comment on the rezone aside from general inquiries.

- **April 2018:** The Report & Recommendation (**exhibit A**) was received from the office of the hearing examiner on Tuesday, April 24, 2018.
- **May 2018:** The Report & Recommendation and the Rezone Proposal went before the City Council for approval.
- **May 8, 2018:** The Rezone was approved by the city council.
- **May 2019:** It was discovered that the findings and conclusions of the rezone was to be formally adopted by ordinance. The ordinance would then need to be recorded with Pierce County. This step did not happen.
- **June 2019:** The Rezone is back before the city council to adopt the findings and conclusions of the staff report by ordinance. Also before the city council is the ordinance (**exhibit B**) which is to be recorded with Pierce County upon adoption by the city council.
- **Upon Adoption:** The city will publish/post/mail an updated Notice of Decision; the city will record the ordinance with Pierce County; the city will update the city zoning map to reflect the rezone.

Recommendation of the Hearing Examiner

A detailed statement of the findings, conclusion, and recommendation can be found on pages 3x-7x of the hearing examiner's report (**exhibit A**). A summary of the recommendation is as follows:

“It is the recommendation of the Hearing Examiner to the City Council that the applicant's request for a site rezone should be found to be consistent with the goals and policies of the Comprehensive Plan and the Buckley Municipal Code and should be granted subject to the above [in this memo, they are listed below] conditions.”

Conditions:

1. The recommendation set forth herein is based upon representations made and exhibits, including plans and proposals submitted at the hearing conducted by the hearing examiner. Any substantial change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to the approval of the hearing examiner and may require further and additional hearings.
2. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition precedent to the approvals granted and is a continuing requirement of such approvals. By accepting this/these approvals, the applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, the applicant agrees to promptly bring such development or activities into compliance.

Requested Action

City staff is requesting the adoption, by ordinance, of the findings and conclusions from the Hearing Examiner Report and Recommendation on the previously approved Rezone for Mariglobal Inc.

OFFICE OF THE HEARING EXAMINER

CITY OF BUCKLEY

REPORT AND RECOMMENDATION

FILE NO.: R-17-0001
MARIGLOBAL INC., REZONE

APPLICANT: Mariglobal Incorporated
Attn: Larry Wagner
7609-157th Street East
Puyallup, WA 98375

PLANNER: Leticia Wallgren, Associate Planner

SUMMARY OF REQUEST:

The applicant is requesting a rezone of a portion of a large parcel located on North River Avenue in Buckley. The site does not have an address. The Comprehensive Plan designation for the area where it is located is Urban Low Density. The site is zoned Sensitive. The portion which the applicant is request be rezoned is located between two parcels of property which are zoned R-20.

SUMMARY OF RECOMMENDATION: Recommended, subject to conditions.

DATE OF RECOMMENDATION: April 24, 2018

PUBLIC HEARING:

After reviewing the Planning Department Staff Report and examining available information on file with the application, the Examiner conducted a public hearing on the request as follows:

The hearing was opened on March 28, 2018, at 9:00 a.m.

Parties wishing to testify were sworn in by the Examiner.

The following exhibits were submitted and made a part of the record as follows:

- EXHIBIT "1"** - **Planning Department Staff Report**
- Att. "1"** - **Application Materials**
- Att. "2"** - **Notices**
- Att. "3"** - **SEPA**
- EXHIBIT "2"** - **Power Point Presentation**

The Minutes of the Public Hearing set forth below are not the official record and are provided for the convenience of the parties. The official record is the recording of the hearing that can be transcribed for purposes of appeal.

LETITIA WALGREEN, associate planner, appeared and briefly summarized the Staff Report and its attachments. The site in question has a highly unusual configuration. As set out in the Staff Report, this request involves two parcels of property. Parcel B, which is zoned Sensitive, almost completely encompasses Parcel A, which is zoned R-20. The property to the south of Parcel A is also zoned R-20. The area in question for rezone is a slice of property between Parcel A on the north side, which is zoned R-20, and the property to the south, which is also zoned R-20. The photograph on page 1 of the Staff Report outlines the configuration of the property, which is difficult to describe. The historical use of the site has been agricultural. In May of 2015, the applicant, Mariglobal, Inc., submitted a building permit application. At that time, staff discovered that Parcel A had buildings encroaching on the slice of property (Parcel B) which is zoned Sensitive. The applicant thought that this narrow slice of property which is zoned Sensitive, belonged to Parcel A and had customarily treated as a portion of Parcel A. Upon learning that the slice of property did not belong to Parcel A, the applicant moved for a boundary line adjustment, which was granted subject to a rezone. A rezone is necessary because Parcel B is zoned Sensitive and this thin slice of property is attached to Parcel B and not Parcel A, as most thought it was. The boundary line has been approved subject to a rezone application being granted. Basically, this thin slice of property because of the configuration of the site appears almost like spot zoning, which is to be avoided according to all experts. Staff has reviewed this request subject to the City's ordinances and case law. Based upon staff's review of facts and findings, staff has determined that the proposal is consistent with the Comprehensive Plan and the Buckley Municipal Code and therefore requests that the Hearing Examiner recommend to the City Council that the rezone be approved.

CHAD STEWARD appeared on behalf of the applicant. The applicant is in agreement with the Staff Report.

No one spoke further and the Examiner took this matter under advisement. The hearing was concluded at 9:10 a.m.

NOTE: A complete record of this hearing is available in the office of the City of Buckley Planning Department.

FINDINGS, CONCLUSIONS, AND RECOMMENDATION:

FINDINGS:

1. The Hearing Examiner has admitted documentary evidence into the record, heard testimony, read the Staff Report and attachments, and taken this matter under advisement.
2. Notice of application was mailed to property owners within 300 feet, but no less than two parcels deep, on December 13, 2017. Notice of the application was posted at City posting locations including the City website on December 13, 2017. Notice of the application was published on Wednesday, December 20, 2017, in the legal section of the Enumclaw Courier Herald. Public hearing notice and proposal description was published in the Wednesday, March 7, 2018, legal section of the Enumclaw Courier Herald and posted on City Bulletin Boards and the City website on March 7, 2017.
3. The SEPA threshold Determination of Non-Significance was issued on February 14, 2018, with a comment period ending on February 28, 2018. The DNS was mailed to property owners within 300 feet, but not less than two parcels deep, posted to City posting locations, and published in the Enumclaw Courier Herald on February 14, 2018.
4. The Staff Report with its attachments appropriately identifies the issues, findings, conclusion and recommendations and is hereby incorporated by reference as though fully set forth.
5. The applicant is requesting a rezone of a narrow slice of property located between 646 North River Avenue and Copperwynd plat. This site has been used for agricultural purposes and under the rezone will be continued as a marijuana grow-operation, which was considered agricultural at the time of the building permit application. The applicant, Mariglobal, Inc., is vested in agricultural use and therefore not subject to current requirements governing marijuana agriculture.
6. The thin slice of property that the applicant is requesting be rezoned is part and parcel of a large, 12.44 acre site located on North River Avenue. The site has no street address. The area to be transferred is 42,553 square feet and from all appearances, it belongs to a site located at 646 North River Avenue and has been historically treated as part of 646 North River Avenue as the previous owners had built sheds on this thin slice of property belonging to the unaddressed parcel of property on North River Avenue.

7. The terrain of 646 North River Avenue is relatively flat with a majority of the soil being Buckley loam. Much of the parcel is covered with trees, shrubs, and grasses, typical and characteristic of those found in Buckley. The narrow slice has a very similar terrain, whereas the unaddressed parcel is flat with the exception of a downslope leading to the flume. The majority of soil in Parcel B is pilchuck fine sand. It sits at a slightly lower elevation than 646 North River Avenue. Parcel B is covered with trees, shrubs and grasses, typical and characteristic of those generally found in Buckley.
8. The history of 646 North River Avenue is that this parcel was previously known as Buckley Nursery, which was acquired by Mariglobal, the applicant, in June of 2016. The parcel contains several buildings which are designed for commercial agricultural use. The oldest of the three large buildings was built in 1970. The site also contains three sheds along the outside borders which were likely added at a later date. Sheds were also built along the narrow slice of property which the applicant is requesting be rezoned.
9. 646 North River Avenue is zoned R-20. The Comprehensive Plan Designation of 646 North River Avenue is Urban Low Density as is the narrow slice of property which the applicant is requesting be rezoned. However, this narrow slice of property is zoned Sensitive. From all appearances, it looks like this narrow slice of property has traditionally been treated as part of 646 North River Avenue and the City fathers in all probability did not realize it was part of a larger parcel to the North of 646 North Avenue when they adopted the Comprehensive Plan and zoning code.
10. Buckley Municipal Code 19.52.010 which governs rezones provides as follows:

“In determining what, if any, amendments to this title are to be adopted, the city council shall give due consideration to the proper relationship of such amendments to the comprehensive plan and to this entire title, it being the intent to retain the integrity and validity of the zoning districts herein described, and to avoid any isolated spot zoning changes in the zoning map. Any amendments adopted by the council may be modified from the form in which they were advertised within the limits necessary to relate properly such amendment or amendments to this title. Final action on such modifications shall be subject to review and report of the planning commission prior to final passage by the council.”

In this case, this narrow slice of property which almost could be considered the tail of a dog appears to be spot zoning as it is located between two R-20 zoned parcels and it is labeled Sensitive. The Comprehensive Plan designation for both this narrow tail and the 646 North River Avenue parcel is Urban Low Density. So, the request is consistent with the Comprehensive Plan and consistent with the intent of

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the determination to avoid spot zoning. The amendment is consistent with implementation of the Comprehensive Plan, remaining Urban Low Density in the transfer area. The lots will maintain the integrity and validity of their zoning districts and in addition, the proposed amendment will not contribute to any isolated spot changes. In fact, it will avoid what appears to be a spot change. The transfer area will be absorbed into Parcel A, which is zoned R-20.

11. Buckley Municipal Code 19.52.020 governs priority of first application and prohibits the change of zoning of any lot, parcel, or portion thereof within one year of final action of the Council on a prior application covering any land described in the application. This lot has not been rezoned in the past year and so this provision is not applicable.
12. Buckley Municipal Code 19.52.030 governs conditional rezones and authorized that the council may require that, within a specified time period, an acceptable building permit application must be submitted by the applicant for the use intended in the rezone application, and that failure to submit such building permit application and to start construction within that time period would automatically make the rezone null and void. In this particular case, it would seem to be whether or not the applicant submitted a building permit application, this rezone should take effect and the parcels should be combined to avoid the appearance of spot zoning. However, the applicant did submit an application for a boundary line adjustment on March 23, 2017. Over time, the supporting documents were submitted and the boundary line adjustment was approved contingent upon approval of the rezone. If and when the rezone is approved, the boundary line adjustment is ready to be recorded. The applicant also submitted a building permit application for the remodel of one of the buildings on site. The applicant has plans to complete the buildings on site in three phases over an unspecified length of time. However, the additional use of the transfer is not anticipated and has been restricted by the City until the boundary line adjustment is finalized. As previously stated, this rezone is necessary to avoid the strong appearances of spot zoning.
13. Buckley Municipal Code 19.52.050 provides that if a rezone is conditionally granted under the provisions of this chapter, then the zoning map shall reflect the rezone subject to compliance with certain conditions, and the date for compliance shall be written upon the zoning map. As previously stated, this Examiner does not think the conditional rezone is appropriate in this particular case.
14. In examining rezone applications, the governmental body applies the following general rules, according to Ahmann-Yamane, LLC v. Tabler, 105 Wn. App. 103 (March, 2001):

“(1) There is no presumption of validity favoring the action of rezoning; (2) the proponents of rezone have the burden of proof in demonstrating that conditions have substantially changed since the

original zoning; and (3) the rezone must bear a substantial relationship to the public health, safety, morals or welfare."

See Ahmann-Yamane, LLC, supra, and cases cited therein. An important consideration in considering land use patterns is the effect of the City's Comprehensive Plan. Any zoning designation must be consistent with the Comprehensive Plan. A showing of substantial change of circumstances is not required if the proposed rezone implements policies of the Comprehensive Plan, See Ahmann-Yamane, LLC, supra. In the instant case, a showing of a substantial change of circumstances is not necessary because the change will implement the City's Comprehensive Plan. Staff indicates that this thin slice of property has been used in the past by the previous owner of the 646 North River Avenue site. The owner of the 646 North River Avenue site believed that this thin slice of property was part and property of that site. The owners of both sites want to clean up the parcel lines and this rezone will implement their desires and eliminate a Sensitive a zoning site designation from being located between two residential R-20 sites.

15. Buckley Municipal Code 19.20.120 defines the intent and purpose of the sensitive zone:

The purpose of the sensitive zone is to protect, conserve, and manage sensitive areas next to the shoreline, provide for recreation and public use in conjunction with the shoreline master program, to sustain the existing natural character of these sensitive areas, preserve or enhance the natural environment, and allow careful development of these areas for public enjoyment and recreation. Development in this zone should cause no net loss to shoreline functions.

The transfer area for the proposed rezone is 400 feet from a wetland on the unaddressed parcel. There is no evidence that the proposed rezone will affect the wetland in any way.

16. Staff has reviewed the proposed rezone under the elements of the Buckley Comprehensive Plan on pages 8, 9, 10 and part of 11 of the Staff Report which is hereby incorporated by reference. Their review indicates that the rezone would be consistent with the policies and goals of the Comprehensive Plan.

From the foregoing Findings, the Examiner makes the following Conclusions:

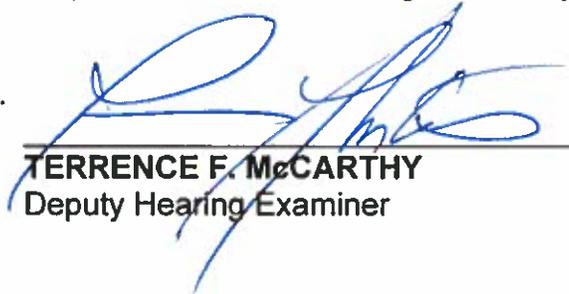
CONCLUSIONS:

1. The Hearing Examiner has jurisdiction to consider the issues presented.
2. The applicant's request for a rezone of a thin slice of property adjacent to the southern border of the site located at 646 North River Avenue is consistent with the requirements for a rezone listed in the Buckley Municipal Code and Comprehensive Plan as well as case law and the request should be granted.
 1. The recommendation set forth herein is based upon representations made and exhibits, including plans and proposals submitted at the hearing conducted by the hearing examiner. Any substantial change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to the approval of the hearing examiner and may require further and additional hearings.
 2. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition precedent to the approvals granted and is a continuing requirement of such approvals. By accepting this/these approvals, the applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, the applicant agrees to promptly bring such development or activities into compliance.

RECOMMENDATION:

It is the recommendation of the Hearing Examiner to the City Council that the applicant's request for a site rezone should be found to be consistent with the goals and policies of the Comprehensive Plan and the Buckley Municipal Code and should be granted subject to the above conditions.

ORDERED this 24th day of April, 2018.



TERRENCE F. McCARTHY
Deputy Hearing Examiner

7X

TRANSMITTED this 24th day of April, 2018, to the following:

APPLICANT: Mariglobal Incorporated
Attn: Larry Wagner
7609-157th Street East
Puyallup, WA 98375

OTHERS:

Chad Steward
2522 North Proctor Street #282
Tacoma, WA 98406

CITY OF BUCKLEY

8X

APPEAL PROCEDURES

20.01.260 Appeals.

- (7) Judicial Appeal. BMC 20.01.030 identifies final decisions appealable to superior court (Hearing Examiner decision are identified as going to superior court). In lieu of superior court, some appeals of final decisions are required by state law to be filed in other forums. The appellant bears the responsibility of filing an appeal in the proper forum and no assurances are made as to the accuracy of the forums designated for appeal in Table 1, BMC 20.01.030.
 - (a) The cost of transcribing and preparing all records ordered certified by the court or desired by the appellant for such appeal shall be borne by the appellant.
 - (b) Prior to the preparation of any records, the appellant shall post with the city clerk an advance fee deposit in the amount specified by the city clerk. Any overage will be promptly returned to the appellant.

CITY OF BUCKLEY, WASHINGTON

ORDINANCE NO. ____ - 19

AN ORDINANCE OF THE CITY OF BUCKLEY, WASHINGTON, CONCERNING A PORTION OF PROPERTY LOCATED AT 646 NORTH RIVER AVENUE; TO ALLOW A REZONE FROM SENSITIVE TO R-20,000 RESIDENTIAL; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the current City Comprehensive Plan was adopted in 2015; and

WHEREAS, the Comprehensive Plan allows for various zones within each comprehensive plan district; and

WHEREAS, the subject property located at 646 North River Avenue was the subject of a Boundary Line Adjustment (BLA) that absorbed a small slice of land between the parent parcel and the Copperwynd subdivision deemed the “transfer area”; and

WHEREAS, the “transfer area” referred to as parcel B and the parent parcel A were zoned two different zoning designations resulting in the need for a rezone of the transfer area to match that of the parent parcel A; and

WHEREAS, the current use of parcel A is agricultural with an existing “permitted” marijuana production-operation. The previous and continued use of parcel B is vacant undeveloped land; and

WHEREAS, the subject parcel B is located between two R-20,000 zoned properties; and

WHEREAS, the Comprehensive Plan designation for both parcel A and parcel B is Urban Lower Density; and

WHEREAS, any current use of the property must comply with the City’s zoning code; and

WHEREAS, parcel A has been used for agricultural purposes and under a rezone will be continued as a marijuana production-operation, which was considered agricultural at the time building

permit application. The applicant is vested in agricultural use and therefore not subject to current requirements governing marijuana agriculture; and

WHEREAS, the Notice of application was mailed to all property owners within 300 feet on December 13, 2017 and published in the Enumclaw Herald on December 20, 2017. A public hearing notice was published in the Enumclaw Herald March 7, 2018; and

WHEREAS, a determination of non-significance was issued under the State Environmental Policy Act (SEPA) on February 14, 2018, with a comment period ending February 28, 2018; and

WHEREAS, the Hearing Examiner conducted a public hearing on this proposal on March 28, 2018; and

WHEREAS, the Hearing Examiner submitted a recommendation to the City Council on April 24, 2018 stating that the applicants request for rezone should be found to be consistent with the goals and policies of the Comprehensive Plan and the Buckley Municipal Code and should be granted subject to conditions listed within the Hearing Examiners report; and

WHEREAS, the City Council finds that the applicants request for rezone is consistent with the goals and policies of the Comprehensive Plan and the Buckley Municipal Code and is granted subject to conditions listed within the Hearing Examiners report;

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

Section 1. The attached report serves as findings of fact and conclusions.

Section 2. The property identified as parcel B located at 646 North River Avenue is hereby rezoned to R-20,000.

Section 3. Staff is authorized to change the 2015 zoning map to reflect this change.

Section 4. Copy to the Department of Commerce. Pursuant to RCW 36.70A.106, the City Administrator is hereby authorized and directed to provide a copy of this ordinance to the State Department of Commerce within 10 days of adoption.

Section 5 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, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 6 Effective date. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the city, and shall take effect and be in full force five (5) days after publication.

APPROVED by the Buckley City Council this 11th day of June 2019.

Mayor Pat Johnson

ATTEST:

Treva Percival, City Clerk

APPROVED AS TO FORM:

Phil Olbrechts, City Attorney

PUBLISHED: _____

EFFECTIVE: _____



CITY COUNCIL AGENDA BILL

City of Buckley
PO Box 1960
Buckley, WA 98321

ITEM INFORMATION															
SUBJECT: ORD No. ___-19, Regulating Telecommunication Facilities and Amending Sections of the Buckley Municipal Code	Agenda Date: June 11, 2019 AB19-056														
	Department/Committee/Individual	Created	Reviewed												
	Mayor Pat Johnson		X												
	City Administrator – Dave Schmidt		X												
	City Attorney – Phil Olbrechts		X												
	City Engineer – Dominic Miller														
	City Clerk – Treva Percival		X												
	Finance Dept – Sheila Bazzar														
	Building Official – Mike Deadmond														
	Fire Dept – Chief Predmore														
	Parks & Rec Dept – Kevin Caviezel														
	Planning Dept – Kathy James	X	X												
	Police Dept – Chief Arsanto														
	Municipal Court – Jessica Cash														
	PW/Utilities – Chris Banks														
Attachments: Commission report, joint PowerPoint presentation, and Ordinance															
SUMMARY STATEMENT: The FCC issued a Declaratory Ruling and Third Report and Order (FCC Order) that allows the city to adopt design standards for small cell facilities, and requires all decisions be made within certain time constraints (shot clocks). If a request is not formally approved within the designated time, it is deemed approved regardless. Because of the time limitations (60 and 90 days), the city’s hearing examiner permitting type is not recommended; instead, all permits under this ordinance will be administrative, like a building permit, but carry with the review the special requirements and constraints listed herein.															
COMMITTEE REVIEW AND RECOMMENDATION:															
RECOMMENDED ACTION: MOVE to Approve Ordinance 11-19 Concerning the Buckley Municipal Code and Regulating Telecommunications Facilities, Amending BMC Chapter 13.35, Chapter 19.12, Section 1.01.060, Section 19.25.030, and Section 20.01.030 Table 2; Adding New Chapter 19.25A and Section 19.25.170 to regulate installation of small cell telecommunication devices in city rights-of-way.															
<table border="1"> <thead> <tr> <th><i>Meeting Date</i></th> <th><i>Action</i></th> <th><i>Vote</i></th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>				<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>									
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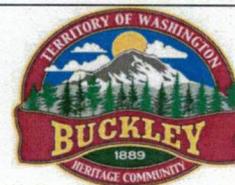
CITY OF BUCKLEY

P.O. Box 1960 ♦ Buckley, WA 98321 ♦ (360) 761-7801

<http://www.cityofbuckley.com/>; <http://www.codepublishing.com/WA/Buckley/>

DEVELOPMENT CODE AMENDMENT

SMALL CELL TELECOMMUNICATION FACILITIES



I. INTRODUCTION.

To. Honorable Pat Johnson, Mayor
City Council Members

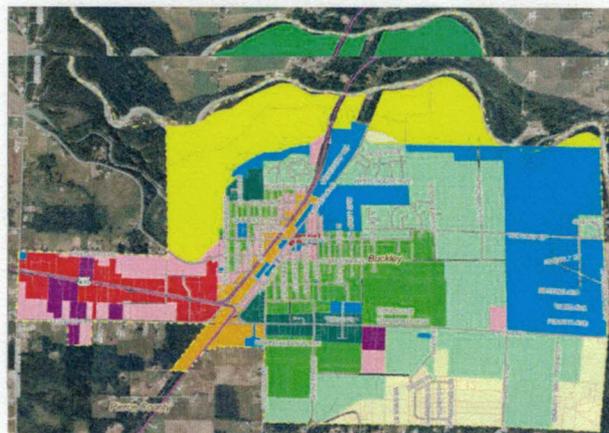
From. City of Buckley Planning Commission

Subject. Commission Report: Findings,
Conclusions, and Recommendation

Hearing. Monday, May 20, 2019
City of Buckley Multi-Purpose Center
811 Main Street
Buckley, WA 98321

Purpose. To conform to a recent Federal
Communications Commission order

Goal. Make the code readable, non-redundant,
and easy to find information.



City of Buckley Zoning

Based upon a review of facts and findings the planning commission determined that the ordinance is consistent with the comprehensive plan and the Buckley Municipal Code. The commission, therefore, forwards a recommendation to the city council to approve the proposed ordinance.

Mark McPhail, Commission Chair

5-20-19

Date

II. CONCLUSIONS & COMMISSION RECOMMENDATION.

A. Comprehensive Plan.

The proposed ordinance meets the listed goals and policies of the comprehensive plan.

B. Buckley Municipal Code.

Based upon a review of facts and findings the commission determined that the proposed ordinance is consistent with the municipal code and the FCC order.

C. Staff recommendation.

Based upon a review of facts and findings listed below, the commission recommends the city council approve the proposed changes.

III. BASIC INFORMATION

A. Ordinance description.

The proposed ordinance will do the following:

1. Coordinate definitions between two Buckley Municipal Code titles: 13 and 19.
2. Enable and regulate "Small Wireless Facilities."

3. Enable and regulate “Eligible Facilities Requests.”
4. Enable the city to conform to federal laws while largely preserving the city’s character.

B. General information

1. Source of Request.
City council through adoption of Interim Ordinance 01-19.
2. Staff Contact.
City Planner Kathy James.
3. Land Characteristics.
 - a. Land Use. Many uses are within the city limits from schools to light industrial activities.
 - b. Terrain & Vegetation. The city is atop the Osceola flow, which formed about 5,600 years ago during the Holocene period after an eruption of Mount Rainier. The mud is more like clay and is about 25 feet deep.
4. Goals.
In writing or amending municipal code, the planning commission’s goals are to do the following:
 - a. Make the code more readable;
 - b. Make the code non-redundant;
 - c. Make the code internally consistent; and
 - d. Make information in the code easy to find.

B. Special definitions.

Some definitions need to be especially recognized throughout this work:

1. “Eligible Facilities Request”: Any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving:
 - a. Collocation of new transmission equipment;
 - b. Removal of transmission equipment; or
 - c. Replacement of transmission equipment.
2. As shown in 47 CFR 1.6002, page 72 of the FCC Fact Sheet:
 - “1. *Small wireless facility*, consistent with Section 1.1312(e)(2), is a facility that meets each of the following conditions:
 - “(1) The structure on which antenna facilities are mounted—
 - “(i) Is 50 feet or less in height, or
 - “(ii) Is no more than 10 percent taller than other adjacent structures, or
 - “(iii) Is not extended to a height of more than 10 percent above its preexisting height as a result of the collocation of new antenna facilities; and
 - “(2) Each antenna (excluding associated antenna equipment) is no more than three cubic feet in volume; and
 - “(3) All antenna equipment associated with the facility (excluding antennas) are cumulatively no more than 28 cubic feet in volume; and
 - “(4) The facility does not require antenna structure registration under part 17 of this chapter;

“(5) The facility is not located on Tribal lands, as defined under 36 C.F.R. § 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 Rule 1.1307(b).”

3. The term “shot clock” is used to refer to time requirements effectuated by the FCC through its declaratory ruling (FCC-CIRC 1809-02). Three shot clocks are used for all jurisdictions to use, and illustrated in the attached flow charts:
 - a. FCC shot clock for small wireless facility applications (Attachment A).
 - b. FCC shot clock timeline for macro applications (Attachment B).
 - c. FCC presumptive shot clocks (Attachment C).

C. Noticing Information.

Notices for legislative actions are mailed or emailed to a list of required recipients including citizens who request them, published in the city’s legal newspaper, the Enumclaw Courier Herald, and posted on the City Bulletin Boards.

1. SEPA Determination.

A determination of non-significance was issued April 10, 2019, with a comment period ending April 24, 2019; no comments or appeals were filed.

2. Notice to Department of Commerce.

A request for expedited review was received by the state Department of Commerce on April 4, 2019, under Submittal ID Number 2019-S-34. Review was granted on April 18, 2019.

3. Public Hearing Notice.

Public Hearing Notice and proposal description published Wednesday, May 1, 2019.

IV. ORDINANCE INFORMATION

A. Code-wide definitions.

Definitions are being coordinated within the code:

1. Section 1.01.060 contains definitions to be used throughout the entire code and may contain terms that describe something the code refers to in only one way, such as “city” or “state” or “city administrator.”
 - a. Proposed Section 1.01.060 contains improvements to existing terms, such as “law” and “written” to update the terms.
2. Other recommended terms in the proposed zoning ordinance are used in other chapters of the zoning title (Title 19) and each of those terms is recommended to be moved to the zoning definitions chapter, BMC 19.12.
3. Some terms are used in both Chapter 13.35 and the proposed 19.25A. The commission chose Chapter 13.35 as the “Master” chapter and definitions for the same term in 19.25A will refer back to Chapter 13.35; although the term “right-of-way” refers from 13.35 to 19.25A.

B. Chapter 13.35, right-of-way use.

This chapter is typically for public works permits and uses. The definitions were amended for use in telecommunications permitting under Ordinance 02-19. The terms in this chapter will be referenced in the zoning code. Because this chapter regulates the right-of-way and because the topic is in flux in the courts, the planning commission chose to use this chapter as the topic's "master" and reference the same term in zoning back to this chapter, except for the term "right-of-way."

1. In this proposal, the term "right-of-way" is modified to mean one thing generally and refer to the new zoning chapter for small cell facilities, which has a particular definition.
2. Terms moved from BMC 13.35 to BMC 1.01.060 include the following:
 - a. City administrator.
 - b. City (already existed in 1.01.060).
 - c. City engineer.
 - d. City inspector.
 - e. Emergency.
 - f. Permit.
 - g. Permit center.
 - h. Person (already existed in 1.01.060).
 - i. State (already existed in 1.01.060).

C. Zoning definitions.

1. Existing terms are modified:
 - a. Antenna.
 - b. FCC.
 - c. Public utility.
2. New terms are added:
 - a. Collocation.
 - b. Director.

D. Chapter 19.25, Personal wireless telecommunications facilities, ham radio antennas and satellite dishes.

1. Section 19.25.030 is modified to add subsection (4) regarding small wireless communications facilities and direct the reader to the new chapter 19.25A.
2. A new section 19.25.170 is added concerning eligible facilities requests. This section contains definitions peculiar to eligible facilities, permit typing (A-1 as modified in this section), decision criteria, and time requirements.

E. New chapter 19.25A Small cell telecommunication facilities.

This new chapter contains the following:

1. Purpose. The basic purpose is to conform to the new FCC ruling; however, city purposes also include aesthetics and standards, which are reflected in the seven purpose statements.
2. Definitions. Many of the definitions simply refer back to the definitions in 13.35.040; however some are particular to the topic:
 - a. Macro facility.
 - b. Public right-of-way. This is the definition 13.35.040 refers to for small cell facilities.

- c. Service provider.
 - d. Transmission equipment.
 - e. Unified enclosure.
 - f. Utility pole.
3. General provisions. Three general provisions are listed that small wireless facilities must meet:
 - a. They must not essential public facilities.
 - b. If on private property, they can be a primary or secondary use.
 - c. If on public right-of-way, the use is permitted outright although a permit is required.
 4. Process.
 - a. Because the decision must be made in 90 days, a public hearing before the hearing examiner is not recommended. The recommendation is to process the permits through an A-1 process, similar to a building or right-of-way permit.
 - b. Although regulations are found in BMC 13.35, this permit is not a normal right-of-way permit. It is to consolidate review between public works and planning.
 - c. All permits needed for permission to proceed are to be reviewed at the same time and be completed within the shot clock time frame of either 60 or 90 days. The FCC order requires that if the shot clock is not met, the permit is automatically approved.
 - d. Submittal requirements are listed in subsection (5).
 5. Decision criteria and conditions of approval.
 - a. The ordinance lists basic review requirements and required Conditions of Approval.
 6. Permit and time requirements. More Conditions of Approval are listed.
 - a. An issued permit must be installed and operational within six months, with the possibility of one three-month extension.
 - b. The facility must be operational within three months after installation.
 7. Modifications to small wireless facilities.
 - a. Small wireless permits are required to modify an existing facility.
 - b. No permit is required for standard maintenance.
 8. Consolidated permit. Permit consolidation is required by the FCC rule.
 - a. Franchises must be reviewed along with the applciation (also see 19.25A.040 (4)).
 - b. All required permits or permissions must be reviewed within the time limitations of the shot clock.
 9. Design and concealment standards for small wireless facility deployments. This includes:
 - a. Non-wooden poles.
 - b. Wooden poles.
 - c. Collocation on existing buildings.
 - d. Cable-mounted facilities.
 - e. General requirements.
 10. New poles in the rights-of-way for small wireless facilities.
 - a. Decision criteria.
 - b. Concealment design.

11. Appeals. Refers to Title 20 and lists the required appeal period.

V. ORDINANCE CRITERIA REVIEW

All development ordinances must conform to the city's comprehensive plan; development ordinances should be internally consistent with the rest of the city's codes.

Buckley Municipal Code

1.a 19.52.010 Determination – Final action.

In determining what, if any, amendments to this title are to be adopted, the city council shall give due consideration to the proper relationship of such amendments to the comprehensive plan and to this entire title, it being the intent to retain the integrity and validity of the zoning districts herein described, and to avoid any isolated spot zoning changes in the zoning map. Any amendments adopted by the council may be modified from the form in which they were advertised within the limits necessary to relate properly such amendment or amendments to this title. Final action on such modifications shall be subject to review and report of the planning commission prior to final passage by the council. (Ord. 22-08 § 1 (Exh. A), 2008; Ord. 22-05 § 1, 2005; Ord. 652 Art. 9(12), 1961).

1.b Finding. The amendment is designed to be internally consistent with Titles 1 and 13 as well as Title 19. The council may, upon consideration modify the proposed ordinance; however it must be consistent with the FCC Order, not just the city's code and comprehensive plan.

2.a 19.52.020 Priority of first application.

No application for a change of zoning of any lot, parcel or portion thereof shall be considered by the council within one year of the final action of the council upon a prior application covering any of the same described land. This provision, however, shall not impair the right of the council to propose any amendment of change in the boundaries of any of the districts in this title on its own motion. (Ord. 22-08 § 1 (Exh. A), 2008; Ord. 22-05 § 1, 2005; Ord. 652 Art. 9(12), 1961).

2.b Finding. Not applicable.

3.a 19.52.030 Conditional rezone – Approval.

As a condition precedent to the rezone of any parcel of land, the council may require that within a specified period of time an acceptable building permit application must be submitted for the use intended in the rezone application, and that failure to submit said building permit application and to start construction within a specified period of time will result in the rezone automatically becoming null and void and the property reverting back to the zone that existed at the time of the rezone application; provided, the council may extend any time limits set forth in the ordinance granting a conditional rezone if the application for extension is timely made, good cause is shown why the extension is necessary, and the proposed use remains consistent with the comprehensive plan as in effect at the time the extension is requested. Good cause shall relate to factors beyond the control of the applicant and inadequate financing shall not be considered a good cause. (Ord. 22-08 § 1 (Exh. A), 2008; Ord. 22-05 § 1, 2005; Ord. 20-84 § 1, 1984).

3.b Finding. Not applicable.

4.a 19.52.040 Conditional rezone – Concomitant agreement.

The council may, as a condition of any rezone, require the execution of an agreement concomitant to the rezone ordinance. The concomitant agreement may include such conditions as the council deems necessary in order to neutralize the impact of the proposed property usage upon public services, including streets, parks, utilities and other public services. The

concomitant agreement may include both on-site and off-site improvements. The failure to comply with the terms of said concomitant agreement shall result in the rezone immediately becoming null and void and the property reverting to the zone that existed at the time of the rezone application. In the alternative, the council may require specific performance of the agreement. (Ord. 22-08 § 1 (Exh. A), 2008; Ord. 22-05 § 1, 2005; Ord. 20-84 § 2, 1984).

4.b Finding. Not applicable.

5.a 19.52.050 Conditional rezone – Indication on zoning maps.

If a rezone is conditionally granted under the provisions of this chapter, then the zoning map shall reflect the rezone subject to compliance with certain conditions, and the date for compliance shall be written upon the zoning map. A certified copy of the conditional rezone ordinance and the concomitant agreement, if applicable, shall be filed for record with the Pierce County auditor. (Ord. 22-08 § 1 (Exh. A), 2008; Ord. 22-05 § 1, 2005; Ord. 20-84 § 3, 1984).

5.b Finding. Not applicable.

VI. Buckley Comprehensive Plan

A. Element 1, Land use; goals & Policies.

1. Goal 1.9 Coordinate an orderly provision of public facilities with public and private development activities that complements the fiscal resources of the city.

The proposed ordinance will help coordinate provision of telecommunication facilities that are compliant with federal rules.

2. Policy 1.9.1 Public facilities and utilities should be located in the following priority:

1. Maximize the efficiency of services provided;
2. Minimize the cost of services; and
3. Minimize impacts on the natural environment.

The proposed ordinance will allow placement of small cell telecommunication facilities in the public right-of-way to increase provision of cell service and, because the cost of providing facilities in the right-of-way should be substantially less than purchasing rights to place and build macro facilities on private property, the customer cost should be less.

B. Element 2, Housing; goals and policies.

This element contains no goal or policies pertinent to this proposed ordinance.

C. Element 3, Economic Development; goals and policies.

1. Policy 3.5.1 The city’s “small-town attributes” include at least the following: walkability across town, walkability to food, pharmacy, and businesses, residential porches facing street fronts, and large picture windows in businesses along Main Street. Providing pedestrian connections should be required as part of all development because these connections will promote pedestrian traffic to the business community.

The proposed ordinance will provide design criteria for siting small cell facilities.

2. Policy 3.5.2 Consider the city’s “small-town attributes” when legislating or permitting may affect one of these characteristics.

The proposed ordinance will provide decision criteria that will help the facilities “blend in” with the city.

D. Element 4, Urban design; goals and policies.

This element contains no goal or policies pertinent to this proposed ordinance.

E. Element 5, Transportation goals and policies.

1. **Goal 5.2 Enhance the appearance, quality, and function of the transportation system in residential and commercial districts.**

The proposed ordinance provides design criteria and decision criteria to help effectuate this goal.

F. Element 6, Parks & recreation; goals and policies.

This element contains no goal or policies pertinent to this proposed ordinance.

G. Element 7, Capital facilities (2005 comp plan); goals and policies.

This element contains no goal or policies.

H. Element 8, Utilities (2005 comp plan); goals and policies

1. **POLICY U-9 THE CITY AND UTILITY COMPANY SHALL COORDINATE THE ACQUISITION, USE, AND ENHANCEMENT OF UTILITY CORRIDORS FOR PEDESTRIAN, BICYCLE, AND EQUESTRIAN TRAILS AND FOR WILDLIFE CORRIDORS AND HABITAT PROVIDED SUCH JOINT USE IS CONSISTENT WITH LIMITATIONS AS MAY BE PRESCRIBED BY PRUDENT UTILITY PRACTICE.**

Facilities must meet specific criteria to ensure pedestrian and vehicular traffic is not affected by the installation of small cell utility facilities. The proposed ordinance will help coordinate and enhance the cell utility corridor, and not significantly affect pedestrian, bicycle, equestrian trails, or wildlife corridors.

2. **POLICY U-14 THE CITY SHALL PROMOTE, WHEN REASONABLY FEASIBLE AND APPROPRIATE, CO-LOCATION OF NEW PUBLIC AND PRIVATE UTILITY DISTRIBUTION FACILITIES IN SHARED TRENCHES/RIGHTS-OF-WAY, AND COORDINATION OF CONSTRUCTION TIMING TO MINIMIZE CONSTRUCTION-RELATED DISRUPTIONS AND REDUCE THE COST OF UTILITY DELIVERY.**

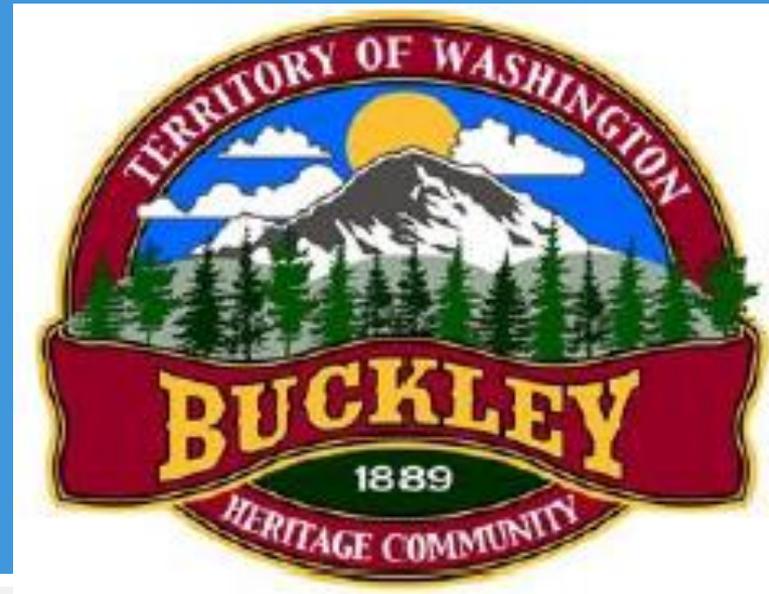
At the time this 2005 policy was written, it was unlikely that the proposed type of utility was foreseen; however, the proposed ordinance will help effectuate this policy by allowing collocation, and use of poles that are in the public right-of-way.

3. **POLICY U-16 THE CITY SHALL ENCOURAGE PROVISION OF AN EFFICIENT, COST-EFFECTIVE AND RELIABLE UTILITY SERVICE BY ENSURING LAND WILL BE MADE AVAILABLE FOR THE LOCATION OF UTILITY LINES, INCLUDING LOCATION WITHIN TRANSPORTATION CORRIDORS.**

At the time this 2005 policy was written, it was unlikely that the proposed type of utility was foreseen; however, the proposed ordinance will encourage efficiency of new or expanded cell services.

Small Cell Telecommunications

Public Hearing May 20, 2019, 7 p.m.



Why we're here

- Commission hearing required (RCW 35A.63.100(2.b))
- New rules from FCC (Docket numbers 17-79 and 17-84)



FCC-CIRC1 809-02

Small cell facilities

Shot Clocks

- 150 days
- 90 days
- 60 days



Buckley permit processes

Reviews administrative

- A-1, no notices, like building permit
- A-2, notices, like preliminary short plat



SMALL WIRELESS FACILITIES

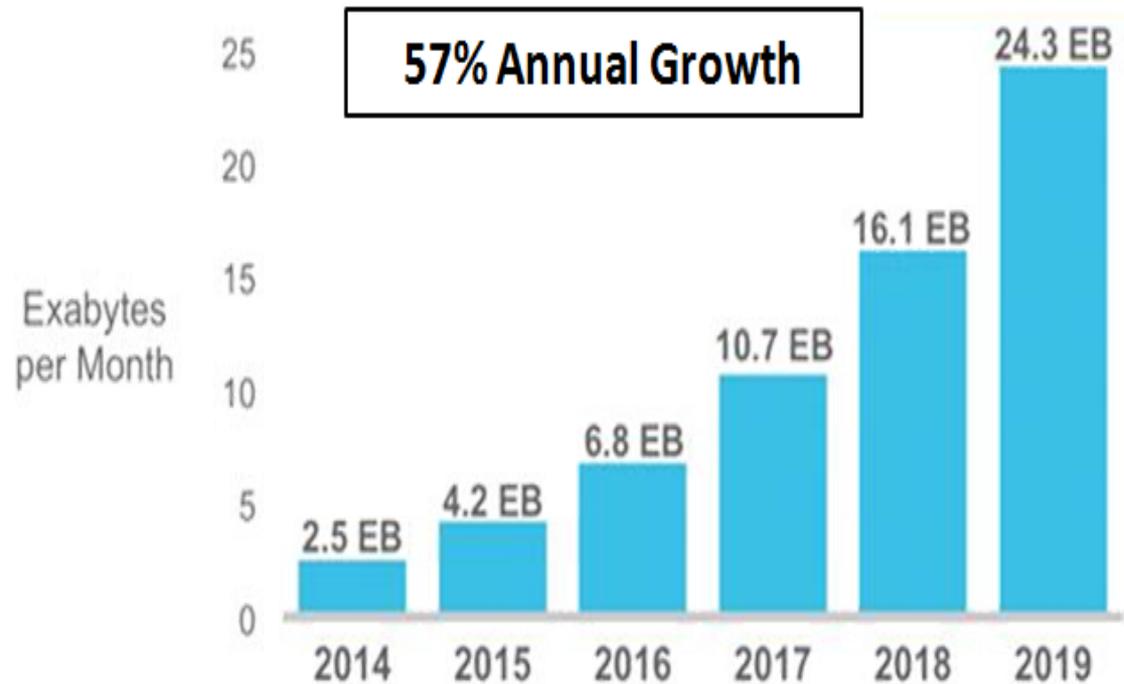


OMW

W. Scott Snyder
ssnyder@omwlaw.com
(206) 447-7000

The “why” behind small cell.

- ✓ Deploy Macro Cells
- ✓ Add Capacity to Existing Sites
- ✓ **Deploy Small Cells**

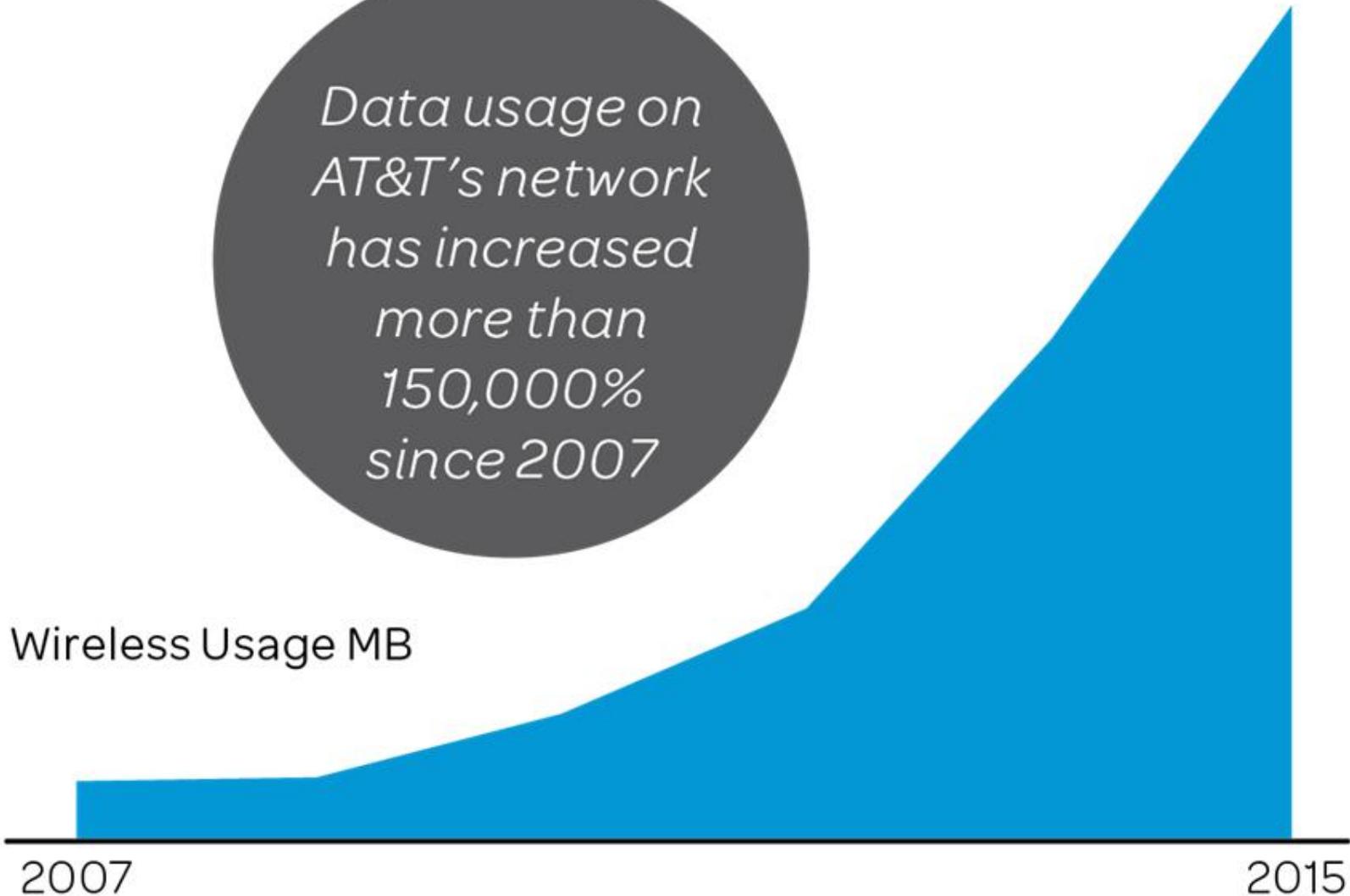


Global Mobile Data Traffic Projected Growth

What the demand looks like on AT&T's network:

*Data usage on
AT&T's network
has increased
more than
150,000%
since 2007*

Wireless Usage MB



**Wireless Technology
is now one of the primary
internet, telephone and
entertainment connections for
a majority of Americans**

According to a recent Seattle survey:

- 47% of people use a cellular plan as their source of home internet.
- This percentage rises to 52% for homes with children.

Source of Home Internet	Percentage	Devices Used in Household	Percentage	Places Households Access Internet	Percentage
Comcast cable internet	61%	Smartphone or mobile phone	98%	Home	98%
Cellular data plan	52%	Laptop computer	91%	Work	85%
Century Link DSL or fiber internet	31%	Tablet (including internet enabled e-readers)	83%	Local business	68%
Wave cable internet	6%	Desktop computer	53%	School / College/ University	64%
Free or public internet	3%	Gaming console that connects to the internet	49%	Friend's or relative's home	61%
Provided by my building	1%	Voice-activated device (e.g. Echo, Alexa)	37%	Public or free internet area	59%
Don't know	0%	No devices in household	0%	Library	32%
Share with a neighbor	0%			Community or recreation center	13%
Don't access the internet where I live	2%			Non-profit, religious or cultural center	9%
Other	1%			Other	20%
No Response	0%				

The Seattle survey also found that:

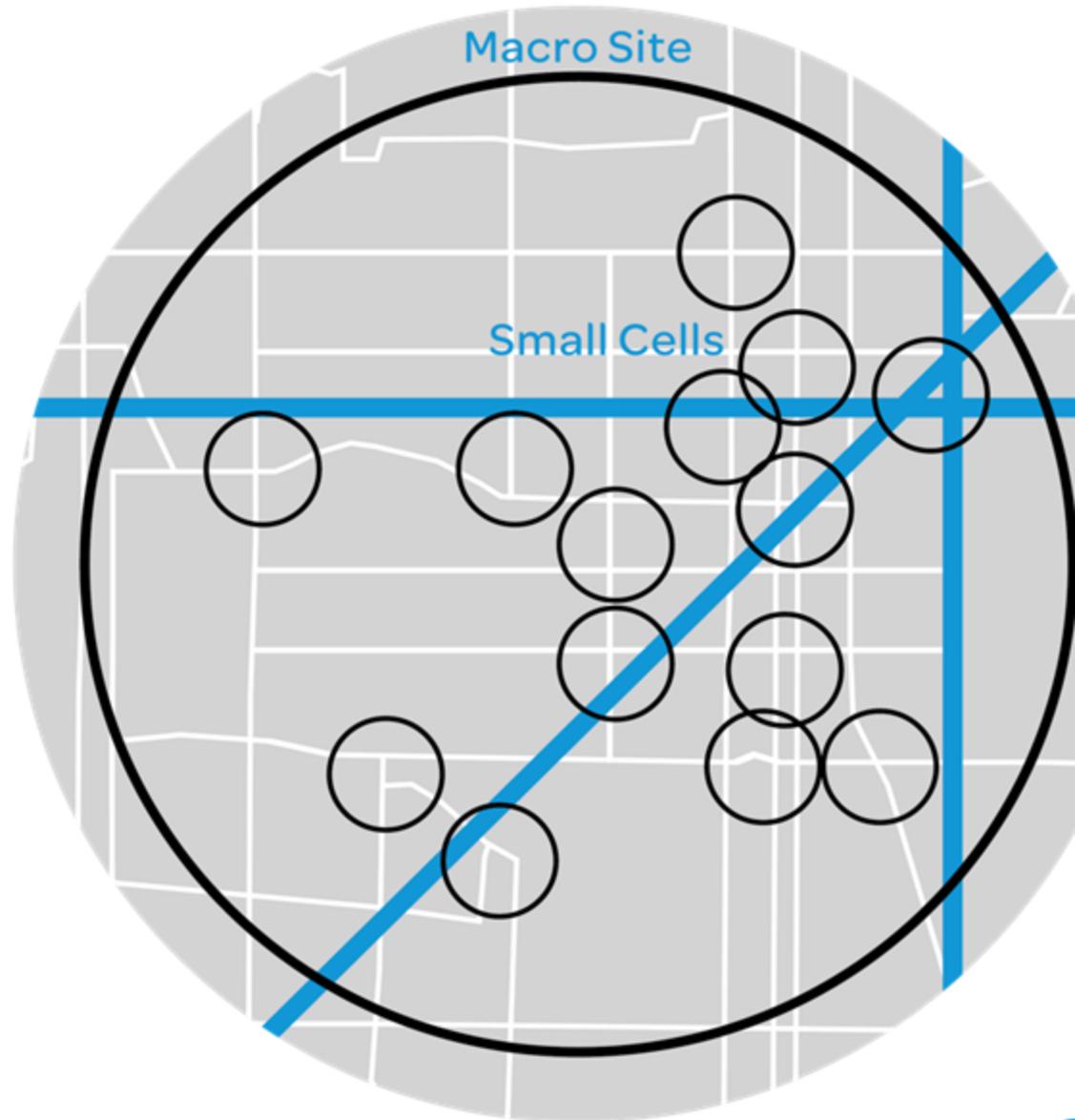
- 93% of people use their smart phone in their home.
- This percentage goes up to 99% for households with school aged kids.

These data points show how cellular phone usage in the home will drive the internet movement.

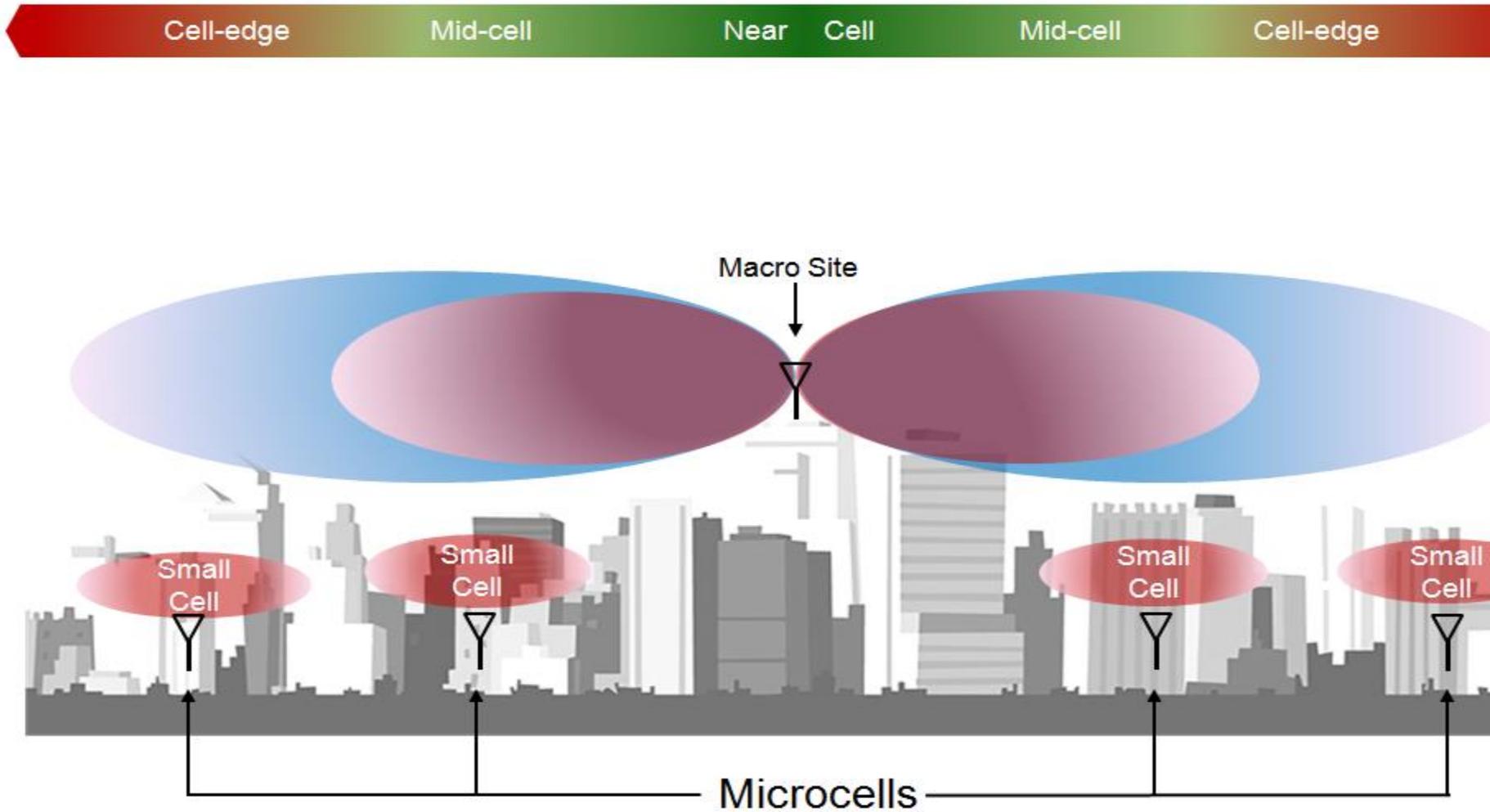
Hence the connection between 5G and home internet and beyond (entertainment, etc.).



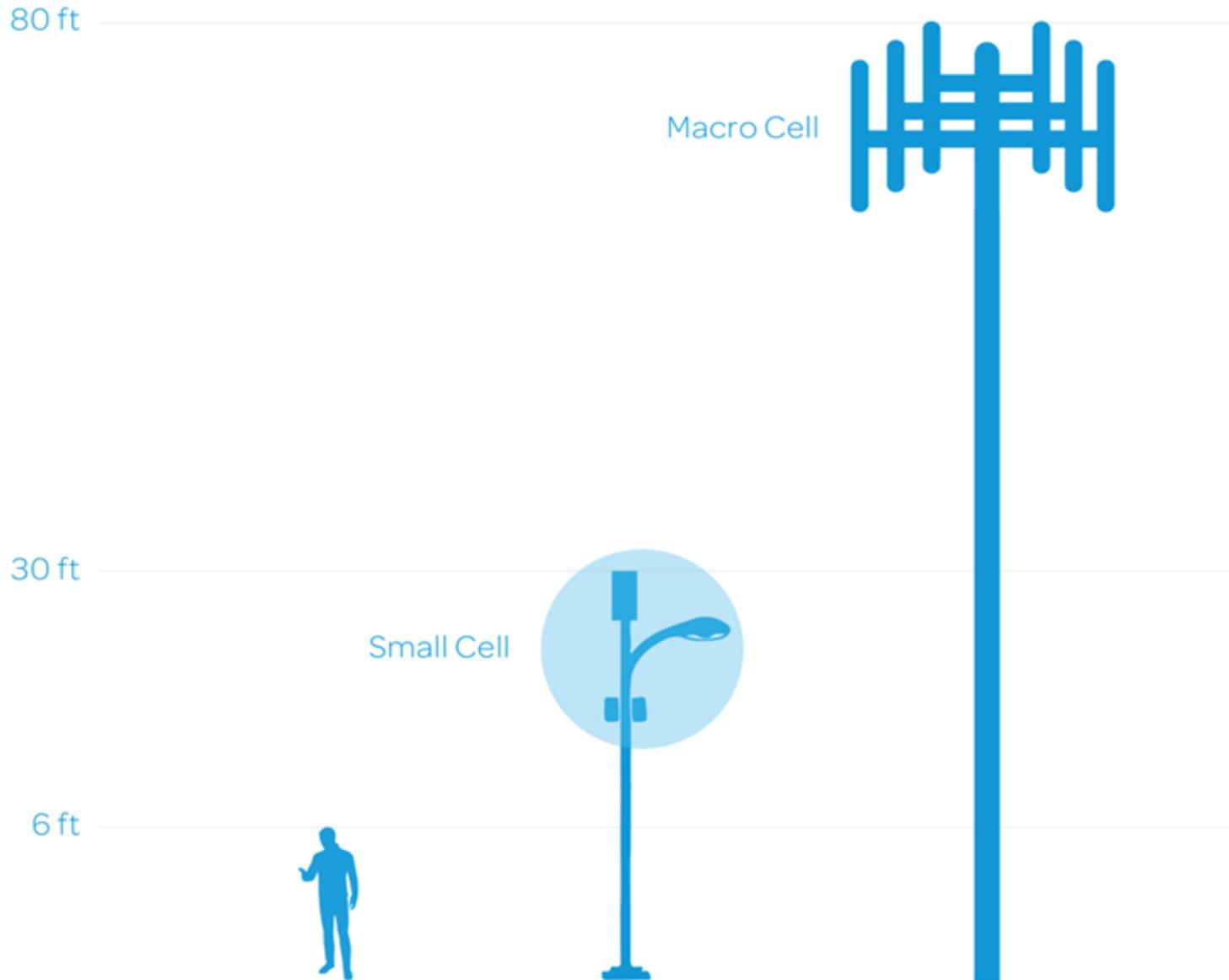
Small cells can
densify our
network to
meet customer
demand



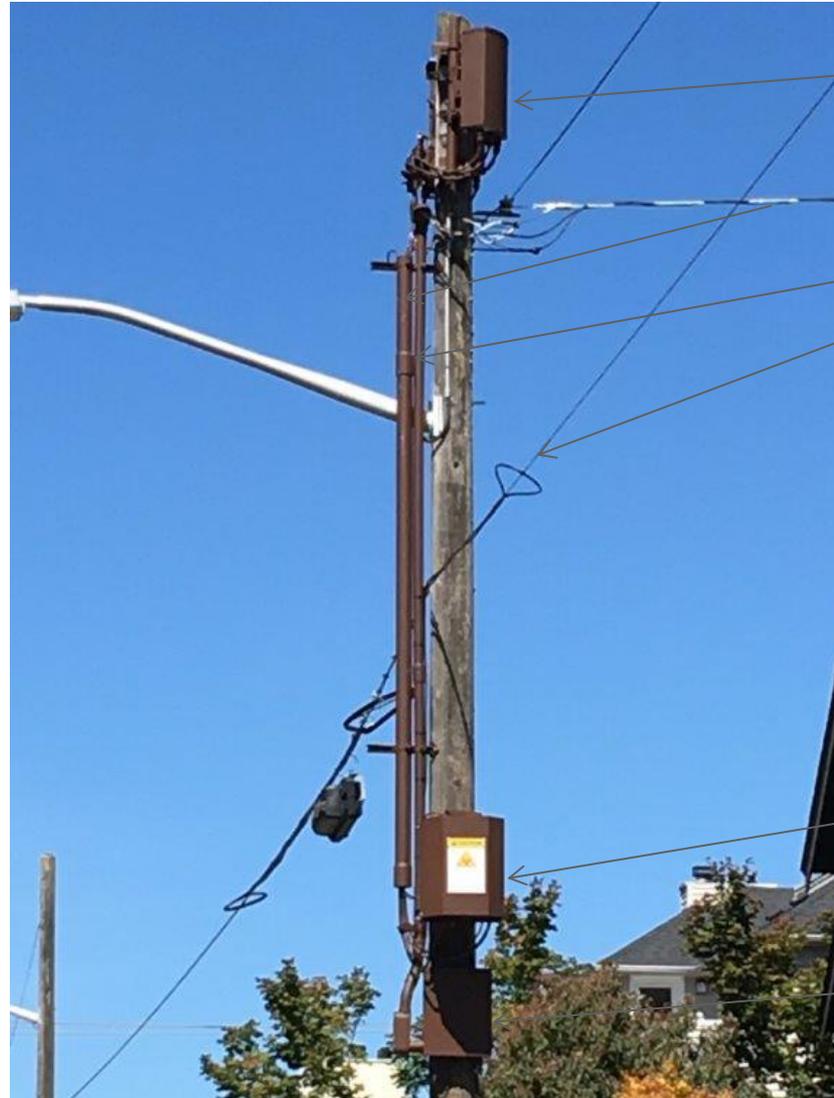
Macro vs Small Cell



Different technology, different process



Small Cell - Is more than a Small Antenna Box



Antenna

Fiber & Coax Conduit

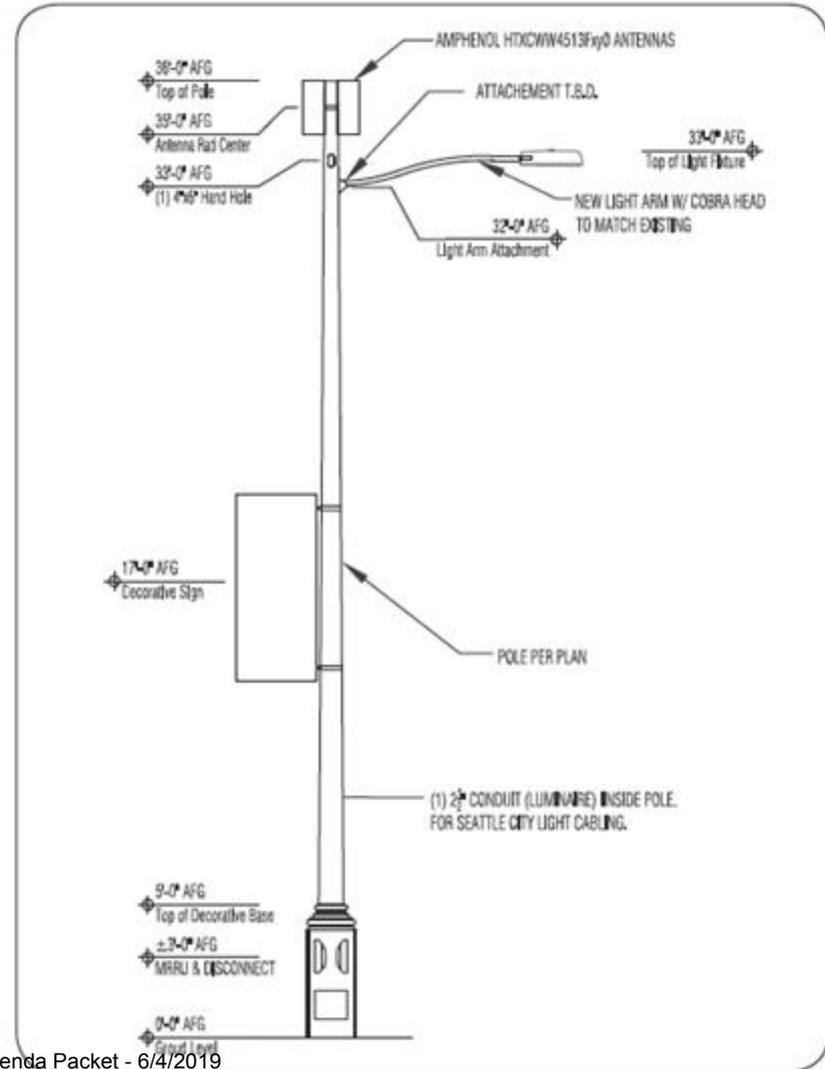
Power Conduit

New Fiber Service

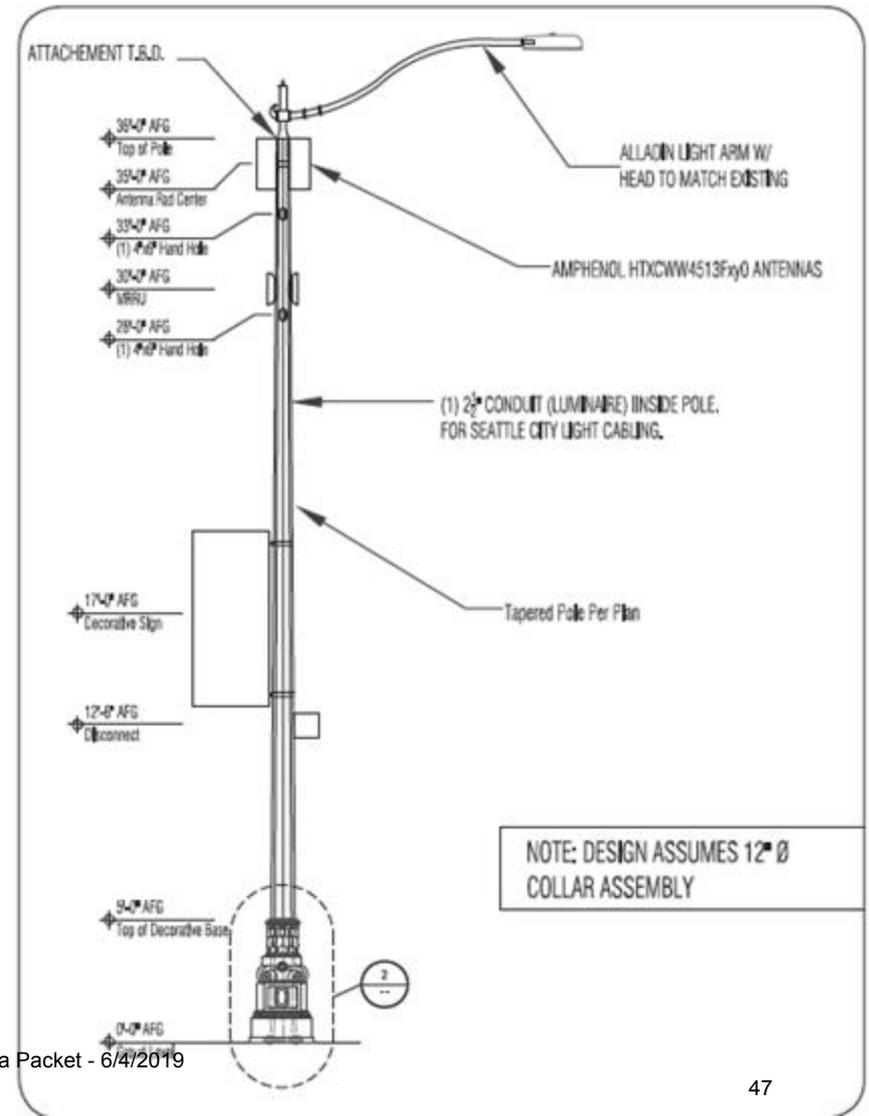
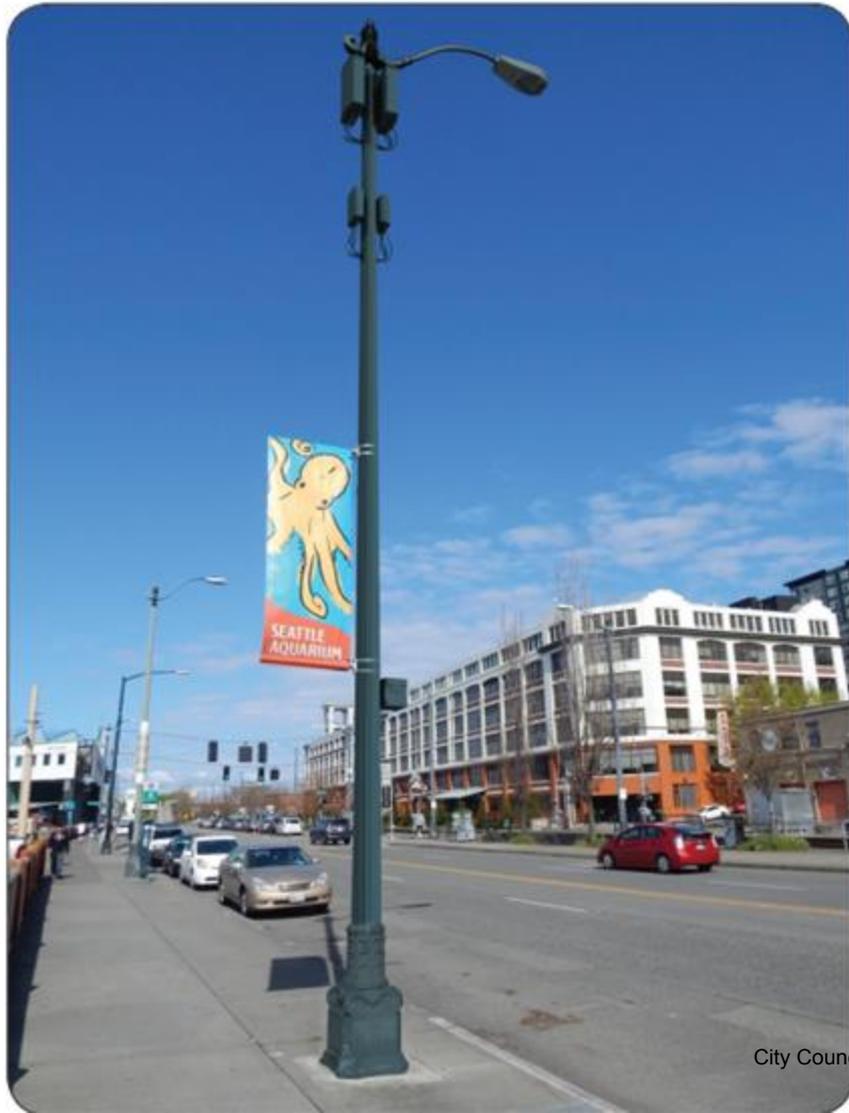
Radios and Fiber
Termination Box in
a concealed shroud

Power Disconnect

Small Cell Deployment: Simulation for Seattle (equipment in base)



Small Cell Deployment: Simulation for Seattle (pole mounted)



The President is way ahead:



Donald J. Trump ✓

@realDonaldTrump



I want 5G, and even 6G, technology in the United States as soon as possible. It is far more powerful, faster, and smarter than the current standard. American companies must step up their efforts, or get left behind. There is no reason that we should be lagging behind on.....

5:55 AM · Feb 21, 2019 · [Twitter for iPhone](#)

28.5K Retweets **143.4K** Likes

Follow the money: “Cui Bono”

U.S. leads in contest to build 5G network

- Washington Post February 20, 2019

U.S. policymakers keep wringing their hands over a competition with China to build the world's first mass-market 5G wireless network.

When the United States took the lead on 4G mobile technology, it gave rise to the app economy, which remain dominated by U.S.-based firms today, Brown said.

The stakes with 5G are even higher.

Telecom executives, and many federal officials, have cited intense competition against global rivals as a reason to accelerate the spread of 5G in the United States with deregulation and policies favorable to the industry.

The Federal Communications Commission

Regulate interstate commerce in “communication by wire and radio, so far as possible, to all of the people of the United States a rapid, efficient, nationwide, and worldwide wire and radio communication service with adequate facilities at reasonable charges...”

47 USC §151

What happened?

- Industry requests to install Small Cells - 2016
- Cities preparing for Small Cell deployment
- FCC Issued Declaratory Rule & Third Report and Order
 - ✓ Effective Date: January 14, 2019
 - ✓ Pending appeals consolidated in the 9th Circuit Court of Appeals
 - ✓ Request for stay was denied both by the FCC and the court

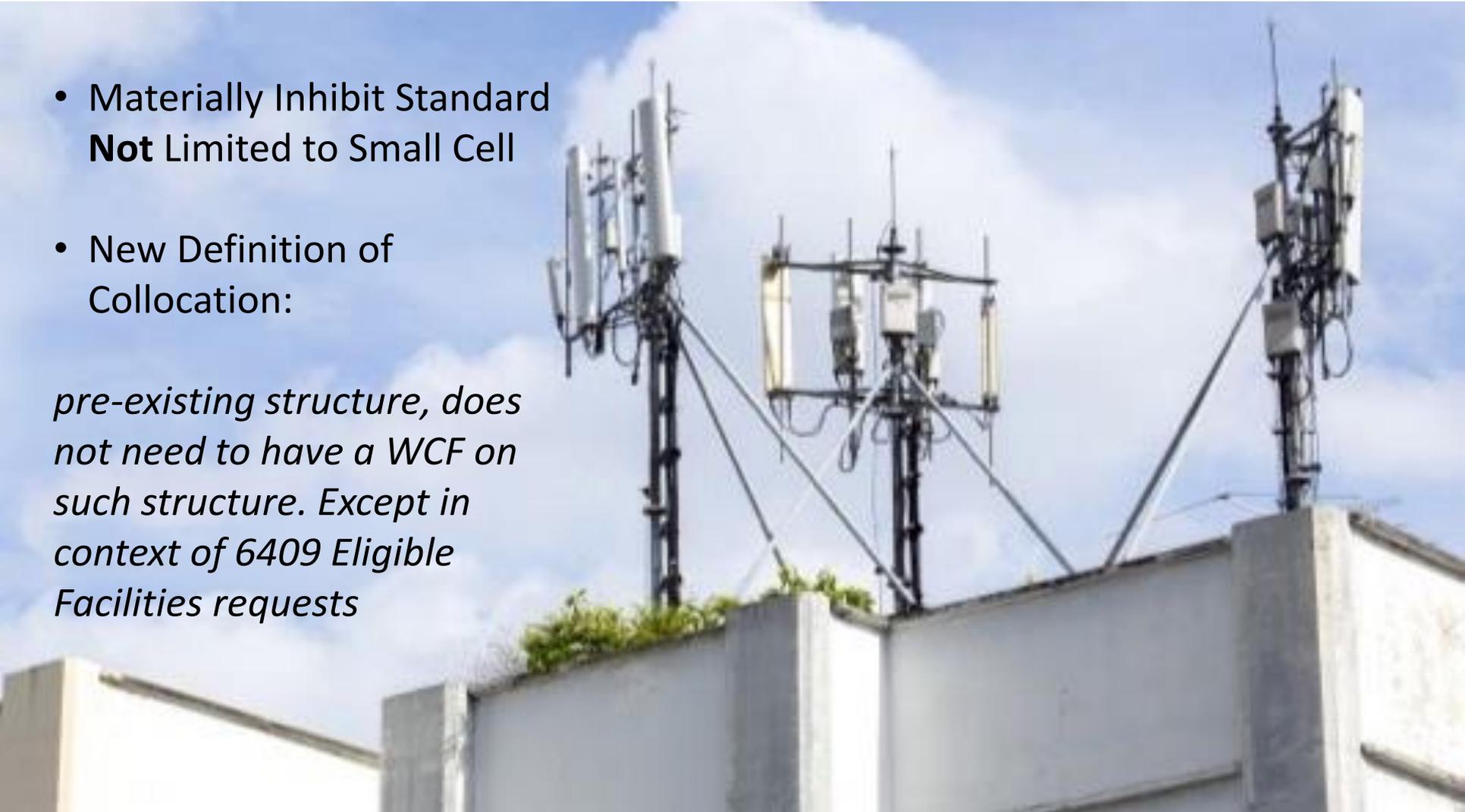
Definition of Small Cell

- (l) **Small wireless facilities**, consistent with section 1.1312(e)(2), are facilities that meet each of the following conditions:
- (1) The facilities—
 - (i) are mounted on structures 50 feet or less in height including their antennas as defined in section 1.1320(d), **or**
 - (ii) are mounted on structures no more than 10 percent taller than other adjacent structures, **or**
 - (iii) 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;
 - (2) Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in section 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**;

Application to Macro Cells & Collocation

- Materially Inhibit Standard **Not** Limited to Small Cell
- New Definition of Collocation:

pre-existing structure, does not need to have a WCF on such structure. Except in context of 6409 Eligible Facilities requests



Aesthetic Requirements

- Reasonable
- No more burdensome than those applied to other types of infrastructure deployments
- Objective
- Published in Advance



VS



Effective Prohibition – 332 & 253



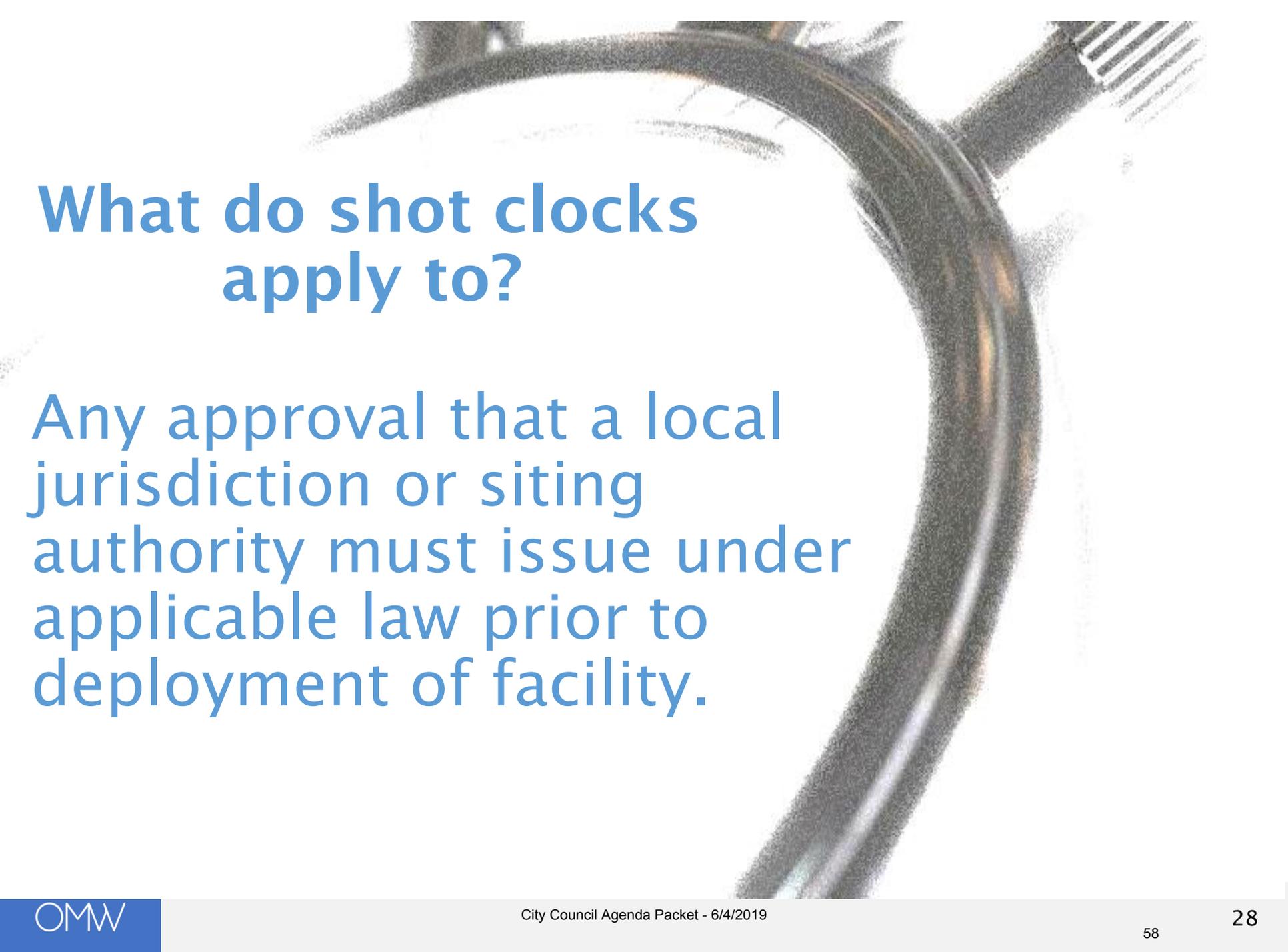
“materially limits or inhibits the ability of any competitor or potential competitor to compete in a fair and balanced legal and regulatory environment.”
- *California Payphone (1997 – FCC Case)*



Proprietary vs. Regulatory

- Section 253 does not create a proprietary exception
- Localities are fulfilling a regulatory function when managing the ROW – not proprietary.

“We confirm that our interpretations today extend to state and local governments’ terms for access to public ROW that they own or control, including areas on, below, or above public roadways, highways, streets, sidewalks, or similar property, as well as their terms for use of or attachment to government-owned property within such ROW, such as new, existing and replacement light poles, traffic lights, utility poles, and similar property suitable for hosting Small Wireless Facilities.”



What do shot clocks apply to?

Any approval that a local jurisdiction or siting authority must issue under applicable law prior to deployment of facility.

New Shot Clocks for Small Wireless Facilities

- 60 Days to review an application to collocate on an existing structure
- 90 Days to review an application to locate on a new structure

Buckley draft ordinance

- Section 1.01.060, Code definitions
- Chapter 13.35, Right-of-way
- Chapter 19.12, Zoning definitions
- Chapters 19.25 & 19.25A, Wireless communications facilities in the public right-of-way



Title 1, General provisions

Section 1.01.060, definitions

- Provides definitions for all code
- Updated



Title 13, Public works

- Chapter 13.35, right-of-way permits
- Small cells not right-of-way permit
- Moved some definitions to 1.01.060
- Amended definition to align with 19.25A



Title 19, Zoning

Amend:

- Chapter 19.12, Definitions
- Chapter 19.25,
Telecommunication

Add:

- Chapter 19.25A, Small cells



Title 20, Administration

- Change to Table 2 to show small cells are:
 - administrative
 - ministerial
 - Type A-1 permits



FRANCHISE – EXERCISE OF CONTRACTING POWER

- 1) Courts defer to City Council
- 2) Stewards of the right-of-way

LAND USE AND PERMITTING

- 1) Federal shot clocks
 - A. Eligible Facilities Requests – Deemed Approved
 - B. Small Wireless Facilities – Personnel Reasonable
- 2) Permit for Right-of-Way use is not a “Land Use Action”
Ch. 36.70C RCW (GMA)
- 3) Reserve for tough situations
 - A. Undergrounded Areas
 - B. New Poles
 - C. Design District?

A City May Not:

- 1. Effectively exclude a Wireless Communications provider from the City;**
- 2. Materially inhibit (delay permits or charge excessive fees)**
- 3. Dictate or limit the technological choices of a provider;**
- 4. Regulate Radio Frequency Emissions; and/or**
- 5. Discriminate Between Service Providers.
(level playing field)**

A City May:

- 1. Address aesthetic issues**
- 2. Regulate new poles in the right-of-way within time frames**

KEY DESIGN ROLE Pole Owner

PSE (utility poles) and City (light standards) control design by pole attachment agreements.

State and National Electrical Codes also dictate placement of small cell facilities

DRAFT ORDINANCE

- Sections 1 – 3** True up Definitions with federal regulation
- Section 4** Exemptions from General Provisions for small wireless
- Section 5** 19.25.170 of BMC. Adopt Eligible Facilities Request structure for collocation and expansion of marco facilities – large scale towers
- (1) Expansion on collocation on existing structures – whether or not currently used for wireless
 - (2) May not be used to defeat concealment measures (small wireless design standards)
- Section 6** New Chapter 19.25A. Small Wireless Facilities

Chapter 19.25A Small Wireless Facilities

Key Provisions

19.25A.040 Process administrative permit – A-2
Process

19.25A.080 Consolidated Permit. All portions of approval should be completed within 60/90 days.

19.25A.090 Design (Concealment) Standards

- A. Non wooden poles
- B. Wooden poles
- C. Building attachments
- D. Strand mounts
- E. General requirements

19.25A.100 New Poles – NOT preferred

19.25A.110 Appeal to Superior Court

Ordinance process

- Hearing
- Revise ordinance
- Recommendation to council
- Council action
- Place new ordinance in the Buckley Municipal Code





CITY OF BUCKLEY, WASHINGTON

ORDINANCE NO. ___-19

AN ORDINANCE OF THE CITY OF BUCKLEY, WASHINGTON, CONCERNING THE BUCKLEY MUNICIPAL CODE AND REGULATING TELECOMMUNICATION FACILITIES; AMENDING BMC CHAPTER 13.35, CHAPTER 19.12, SECTION 1.01.060, SECTION 19.25.030, AND SECTION 20.01.030 TABLE 2; ADDING NEW CHAPTER 19.25A AND SECTION 19.25.170; TO REGULATE INSTALLATION OF SMALL CELL TELECOMMUNICATION DEVICES IN CITY RIGHTS-OF-WAY; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Federal Communications Commission (FCC) recently adopted a Declaratory Ruling and Third Report and Order (the “FCC Order”), which imposes limitations on the processing and review of all permits associated with the deployment of small wireless facilities; and

WHEREAS, the permitting procedures as well as the aesthetic design and concealment standards that govern deployment of small wireless facilities will become part of Chapter 19.25A;

WHEREAS, separately, federal law and regulation also sets time limits on the processing of applications for eligible facility requests to expand existing structures which do not substantially change the height or profile of the structures used to collocate wireless communications facilities and which regulations will also become part of Chapter 19.25; and

WHEREAS, the FCC Order allows the City to adopt aesthetic standards for deployment of small wireless facilities that will require utilization of a consolidated process emphasizing administrative review in order to comply with federal presumptively reasonable time limits for review; and

WHEREAS, the City Council finds that the existence of federal regulations requires the enactment of administrative procedures and processes which can comply with the FCC Order; and

WHEREAS, the City Council of the City of Buckley adopted interim zoning regulations on January 22, 2019, under Ordinance 01-19; and

WHEREAS, the “60-day notice” expedited review was received April 4, 2019, by the Washington State Department of Commerce of the proposed change in development regulations under Submittal ID #2019-S-34; and

WHEREAS, a determination of non-significance was issued April 10, 2019, in accordance with the State Environmental Policy Act; and

WHEREAS, the Washington State Department of Commerce granted expedited review for the proposed change in development regulations under Submittal ID Number 2019-S-34 on April 18, 2019; and

WHEREAS, the planning commission conducted a public hearing on this proposal on May 20, 2019; and

WHEREAS, the planning commission heard no comments and recommends approval of this proposed telecommunications ordinance;

NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF BUCKLEY, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Amendment to BMC 1.01.060. The following terms shall be added:

1.01.060 Definitions.

The following words and phrases whenever used in the municipal code or ordinances of the city shall be construed as defined in this section unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

(1) "City" or "town" means the city of Buckley, Washington, or the area within the territorial limits of the city of Buckley, Washington, and such territory outside of the city over which the city has jurisdiction or control by virtue of any constitutional or statutory provisions;

(xx) "City administrator" means the individual or his/her designated representative appointed by the mayor to oversee day-to-day operations of the city.

(xx) "City engineer" means the engineer appointed as such by the city or his/her designated representative.

(xx) "City inspector" means the employee or agent designated by the city to inspect permitted work.

(xx) "City property" means any real property owned by City, whether in fee or other ownership estate of interest.

(xx)(2) "Council" means the city council of the city of Buckley, Washington. "All its members" or "all council members" means the total number of council members provided by the general laws of the state of Washington;

(xx)(3) "County" means the county of Pierce;

(xx) "Day" means a calendar day unless otherwise stated in ordinance;

(xx) "Emergency" means a condition of imminent danger to the health, safety, and welfare of property or persons located within the city including, but not limited to, damage to persons, property, or environment from natural or manmade consequences, such as storms, earthquakes, riots or wars.

(xx) "Hearing examiner" means the city of Buckley hearing examiner as established in BMC 2.35.

(xx)(5) "Law" denotes applicable federal law, the federal and state constitutions and rules and regulations; statutes of the state of Washington, the ordinances of the city of Buckley, Washington; and any conditions or other requirements imposed by any permit, license or approval of a government agency, and, when appropriate, any and all rules and regulations which may be promulgated thereunder;

(xx)(6) "May" means the action is acceptable, provided it conforms to the provisions of this code;

- ~~(xx)(7)~~ “Must” and “shall” each mean a mandate; the action must be done;
- ~~(xx)(8)~~ “Oath” includes affirmation;
- ~~(10)~~ ~~(xx)~~ “Ordinance” means a law of the city; provided, that a temporary or special law, administrative action, order or directive may be in the form of a resolution;
- ~~(xx)~~ Permit” means a document issued by the city granting permission to engage in an activity not allowed without a permit.
- ~~(xx)~~ “Permit center” means the city building and planning office
- ~~(xx)(11)~~ “Person” means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local government unit however designated, association, club, company, corporation, business, trust, or the manager, lessee, agent, servant, officer or employee of any of them;
- ~~(xx)(12)~~ “State” means the state of Washington;
- ~~(xx)~~ “Stop work order” means an oral directive or a written notice posted at the site of activity that requires all work to be stopped until the city approves continuation of work.
- ~~(xx)~~ ~~13)~~ “Street” includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in this city which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state;
- ~~(xx)~~ ~~(14)~~ “Written” includes printed, typewritten, mimeographed or multigraphed. handwriting, typewriting, emailing, printing, photostating, and photographing and does not include forms of communication that are not likely to be retained for any significant period of time by the city.

Section 2. Repeal and replace BMC 13.35.040, Definitions. The Buckley Municipal Code Section 13.35.040, Definitions is hereby replaced in its entirety as follows:

13.35.040 Definitions.

In addition to the terms defined in BMC 1.01.060, the following words and phrases when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

- (1) “Applicant” means any person or corporation submitting an application for a franchise.
- ~~(1) “City property” means any real property owned by City, whether in fee or other ownership estate of interest.~~
- (2) “Civil violation” or “violation” means an act or omission contrary to a regulation as defined in Chapter 1.12 BMC. A violation continues to exist until abated and each day, or a portion thereof, that a violation exists constitutes a separate and distinct offense.
- (3) “Complaint” means a written document initiating a procedure pursuant to Chapter 1.12 BMC.
- (4) “Cost of construction” means the cost incurred for design, acquisition for right-of-way and/or easements, permit and plan review fees, construction (including materials and installation), in accordance with all applicable laws, ordinances and standards, including the city’s public works standards. The cost of construction shall be documented in writing on final invoices or other documents showing the amounts paid by the applicant. The city will not accept written estimates in determining the cost of construction. In the event of a disagreement between the city and the applicant concerning the cost of the improvements and/or infrastructure, the city engineer’s determination shall be final.
- (5) “Department” means the public works and utilities department or other department designated by the mayor.
- (6) “Director” means the director of public works or his/her designated representative as appointed by the mayor.

- (7) “Enforcement officer” means the city’s code enforcement officer(s) or any other person or persons assigned or directed by the city administrator, or his or her designee, to enforce the regulations subject to the provisions of this chapter.
- (8) “FCC” or “Federal Communications Commission” means the federal administrative agency, or lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers on a national level.
- (9) “Franchise” or “franchise agreement” is a contract by which a grantee is allowed to use City right-of-way for the purpose of carrying on the business in which it is generally engaged, including furnishing service to members of the public.
- (10) “Franchised utilities” means utilities that have city approval to use city rights-of-way for the purpose of providing their services within or beyond the city, whether by written franchise granted by the city, state tariff or other similar city authorization.
- (11) “Grantee” means the person, firm or corporation to whom or which a franchise, as defined in this section, is granted by the council under this Chapter and the lawful successor, transferee or assignee of such person, firm or corporation.
- (12) “Grantor” means the City of Buckley acting through its City council.
- (13) “Investigative” means the gathering of information about the proposed location of utilities, right-of-way, subsoil or subgrade conditions, etc., to assist in identifying ascertaining surface and subsurface conditions within a project area.
- (14) “Light Pole” means a pole owned by the City and used primarily for lighting streets, parking areas, parks or pedestrian paths.
- (15) “Minor repair or construction” means any activity which, in the discretion of the city engineer, includes a short-term temporary use of the right-of-way and where pavement or sidewalk is not to be disturbed or broken. Examples of such activities include, but are not limited to, the sweeping and/or cleaning of debris from the right-of-way and trimming, cutting and pruning vegetation within the right-of-way, placement or replacement of gravel on parking shoulders that were previously used for on street parking.
- (16) “Notice of violation” means a document mailed to a permittee or unauthorized user and posted at the site of a nonconforming or unsafe condition.
- (17) “Oral directive” means a directive given orally by city personnel designated by the director to correct or discontinue a specific condition.
- (18) “Permittee” means the person, partnership, group, organization, company, or corporation so designated on the permit application, or designee.
- (19) “Policy” means a policy adopted by the director to implement this chapter, or to carry out other responsibilities as may be required by this chapter or by other codes, ordinances, or resolutions of the city or other agencies.
- (20) “Private use” means use of the public right-of-way for the benefit of a person.
- (21) “Revocation” means the cancellation of a permit.
- (22) (a) “Right-of-way” means all public streets and property granted or reserved for, or dedicated to, public use for street purposes, together with public property granted or reserved for, or dedicated to, public use for walkways, trails, sidewalks, bikeways, parking, and horse trails, whether improved or unimproved, including the air rights, sub-surface rights and easements related thereto.
 (b) For use in small cell facilities, “public right-of-way” or “right-of-way” shall be as defined in BMC 19.25A.020.
- (23) “Service provider” is defined consistently with RCW 35.99.010(6). Service provider shall include those infrastructure companies that provide telecommunications services or equipment to enable the deployment of personal wireless services.

- (24) “Small wireless” and “small wireless facility” shall have the same meaning as a “small wireless facility” as set forth in 47 CFR 1.6002.
- (25) “Stop work order” means an oral directive or a written notice posted at the site of activity that requires all work to be stopped until the city approves continuation of work.
- (26) “Structure” means a pole, tower, base station, or other building, whether on its own or comingled with other types of services, whether or not it has an existing antenna facility, that is used or to be used for the provision of personal wireless service.
- (27) “Suspension” means the temporary stay of a permit.
- (28) “Telecommunications facilities” means the plant, equipment and property including, but not limited to, cables, wires, conduits, ducts, pedestals, electronics, and other appurtenances used or to be used to transmit, receive, distribute, provide or offer wireline or wireless telecommunications service.
- (29) “Telecommunications service” means the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means for hire, sale, or resale to the general public. For the purpose of this subsection, “information” means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols. For the purpose of this Chapter, telecommunications service excludes the over-the-air transmission of broadcast television or broadcast radio signals.
- (30) “Temporary” as used in this chapter shall mean of a limited duration generally considered not to exceed three days after an event or a total duration of 14 days unless otherwise stated in this chapter or extended by exception.
- (31) “Traffic Signal Poles” means a pole that supports equipment used for controlling traffic, including but not limited to traffic lights, rapid flashing beacons, speed radar, and school zone flashers.
- (32) “Underground location service” means the underground utilities location center that will locate all underground utilities prior to an excavation.
- (33) “Unsafe condition” means any condition which the director determines is a hazard to health, or endangers the safe use of the right-of-way by the public, or does or may impair or impede the operation or functioning of any portion of the right-of-way, or which may cause damage thereto.
- (34) “Wireline” means services provided using a physically tangible means of transmission, including without limitation wire or cable, and the apparatus used for such transmission.

Section 3. Amendment to BMC 19.12 Definitions, the following terms shall be added or amended:

19.12.050 Antenna.

“Antenna” means any exterior apparatus designed for telephonic, radio, data, Internet, or television communication through the sending and/or receiving radio frequency signals including, but not limited to, equipment attached to a tower, utility pole, building or other structure for the purpose of providing wireless services of electromagnetic waves. This includes equipment attached to a tower or building for the purpose of providing personal wireless services.

19.12.xxx “Collocation” means (1) mounting or installing an antenna facility on a pre-existing structure, and/or (2) modifying a structure for the purpose of mounting or installing an antenna facility on that structure.

19.12.xxx “Director” means the Planning Director or his/her designee.

19.12.220 FCC.

“FCC” or “Federal Communications Commission” shall be as defined in BMC 13.35.040.

19.12.450 Public utility.

“Public utility” means a [private business organization such as any public service corporation, including physical plant facilities, public service or private corporation](#) performing some public service and subject to special governmental regulations, or a governmental agency performing similar public services, the services by either of which are paid for directly by the recipients thereof. Said services shall include, but are not limited to, water supply, electric power, telephone, gas and transportation for persons and freight.

Section 4. Amendment to BMC 19.25.030. The Buckley Municipal Code Section 19.25.030 is hereby amended as follows:

19.25.030 Exemptions from wireless facilities requirements.

The following are exempt from the provisions of the wireless facilities portion of this chapter:

- (1) Routine maintenance or repair of a personal wireless service facility and related equipment (excluding structural work or changes in height or dimensions of antennas, towers, or buildings); provided, that compliance with the standards of this chapter is maintained.
- (2) A COW or other temporary personal wireless telecommunications facility shall be permitted during an emergency declared by the city.
- (3) Emergency services’ telecommunication devices.
- [\(4\) Small wireless communications facilities subject to BMC Chapter 19.25A.](#)

Section 5. A new section 19.25.170 is added to Chapter 19.25 BMC to read as follows:

19.25.170 Eligible facilities requests.

- (1) Definitions. The following special terms shall be used in this section:
 - (a) “Base Station” is the structure or equipment that is 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 or any equipment associated with a tower. The Base Station includes, without limitation:
 - (i) Equipment associated with wireless communications services as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
 - (ii) Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems (“DAS”) and small wireless networks).
 - (iii) 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 subparagraph (i) and (ii) above 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.
 - (b) “Eligible Facilities Request” means a 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:
 - (i) Collocation of new transmission equipment;

- (ii) Removal of transmission equipment; or
- (iii) Replacement of transmission equipment.
- (c) An “Eligible support structure” is 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. The terms tower, eligible support station, and base station do not include any structure that, at the time the Eligible Facilities Request application is filed with the City, do not support or house equipment described in subparagraph 19.25.170 (3)(d)(a)(i) and (3)(d)(a)(ii) below.
- (d) “Tower”. Any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul and the associated site.
- (e) “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 backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
- (2) The director shall provide application forms for eligible facility requests.
 - (a) The application may not require the applicant to demonstrate a need or business case for the proposed modification.
- (3) To be approved, the request must meet all of the following criteria:
 - (a) The definition of “base station.”
 - (b) The mounting or installation of transmission equipment is on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communication purposes. An “Eligible support structure” is 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.
 - (c) On existing towers or base stations. The structure or equipment is to be located on existing, constructed towers or base stations; however, towers or base stations that are 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 considered existing for purposes of this definition.
 - (d) The Eligible Facilities Request shall not cause substantial change to the physical dimensions of an eligible support structure, including any of the following:
 - (i) For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one 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 10% or more than ten (10) feet, whichever is greater;
 - (ii) 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 twenty (20) feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet;

- (iii) For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and Base Stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;
 - (iv) It entails any excavation or deployment outside the current site;
 - (v) It would defeat the concealment elements, as expressed in 19.25A.090, of the eligible support structure; or
 - (vi) It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided, however, that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified above.
- (4) The request shall be processed as a Type A-1 permit, as modified herein.
 - (5) A decision shall be rendered within 60 days from the date of receipt.
 - (a) The application review shot clock begins upon receipt of application.
 - (b) The city shall review the request and determine whether it is covered under this section.
 - (c) The city shall within 30 days of receipt clearly and specifically delineate all missing documents or required information specified in the application.
 - (d) The application review shot clock shall resume upon submittal of supplemental information.
 - (e) The city shall within 10 days of the supplemental submission inform the applicant whether material is still missing.
 - (i) The shot clock is paused in the case of a second or subsequent notice of incompleteness.
 - (ii) Second or subsequent notices of incompleteness shall not specify missing documents or information that was not identified in the first notice.
 - (f) If the city fails to decide on the eligible facilities request within 60 days, the request is deemed granted.
 - (i) The deemed grant shall not be effective until the applicant notifies the city in writing after the review period expires (accounting for any tolling) that the application is deemed granted.
 - (6) If the city determines that the applicant's request does not qualify as an Eligible Facilities Request, the city shall deny the application.

Section 6. A new chapter BMC 19.25A is added to the Buckley Municipal Code to read as follows:

19.25A.010 Purpose.

The purpose of this chapter is to regulate placement, development, permitting, and removal of small wireless facilities and accomplish the following:

- (1) Minimize adverse visual, aesthetic, and safety impacts of small wireless facilities.
- (2) Establish objective standards for the placement of small wireless facilities.
- (3) Ensure that standards allow competition and do not unreasonably discriminate among providers of functionally equivalent services.
- (4) Encourage the design of such small wireless facilities to be aesthetically and architecturally compatible with the surrounding built and natural environments where possible.

- (5) Encourage the collocation or attachment of small wireless facilities on existing support structures and reduce the total number and impact of such structures throughout the community.
- (6) Manage the city rights-of-way in a manner that balances the need to accommodate new and evolving technologies with the preservation of the natural and aesthetic environment of the city.
- (7) Reduce challenges faced by the city and applicants by coordinating applicable legislative and administrative processes under the Federal Communications Commission (FCC) regulations.

19.25A.020 Definitions.

In addition to the terms defined in BMC 1.01.060, 19.12, and 13.35.040, the following words and phrases used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

- (x) “City property” shall be as defined in BMC 1.01.060.
- (x) “Franchise” or “franchise agreement” shall be as defined in BMC 13.35.040.
- (x) “Grantee” shall be as defined in BMC 13.35.040.
- (x) “Grantor” shall be as defined in BMC 13.35.040.
- (x) “Light Pole” shall be as defined in BMC 13.35.040.
- (x) “Macro facility” means a large wireless communication facility that provides radio frequency coverage for a cellular telephone network. Generally, macro cell antennas are mounted on ground-based towers, rooftops and other existing structures, at a height that provides a clear view over the surrounding buildings and terrain. Macro cell facilities typically contain antennas that are greater than three cubic feet per antenna and typically cover large geographic areas with relatively high capacity and may be capable of hosting multiple wireless service providers.
- (x) “Public right-of-way” or “right-of-way” means land acquired or dedicated for public roads and streets but does not include:
 - (a) State highways;
 - (b) Land dedicated for road, streets, and highways not opened and not improved for motor vehicle use by the public;
 - (c) Structures, including poles and conduits, located within the right-of-way;
 - (d) Federally granted trust lands or forest board trust lands;
 - (e) Lands owned or managed by the state parks and recreation commission; or federally-granted railroad rights-of-way acquired under 43 U.S.C. Sec 912 and related provisions of federal law that are not open for motor vehicle use.
- (x) “Service provider” shall be as defined in BMC 13.35.040. Service provider also shall include those infrastructure companies that provide telecommunications services or equipment to enable the deployment of personal wireless services.
- (x) “Small wireless” and “small wireless facility” shall be as defined in BMC 13.35.040.
- (x) “Structure” shall be as defined in BMC 13.35.040.
- (x) “Telecommunications facilities” shall be as defined in BMC 13.35.040.
- (x) “Telecommunications service” shall be as defined in BMC 13.35.040.
- (x) “Transmission equipment” means equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

- (x) “Traffic Signal Poles” ” shall be as defined in BMC 13.35.040.
- (x) “Unified enclosure” means a small wireless facility providing concealment of antennas and equipment within a single enclosure.
- (x) “Utility pole” means a structure designed and used primarily for the support of electrical wires, telephone wires, television cable, traffic signals, or lighting for streets, parking areas, or pedestrian paths.

19.25A.030 General provisions.

- (1) Small wireless facilities shall not be considered or regulated as essential public facilities.
- (2) Small wireless facilities located outside public right-of-way may be either a primary or a secondary use. A different use of an existing structure on the same lot shall not preclude the installation of a small wireless facility.
- (3) Small wireless facilities located within the public right-of-way pursuant to a valid franchise are outright permitted uses in every zone of the City and require a small wireless facility permit pursuant to Section 19.25A.040.

19.25A.040 Process.

Reviews may be for facilities in the right-of-way and facilities not in the right-of-way. Both types of facilities shall meet the following submittal requirements unless specifically noted.

- (1) Small wireless permit process is Type A-1.
- (2) For small wireless facilities inside the right-of-way, the applicant must also comply with the requirements pursuant to BMC 13.35.
- (3) As an exercise of police powers pursuant to RCW 35.99.040(2), the small wireless facility permit is not a right-of-way use permit, but instead a consolidated public works and land use permit.
 - (a) Consolidation is required for review and decisions rendered to the full extent feasible with the presumptively reasonable time periods established by 47 CFR 1.6003.
 - (b) Included in consolidation are all permits, permissions, leases, and right-of-way use authorizations necessary for the deployment of small wireless facilities and, if applicable an application for franchise pursuant.
 - (c) If the applicant requires a new franchise to use the right-of-way, the franchise approval may be consolidated with the small wireless facility permit review if requested by the applicant.
 - (d) To the extent they do not conflict with the requirements of this chapter, the general standards applicable to the use of the rights-of-way described in BMC 13.35 shall apply to all small wireless facility permits.
 - (e) The issuance of a small wireless permit grants authority to construct small wireless facilities in the rights-of-way in a consolidated manner to allow the applicant, in most situations, to avoid the need to seek duplicative approval by both the public works and the development services department.
- (4) The Director is authorized to establish franchise and other application forms to gather the information required by these ordinances from applicants and to determine the completeness of the application process as provided herein. The application shall include Parts A, B, and C as described below.
 - (a) Part A is the complete application for a franchise agreement. A franchise agreement is required if any part of the facilities is to be in the public right-of-way.
 - (i) An applicant with an existing franchise for deployment of small wireless facilities in the City may proceed to directly apply for a small wireless facility permit and related approvals (Parts B and C).

- (b) Part B of the application requires specification of the small wireless facility components and locations as further required in the small wireless permit application described in Section 19.25A.040.
 - (c) Part C of the application shall contain attachments of all associated permit requirements such as applications or check lists required under the Critical Areas, Shoreline or SEPA ordinances.
 - (i) Applicants for deployment of small wireless facilities for new poles shall comply with the requirements in Section 19.25A.100.
 - (d) Part D is for lease applications, which is required for attaching a small wireless facility on any City-owned property. This lease application shall be a component of the application.
 - (i) Leases for the use of public property, structures or facilities shall be submitted to the City Council for approval.
- (5) The following information shall be provided by all applications for a small wireless permit:
- (a) The application shall provide specific locational information including GIS coordinates of all proposed small wireless facilities and specify where the small wireless facilities will use existing, replacement or new poles, towers, existing buildings and/or other structures. Ground mounted equipment, conduit, junction boxes and fiber and electrical connections necessary for and intended for use in the deployment shall also be specified regardless of whether the additional facilities are to be constructed by the applicant or leased from a third party. Detailed schematics and visual renderings of the small wireless facilities, including engineering and design standards, shall be provided by the applicant. The application shall have sufficient detail to identify:
 - (i) The location of overhead and underground public utility, telecommunication, cable, water, sewer drainage and other lines and equipment in the rights-of-way along the proposed route;
 - (ii) The specific trees, structures, facilities, lines and equipment, and obstructions, if any, that applicant proposes to temporarily or permanently remove or relocate and a landscape plan for protecting, trimming, removing, replacing, and restoring any trees or areas to be disturbed during construction.
 - (iii) All existing or proposed improvements related to the proposed location, including but not limited to poles, driveways, ADA ramps, equipment cabinets, street trees and structures within 250 feet from the proposed site.
 - (iv) If the site location includes a new replacement light pole, then the applicant must submit a photometric analysis of the roadway and sidewalk within 150 feet of the existing light.
 - (v) Compliance with the aesthetic requirements of BMC 19.25.100, Design criteria.
 - (b) The applicant must show written approval from the owner of any pole or structure for the installation of its small wireless facilities on such pole or structure. Such written approval shall include approval of the specific pole, engineering and design standards, as well as assurances that the specific pole can withstand wind and seismic loads, from the pole owner, unless the pole owner is the City.
 - (c) The applicant may batch multiple small wireless facility sites in one application. The applicant is encouraged to batch the small wireless facility sites within an application in contiguous service areas.
 - (d) Any application for a small wireless facility located in the right-of-way adjacent to a parcel zoned for residential use shall demonstrate that it has considered the following:

- (i) Whether a small wireless facility is currently installed on an existing pole in front of the same residential parcel. If a small wireless facility exists, then the applicant must demonstrate that no technically feasible alternative location exists that is not in front of the same residential parcel.
- (ii) Whether the proposed small wireless facility can be screened from residential view by choosing a pole location that is not directly in front of a window or a view.
- (e) Any application for a small wireless permit that contains an element that is not exempt from SEPA review shall simultaneously apply under Chapter 43.21C RCW and Chapter 12.04 BMC. Further, any application proposing small wireless facilities in Shoreline Management Zones (pursuant to BMC Chapter 19.42) or in Critical Areas (pursuant to BMC Chapter 12.08) must indicate that the application is exempt or comply with the review processes in such codes.
- (f) The applicant shall submit a sworn affidavit signed by an RF Engineer with knowledge of the proposed project affirming that the small wireless facilities will be compliant with all FCC and other governmental regulations in connection with human exposure to radio frequency emissions for every frequency at which the Small Wireless facility will operate. If facilities that generate RF radiation necessary to the Small Wireless facility are to be provided by a third party, then the small wireless permit shall be conditioned on an RF Certification showing the cumulative impact of the RF emissions on the entire installation. The applicant may provide one emissions report for the entire small wireless deployment if the applicant is using the same small wireless facility configuration for all installations within that batch or may submit one emissions report for each subgroup installation identified in the batch.
- (g) The applicant shall provide proof of FCC and other regulatory approvals required to provide the service(s) or use the technologies sought to be installed.
- (h) A professional engineer licensed by the State of Washington shall certify in writing, over his or her seal, that both construction plans and final construction of the small wireless facilities and structure or pole and foundation are designed to reasonably withstand wind and seismic loads.
- (i) Application materials required for a right-of-way use permit as required by BMC 13.35.090(2)(f).
- (j) Recognizing that small wireless facility technology is rapidly evolving, the Director is authorized to adopt and publish standards for the technological and structural safety of City-owned structures and to formulate and publish application questions for use when an applicant seeks to attach to City-owned structures.
- (k) Such other information as the Director, in his/her discretion, shall deem appropriate to effectively evaluate the application based on technical, engineering and aesthetic considerations.

19.25A.050 Review Process and conditions of approval.

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

- (1) Only complete applications for a small wireless permit containing all required submission elements described in Section 19.25A.040 shall be considered by the City. Incomplete applications that are not made complete by the applicant within sixty (60) days of initial submission of the application materials shall be deemed withdrawn.
- (2) 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 design and concealment standards adopted pursuant to Section 19.25A.090, except as provided in subsection (7) below.
- (3) Vertical clearance shall be reviewed by the Director to ensure that the small wireless facilities will not pose a hazard to other users of the rights-of-way.
 - (4) 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 rights-of-way.
 - (a) 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.
 - (5) No equipment shall produce noise in violation of BMC Chapter 8.30.
 - (6) Small wireless facilities may not encroach onto or over private property or property outside the right of way without the property owner's express written consent.
 - (7) A right-of-way permit is needed showing traffic control work location and for any work required by 13.35.
 - (8) Small wireless deployment on new poles, are subject to review and approval pursuant to Section 19.25A.100.
 - (9) The design approved in a small wireless facility permit shall be considered concealment elements, as expressed in 19.25A.090, and may only be expanded upon in an Eligible Facilities Request described in Section 19.25.170 when the modification does not defeat the concealment elements of the small wireless facility.
 - (10) 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, using supporting infrastructure that 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.
 - (11) The City shall provide notice of a complete application for a small wireless facility permit on the City's website with a link to the application per Title 20 BMC.
 - (a) The notice shall include an email contact and telephone number for the applicant to answer citizen inquiries.
 - (b) The applicant is encouraged to host informational meetings for the public regarding the deployment.
 - (c) The City shall post meeting notices, if any, for informational meetings on its website. These meetings are for the public's information and are neither hearings nor part of any land use appeal process.
 - (12) Any applicant may withdraw an application submitted pursuant to Section 19.25A.040 at any time, provided the withdrawal is in writing and signed by all persons who signed the original application or their successors in interest.
 - (a) When a withdrawal is received, the application shall be deemed null and void.
 - (b) If such withdrawal occurs prior to the Director'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 Director's decision, there shall be no refund of all or any portion of such fee.

19.25A.060 Permit and time requirements.

- (1) The grantee of any permit shall comply with all of the requirements within the small wireless permit.
- (2) Within thirty (30) days after construction of the small wireless facility, the grantee shall provide the City with as-builts of the small wireless facilities demonstrating compliance with the permit and shall provide site photographs.
- (3) Construction of the small wireless facility must be completed within six (6) months after the approval date by the City. The grantee may request one (1) extension to be limited to three (3) months, if the applicant cannot construct the small wireless facility within the original six (6) month period.
- (4) The grantee must maintain the small wireless facilities in safe and working condition.
 - (a) The grantee shall be responsible for the removal of any graffiti or other vandalism and shall keep the site neat and orderly, including but not limited to following any maintenance or modifications on the site.
- (5) The grantee shall commence operation of the small wireless facility no later than three (3) months after installation.

19.25A.070 Modifications to small wireless facilities.

- (1) The grantee shall apply for a small wireless facility permit if a modification to an existing small wireless facility is desired, 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, as expressed in 19.25A.090.
- (2) A small wireless facility permit shall not be required for routine maintenance and repair of a small wireless facility within the rights-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.
 - (a) A small wireless facility permit shall not be required for replacing equipment within the equipment enclosure or reconfiguration of fiber or power to the small wireless facility.
 - (b) Right-of-way use permits may be required for routine maintenance, repair or replacement consistent with 13.35 BMC.

19.25A.080 Consolidated Permit.

- (1) The issuance of a small wireless permit grants authority to construct small wireless facilities in the rights-of-way in a consolidated manner to allow the applicant, in most situations, to avoid the need to seek duplicative approval by both the public works and the development services department.
 - (a) An application for a franchise to deploy small wireless facilities shall be processed in parallel and consideration coordinated with the process outlined in this chapter in order to comply with the presumptively reasonable review periods established by FCC regulation.
 - (b) As an exercise of police powers pursuant to RCW 35.99.040(2), the small wireless facility permit is not a right-of-way use permit, but instead a consolidated public works and land use permit. The city shall make every effort to act on the consolidated permits within the presumptively reasonable time periods established by FCC Order.
- (2) To the extent they do not conflict with the requirements of this chapter, the general standards applicable to the use of the rights-of-way described in BMC 13.35 shall apply to all small wireless facility permits.

19.25A.090 Design and concealment standards for small wireless facility deployments.

Small wireless facility deployments permitted inside or outside the right-of way shall conform to the following design standards. These design standards serve as Concealment Elements for the purposes of an Eligible Facilities Request.

- (1) Small wireless facilities attached to existing or replacement non-wooden light poles and other non-wooden poles in the right-of-way or non-wooden poles outside of the right-of-way shall conform to the following design criteria:
 - (a) Enclosure Location and Dimensions. The applicant shall minimize to the extent possible the antenna and equipment space and shall use the smallest amount of enclosure possible to fit the necessary equipment. The antennas and equipment shall be located using the following methods in priority order:
 - (b) Concealed completely within the pole or pole base. Antennas and the associated equipment enclosures (including disconnect switches and other appurtenant devices) shall be fully concealed within the pole, unless such concealment is otherwise technically infeasible, or is incompatible with the pole design. If within the pole base, the base shall meet the ADA requirements and not impact the pedestrian access route.
 - (c) Located on a pole. If located on a pole, antennas and associated equipment enclosures must be camouflaged to appear as an integral part of the pole or flush mounted to the pole, meaning no more than six (6) inches off of the pole, and the equipment enclosure and all other wireless equipment associated with the small wireless facility shall be the minimum size necessary for the intended purpose. The equipment enclosure and all other wireless equipment associated with the pole (including interior conduit), including wireless equipment associated with the antenna and any pre-existing associated equipment on the pole, may not exceed twenty-eight (28) cubic feet. If the equipment enclosure is permitted on the exterior of the pole, the applicant is required to place the equipment enclosure behind any banners or road signs that may be on the pole, provided that such location does not interfere with the operation of the banners or signs. The furthest point of any antenna or equipment enclosure may not extend more than twenty-four (24) inches from the face of the pole.
 - (d) Underground in a utility vault. If located underground, the access lid to the equipment enclosure shall be located outside the footprint of any pedestrian curb ramp and shall have a nonskid surface meeting ADA requirement if located within an existing pedestrian access route.
 - (e) On private property. If located on private property, the applicant shall submit a copy of an executed permission document with the private property owner prior to the right-of-way permit issuance.
 - (f) The furthest point of any antenna or equipment enclosure may not extend more than twenty-four (24) inches from the face of the pole. Any equipment or antenna enclosures must meet WSDOT height clearance requirements.
 - (g) All conduit, cables, wires and fiber must be routed internally in the non-wooden pole. Full concealment of all conduit, cables, wires and fiber is required within mounting brackets, shrouds, canisters or sleeves if attaching to exterior antennas or equipment.
 - (h) An antenna on top of an existing pole may not extend more than six (6) feet above the height of the existing pole and the diameter may not exceed sixteen (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 it appears as a continuation of the original pole, including colored or painted to match the pole, and shall be shrouded or screened to blend with the pole except for canister antennas that shall not require

- screening. 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.
- (i) Any replacement pole shall substantially conform to the design of the pole it is replacing or the neighboring pole design standards used within the contiguous right-of-way.
 - (j) The height of any replacement pole may not extend more than ten (10) feet above the height of the existing pole or the minimum additional height necessary; provided that the height of the replacement pole cannot be extended further by additional antenna height.
 - (k) The diameter of a replacement pole shall comply with the City's setback and sidewalk clearance requirements and shall, to the extent technically feasible, not be more than a 25 percent increase of the existing non-wooden pole measured at the base of the pole, unless additional diameter is needed in order to conceal equipment within the base of the pole, and shall comply with the requirements in subsection (5)(d) below.
 - (l) The use of the pole for the siting of a small wireless facility shall be considered secondary to the primary function of the pole. If the primary function of a pole serving as the host site for a small wireless facility becomes unnecessary, the pole shall not be retained for the sole purpose of accommodating the small wireless facility and the small wireless facility and all associated equipment shall be removed.
- (2) Wooden pole design standards. Small wireless facilities located on wooden poles shall conform to the following design criteria:
- (a) The wooden pole at the proposed location may be replaced with a taller pole for the purpose of accommodating a small wireless facility; provided, that the replacement pole shall not exceed a height that is a maximum of ten (10) feet taller than the existing pole, unless a further height increase is required and confirmed in writing by the pole owner and that such height extension is the minimum extension possible to provide sufficient separation and/or clearance from electrical and wireline facilities.
 - (b) A pole extender may be used instead of replacing an existing pole but may not increase the height of the existing pole by more than ten (10) feet, unless a further height increase is required and confirmed in writing by the pole owner and that such height increase is the minimum extension possible to provide sufficient separation and/or clearance from electrical and wireline facilities. A "pole extender" as used herein is an object affixed between the pole and the antenna for the purpose of increasing the height of the antenna above the pole. The pole extender shall be painted to approximately match the color of the pole and shall substantially match the diameter of the pole measured at the top of the pole.
 - (c) Replacement wooden poles must either match the approximate color and materials of the replaced pole or shall be the standard new wooden pole used by the pole owner in the City.
 - (d) Antennas, equipment enclosures, and all ancillary equipment, boxes and conduit shall be colored or painted to match the approximate color of the surface of the wooden pole on which they are attached.
 - (e) Antennas shall not be mounted more than twelve (12) inches from the surface of the wooden pole.
 - (f) 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 (3) cubic feet in volume.
 - (g) A canister antenna may be mounted on top of an existing wooden pole, which may not exceed the height requirements described in subsection (2)(a) above. A canister antenna mounted on the top of a wooden pole shall not exceed sixteen (16) inches, measured at the top of the pole, and shall be colored or painted to match the pole. The canister antenna must be placed to look as if it is an extension of the pole. In the alternative, the applicant

may propose a side mounted canister antenna, so long as the inside edge of the antenna is no more than twelve (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.

- (h) The furthest point of any antenna or equipment enclosure may not extend more than twenty-four (24) inches from the face of the pole. Any equipment or antenna enclosures must meet WSDOT height clearance requirements.
- (i) An omni-directional antenna may be mounted on the top of an existing wooden pole, provided such antenna is no more than four (4) 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.
- (j) All related equipment, including but not limited to ancillary equipment, radios, cables, associated shrouding, microwaves, and conduit that are mounted on wooden poles shall not be mounted more than six (6) inches from the surface of the pole, unless a further distance is technically required, and is confirmed in writing by the pole owner.
- (k) Equipment for small wireless facilities must be attached to the wooden pole, unless otherwise permitted to be ground mounted pursuant to subsection (5)(a). The equipment must be placed in the smallest enclosure possible for the intended purpose. The equipment enclosure and all other wireless equipment associated with the utility pole, including wireless equipment associated with the antenna and any pre-existing associated equipment on the pole, may not exceed twenty-eight (28) cubic feet. Multiple equipment enclosures may be acceptable if designed to more closely integrate with the pole design and does not cumulatively exceed twenty-eight (28) cubic feet. The applicant is encouraged to place the equipment enclosure behind any banners or road signs that may be on the pole, provided that such location does not interfere with the operation of the banners or signs.
- (l) An applicant who desires to enclose both its antennas and equipment within one unified enclosure may do so, provided that such enclosure is the minimum size necessary for its intended purpose and the enclosure and all other wireless equipment associated with the pole, including wireless equipment associated with the antenna and any pre-existing associated equipment on the pole does not exceed twenty-eight (28) cubic feet. The unified enclosure may not be placed more than six (6) inches from the surface of the pole, unless a further distance is required and confirmed in writing by the pole owner. To the extent possible, the unified enclosure shall be placed so as to appear as an integrated part of the pole or behind banners or signs, provided that such location does not interfere with the operation of the banners or signs.
- (m) The visual effect of the small wireless facility on all other aspects of the appearance of the wooden pole shall be minimized to the greatest extent possible.
- (n) The use of the wooden pole for the siting of a small wireless facility shall be considered secondary to the primary function of the pole. If the primary function of a pole serving as the host site for a small wireless facility becomes unnecessary, the pole shall not be retained for the sole purpose of accommodating the small wireless facility and the small wireless facility and all associated equipment shall be removed.
- (o) The diameter of a replacement pole shall comply with the City's setback and sidewalk clearance requirements and shall not be more than a 25% increase of the existing utility pole measured at the base of the pole.
- (p) All cables and wires shall be routed through conduit along the outside of the pole. The outside conduit shall be colored or painted to match the pole. The number of conduit

- shall be minimized to the number technically necessary to accommodate the small wireless facility.
- (3) Small wireless facilities attached to existing buildings, shall conform to the following design criteria:
- (a) Small wireless facilities may be mounted to the sides of a building if the antennas do not interrupt the building's architectural theme.
 - (b) The interruption of architectural lines or horizontal or vertical reveals is discouraged.
 - (c) New architectural features such as columns, pilasters, corbels, or other ornamentation that conceal antennas may be used if it complements the architecture of the existing building.
 - (d) Small wireless facilities shall use the smallest mounting brackets necessary in order to provide the smallest offset from the building.
 - (e) Skirts or shrouds shall be used 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.
 - (f) Small wireless facilities shall be painted and textured to match the adjacent building surfaces.
- (4) Small wireless facilities mounted on cables strung between existing utility poles shall conform to the following standards.
- (a) Each strand mounted facility shall not exceed three (3) cubic feet in volume;
 - (b) Only one strand mounted facility is permitted per cable between any two existing poles;
 - (c) The strand mounted devices shall be placed as close as possible to the nearest utility pole, in no event more than five (5) feet from the pole unless a greater instance technically necessary or is required by the pole owner for safety clearance;
 - (d) No strand mounted device shall be located in or above the portion of the roadway open to vehicular traffic;
 - (e) Ground mounted equipment to accommodate a shared mounted facility is not permitted except when placed in pre-existing equipment cabinets; and
 - (f) Pole mounted equipment shall comply with the requirements of subsections (1) and (2) above.
 - (g) Such strand mounted devices must be installed to cause the least visual impact and without excess exterior cabling or wires (other than the original strand).
 - (h) Strand mounted facilities are prohibited on non-wooden poles.
- (5) General requirements.
- (a) Ground mounted equipment in the rights of way is prohibited, unless such facilities are placed under ground or the applicant can demonstrate that pole mounted or undergrounded equipment is technically infeasible. If ground mounted equipment is necessary, then the applicant shall submit a concealment element plan. Generators located in the rights of way are prohibited.
 - (b) No equipment shall produce noise in violation of BMC 8.30.
 - (c) Small wireless facilities are not permitted on traffic signal poles.
 - (d) Replacement poles and new poles shall comply with the Americans with Disabilities Act (ADA), City construction and sidewalk clearance standards, city ordinance, and state and federal laws and regulations in order to provide a clear and safe passage within the rights-of-way. Further, the location of any replacement or new pole must: be physically possible, comply with applicable traffic warrants, not interfere with utility or safety fixtures (e.g., fire hydrants, traffic control devices), and not adversely affect the public welfare, health or safety.
 - (e) Failure to bring a permitted wireless facility on line and into operation within three (3) months of completion of construction shall be deemed an abandonment of the facility and

the permit shall expire. The applicant shall remove all facilities within thirty (30) days of written notice from the city. In addition to any other remedy which the city may have, the facility may be removed by the city or its contractor and the owner billed for the actual costs of removal.

- (f) No signage, message or identification other than the manufacturer's identification or identification required by governing law is allowed to be portrayed on any antenna or equipment enclosure. Any permitted signage shall be located on the equipment enclosures and be of the minimum amount possible to achieve the intended purpose (no larger than 4x6 inches); provided that, signs are permitted as concealment element techniques where appropriate.
- (g) Antennas and related equipment shall not be illuminated except for security reasons, required by a federal or state authority, or unless approved as part of a concealment element plan.
- (h) Side arm mounts for antennas or equipment must be the minimum extension necessary and may not create a gap of more than twelve (12) inches for wooden poles and no more than six (6) inches for non-wooden poles between the pole and the antennas or equipment.
- (i) The preferred location of a small wireless facility on a pole is the location with the least visible impact.
- (j) Antennas, equipment enclosures, and ancillary equipment, conduit and cable, shall not dominate the structure or pole upon which they are attached.
- (k) Except for locations in the right-of-way, small wireless facilities are not permitted on any property containing a residential use in the residential zones.
- (l) The City may consider the cumulative visual effects of small wireless facilities mounted on poles within the rights-of-way in when assessing proposed siting locations so as to not adversely affect the visual character of the 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 applicant.
- (m) 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 that 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 that provide similar or greater protections from negative visual impacts to the streetscape.

19.25A.100 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 non-residential use in a residential zone whether by roof or panel-mount or separate structure;
 - (b) The proposed small wireless facility complies with the applicable requirements of Section 19.25A.090.
 - (c) The proposed small wireless facility receives approval for a concealment element design, as described in subsection (3) below;
 - (d) The proposed small wireless facility also complies with Shoreline Management Act, and SEPA, if applicable; and
 - (e) No new poles shall be located in a critical area or associated buffer required by the City's Critical Areas Management ordinance (Chapter 12.08 BMC), except when determined to be exempt pursuant to said ordinance.

- (2) The concealment element design shall include the design of the screening, fencing or other concealment technology for a tower, pole, or equipment structure, and all related transmission equipment or facilities associated with the proposed small wireless facility, including but not limited to fiber and power connections.
 - (a) 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 rights of way, including similar height to the extent technically feasible. Any concealment element design for a small wireless facility on a decorative pole should attempt to mimic the design of such pole and integrate the small wireless facility into the design of the decorative pole. Other concealment methods include, but are not limited to, integrating the installation with architectural features or building design components, using 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 use designs in which all conduit and wirelines are installed internally in the structure. Further, applicant designs should, to the extent technically possible, comply with the generally applicable design standards adopted pursuant to Section 19.25A.090.
- (3) If the Director 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 use 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.
- (4) Even if an alternative location is established pursuant to Section 19.25A.100(1)(A) the Director 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.
 - (a) 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 that are higher than the replaced pole, and the overall height of the replacement pole and the proposed small wireless facility is more than sixty (60) feet.
- (5) 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 that 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 that provide similar or greater protections of the street scape.

19.25A.110 Appeals

Administrative approval or denial of small wireless permits is final. An appeal from any permit approval or denial under this chapter may be taken only to superior court.

Section 7. Amendment. Section 20.01.030 Table 2 Application Type is amended to add the following permits:

Title and Chapter	Permit	Permit Type					
		A-1	A-2	A-3	C-1	C-2	C-3

19.25.170	^b Telecommunication – Eligible facilities requests	A-1					
19.25A	^b Telecommunication – Small cell facilities;	A-1					

^b—[Telecommunication facilities shall follow the shot clocks \(time requirements\) required by the FCC.](#)

Section 8. Copy to the Department of Commerce. Pursuant to RCW 36.70A.106, the City Administrator is hereby authorized and directed to provide a copy of this ordinance to the State Department of Commerce within 10 days of adoption.

Section 9. 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, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 10. Effective date. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the city, and shall take effect and be in full force five (5) days after publication.

Introduced, passed and approved this 11th day of June 2019

Pat Johnson, Mayor

ATTEST:

Treva Percival, MMC – City Clerk

APPROVED AS TO FORM:

Phil Olbrechts, City Attorney

PUBLISHED: _____
EFFECTIVE: _____



CITY COUNCIL AGENDA BILL

City of Buckley
PO Box 1960
Buckley, WA 98321

ITEM INFORMATION																							
SUBJECT: Buckley/DSHS AG Land Appraisal	Agenda Date: June 11, 2019 AB19-057																						
	Department/Committee/Individual	Created	Reviewed																				
	Mayor Pat Johnson		X																				
	City Administrator – Dave Schmidt		X																				
	City Attorney – Phil Olbrechts		X																				
	City Engineer – Dominic Miller																						
	City Clerk – Treva Percival	X	X																				
	Finance Dept – Sheila Bazzar																						
	Building Official – Mike Deadmond																						
	Fire Dept – Chief Predmore																						
	Parks & Rec Dept – Kevin Caviezel																						
	Planning Dept – Kathy James																						
	Police Dept – Chief Arsanto																						
	Municipal Court – Jessica Cash																						
	PW/Utilities – Chris Banks																						
Attachments: Scope of work - GPA Valuation																							
<p>SUMMARY STATEMENT: Per the lease, the City of Buckley shall pay for the cost to complete an appraisal for fair market value on the land being leased by the City according to the schedule in Section 12 below. The scope being presented is to have this appraisal completed.</p> <table border="1" data-bbox="394 1136 1005 1476"> <thead> <tr> <th><i>Rent Adjustment Method</i></th> <th><i>Effective Date</i></th> </tr> </thead> <tbody> <tr> <td><i>CPI</i></td> <td><i>July 1, 2014</i></td> </tr> <tr> <td><i>Appraisal</i></td> <td><i>July 1, 2019</i></td> </tr> <tr> <td><i>CPI</i></td> <td><i>July 1, 2024</i></td> </tr> <tr> <td><i>Appraisal</i></td> <td><i>July 1, 2029</i></td> </tr> <tr> <td><i>CPI</i></td> <td><i>July 1, 2034</i></td> </tr> <tr> <td><i>Appraisal</i></td> <td><i>July 1, 2039</i></td> </tr> <tr> <td><i>CPI</i></td> <td><i>July 1, 2044</i></td> </tr> <tr> <td><i>Appraisal</i></td> <td><i>July 1, 2049</i></td> </tr> <tr> <td><i>CPI</i></td> <td><i>July 1, 2054</i></td> </tr> </tbody> </table>				<i>Rent Adjustment Method</i>	<i>Effective Date</i>	<i>CPI</i>	<i>July 1, 2014</i>	<i>Appraisal</i>	<i>July 1, 2019</i>	<i>CPI</i>	<i>July 1, 2024</i>	<i>Appraisal</i>	<i>July 1, 2029</i>	<i>CPI</i>	<i>July 1, 2034</i>	<i>Appraisal</i>	<i>July 1, 2039</i>	<i>CPI</i>	<i>July 1, 2044</i>	<i>Appraisal</i>	<i>July 1, 2049</i>	<i>CPI</i>	<i>July 1, 2054</i>
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COMMITTEE REVIEW AND RECOMMENDATION: A/F/PS 6-11-19 (tentative)																							
RECOMMENDED ACTION: MOVE to Approve GPA Valuation’s Scope to Complete a Fair Market Appraisal of Lease Rate of the 217.83 Acres with Agricultural Buildings.																							
RECORD OF COUNCIL ACTION																							
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>																					



Real Estate Appraisers and Consultants



May 30, 2019

David Schmidt
City Administrator
Buckley, WA 98321

Re: Appraisal of Fair Market Value Lease Rate- 217.83 Acres with Agricultural Buildings
Buckley, Washington

Dear Mr. Schmidt: *Sent via email to dschmidt@cityofbuckley.com*

This letter is to confirm our ability to complete the appraisal requested. The fee for appraisal services under this engagement will be \$8,500. The fee will be due upon completion of the assignment. We will deliver an electronic copy of the report and provide hard copies upon request. If work is stopped by the client before completion, the client will be responsible for work completed as of the date of notice to stop work. A minimum charge of 15% will be charged for cancelled assignments. Consultation after the appraisal report is delivered will be billed at \$250 per hour.

The scope of work is for a valuation of the fair market lease rate for the subject property. The valuation will be limited to realty. Our appraisal will be in a Narrative format in conformance with the Uniform Standards of Professional Appraisal Practice. The intended use of the appraisal is to assist in establishing a current market rent as called for in the lease between the City and DSHS.

We anticipate completion of the report within four to six weeks of authorization to proceed. Please sign and date this letter and return it for our file. We will call for an appointment to inspect the property.

Thank you for giving GPA Valuation the opportunity to serve your appraisal needs.

Very truly yours,
GPA VALUATION

Richard E. Pinkley, President
State-Certified General Real Estate Appraiser
Number 1101074

I authorize GPA Valuation to proceed with the appraisal on the terms noted above.

David Schmidt

Date



CITY COUNCIL AGENDA BILL

City of Buckley
PO Box 1960
Buckley, WA 98321

ITEM INFORMATION

SUBJECT: Bid Award – Spiketon Culvert Replacement Project Bid Award	Agenda Date: June 11, 2019 AB19-058		
	Department/Committee/Individual	Created	Reviewed
	Mayor Pat Johnson		X
	City Administrator – Dave Schmidt		X
	City Attorney – Phil Olbrechts		
	City Engineer – Dominic Miller		X
	City Clerk – Treva Percival	X	X
	Finance Dept – Sheila Bazzar		
	Building Official – Mike Deadmond		
	Fire Dept – Chief Predmore		
	Parks & Rec Dept – Kevin Caviezel		
	Planning Dept – Kathy James		
	Police Dept – Chief Arsanto		
	Municipal Court – Jessica Cash		
	PW/Utilities – Chris Banks		X

Attachments: Bid Tabs

SUMMARY STATEMENT: On June 5, 2019, the City conducted a sealed bid opening for the Spiketon Culvert Replacement Project. Six bids were received for this project. Attached you will find the Bid Tabulation that was provided by Gray & Osborne. Per the Engineer, their recommendation letter will be provided at the Council meeting on June 11 requesting that the City Council award the bid to the low bidder.

COMMITTEE REVIEW AND RECOMMENDATION: None.

RECOMMENDED ACTION: **MOVE to AWARD Bid of the Spiketon Culvert Replacement Project to McClung Construction Company for \$713,326.90.**

RECORD OF COUNCIL ACTION

<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>

BIDDER		ENGINEER'S ESTIMATE				MIKE MCCLUNG CONSTRUCTION CO.		CCT CONSTRUCTION, INC.		MARSHBANK CONSTRUCTION, INC.		OMA CONSTRUCTION, INC.		R.L. ALIA COMPANY		RODARTE CONSTRUCTION, INC.	
BIDDER ADDRESS						712 Main Street Buckley, WA 98321		13018 Canyon Road E., Suite C Puyallup, WA 98373		P.O. Box 97 Lake Stevens, WA 98258		P.O. Box 429 Maple Valley, WA 98038		107 Williams Avenue South Renton, WA 98057		17 East Valley Hwy. East Auburn, WA 98092	
WASHINGTON STATE WORKMAN'S COMP. ACCT. NO.						032,783-00		203,776-00		885,648-01		978,446-01		343,041-00		388,601-00	
WASHINGTON STATE CONTRACTOR'S REG. NUMBER						MIKEMCC981KB		CCTCOC1902P2		MARSHCI*051O6		OMACOI*023L6		RLALIC*104PT		RODARI*225D9	
BID BOND OR OTHER GOOD FAITH TOKEN						5% BID BOND		5% BID BOND		5% BID BOND		5% BID BOND		5% BID BOND		5% BID BOND	
NO.	ITEM	QUANTITY	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	
1	Minor Changes	1/CALC	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00	
2	Survey	1/LS	\$3,000.00	\$3,000.00	\$15,000.00	\$15,000.00	\$11,500.00	\$11,500.00	\$10,000.00	\$10,000.00	\$18,000.00	\$18,000.00	\$10,000.00	\$10,000.00	\$11,000.00	\$11,000.00	
3	Mobilization, Cleanup and Demobilization	1/LS	\$48,000.00	\$48,000.00	\$70,000.00	\$70,000.00	\$60,000.00	\$60,000.00	\$69,300.00	\$69,300.00	\$85,000.00	\$85,000.00	\$50,000.00	\$50,000.00	\$30,000.00	\$30,000.00	
4	Project Temporary Traffic Control	1/LS	\$30,000.00	\$30,000.00	\$80,000.00	\$80,000.00	\$45,000.00	\$45,000.00	\$74,000.00	\$74,000.00	\$35,000.00	\$35,000.00	\$25,000.00	\$25,000.00	\$100,000.00	\$100,000.00	
5	Clearing and Grubbing	0.6/AC	\$10,000.00	\$6,000.00	\$25,000.00	\$15,000.00	\$15,000.00	\$9,000.00	\$94,000.00	\$56,400.00	\$25,000.00	\$15,000.00	\$25,000.00	\$15,000.00	\$25,000.00	\$15,000.00	
6	Removal of Structures and Obstructions (Incl. Existing Culverts)	1/LS	\$5,000.00	\$5,000.00	\$25,000.00	\$25,000.00	\$30,000.00	\$30,000.00	\$6,800.00	\$6,800.00	\$5,000.00	\$5,000.00	\$10,000.00	\$10,000.00	\$14,000.00	\$14,000.00	
7	Install and Remove Temporary Access Road	445/SY	\$54.00	\$24,030.00	\$100.00	\$44,500.00	\$150.00	\$66,750.00	\$50.00	\$22,250.00	\$250.00	\$111,250.00	\$67.00	\$29,815.00	\$50.00	\$22,250.00	
8	Dewatering	1/LS	\$40,000.00	\$40,000.00	\$20,000.00	\$20,000.00	\$10,000.00	\$10,000.00	\$5,500.00	\$5,500.00	\$15,000.00	\$15,000.00	\$3,000.00	\$3,000.00	\$18,000.00	\$18,000.00	
9	Regrade Existing Ditches	1/LS	\$3,500.00	\$3,500.00	\$3,500.00	\$3,500.00	\$10,000.00	\$10,000.00	\$6,000.00	\$6,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$5,500.00	\$5,500.00	
10	Excavation, Embankment and Grading, Incl. Haul	145/CY	\$50.00	\$7,250.00	\$35.00	\$5,075.00	\$70.00	\$10,150.00	\$35.00	\$5,075.00	\$85.00	\$12,325.00	\$50.00	\$7,250.00	\$27.00	\$3,915.00	
11	Temporary Drainage Ditches	1/LS	\$2,000.00	\$2,000.00	\$3,500.00	\$3,500.00	\$10,000.00	\$10,000.00	\$4,000.00	\$4,000.00	\$10,000.00	\$10,000.00	\$5,000.00	\$5,000.00	\$500.00	\$500.00	
12	Channel Excavation, Incl. Haul	410/CY	\$40.00	\$16,400.00	\$35.00	\$14,350.00	\$80.00	\$32,800.00	\$53.00	\$21,730.00	\$25.00	\$10,250.00	\$50.00	\$20,500.00	\$55.00	\$22,550.00	
13	Gravel Borrow, Incl. Haul	1,045/TN	\$25.00	\$26,125.00	\$25.00	\$26,125.00	\$30.00	\$31,350.00	\$27.00	\$28,215.00	\$35.00	\$36,575.00	\$1.00	\$1,045.00	\$27.00	\$28,215.00	
14	Locate Existing Utilities	1/LS	\$2,000.00	\$2,000.00	\$6,500.00	\$6,500.00	\$3,500.00	\$3,500.00	\$6,800.00	\$6,800.00	\$7,500.00	\$7,500.00	\$3,000.00	\$3,000.00	\$2,000.00	\$2,000.00	
15	Protect Existing Telephone Utility	1/LS	\$5,000.00	\$5,000.00	\$10,000.00	\$10,000.00	\$1,500.00	\$1,500.00	\$5,000.00	\$5,000.00	\$7,500.00	\$7,500.00	\$1,000.00	\$1,000.00	\$2,500.00	\$2,500.00	
16	Crushed Surfacing Base Course	270/TN	\$25.00	\$6,750.00	\$45.00	\$12,150.00	\$50.00	\$13,500.00	\$60.00	\$16,200.00	\$45.00	\$12,150.00	\$50.00	\$13,500.00	\$35.00	\$9,450.00	
17	Commercial HMA Cl. 1/2" PG 58H-22	120/TN	\$150.00	\$18,000.00	\$136.00	\$16,320.00	\$150.00	\$18,000.00	\$125.00	\$15,000.00	\$180.00	\$21,600.00	\$250.00	\$30,000.00	\$150.00	\$18,000.00	
18	12' W x 4.4" Min. H x 48' L (Interior) Concrete Box Culvert	1/LS	\$205,000.00	\$205,000.00	\$107,495.00	\$107,495.00	\$110,000.00	\$110,000.00	\$200,000.00	\$200,000.00	\$110,000.00	\$110,000.00	\$200,000.00	\$200,000.00	\$362,000.00	\$362,000.00	
19	CPEP Temporary Culvert, 36 In. Diam.	90/LF	\$50.00	\$4,500.00	\$105.00	\$9,450.00	\$130.00	\$11,700.00	\$145.00	\$13,050.00	\$250.00	\$22,500.00	\$100.00	\$9,000.00	\$120.00	\$10,800.00	
20	Trench Excavation Safety Systems	1/LS	\$20,000.00	\$20,000.00	\$12,500.00	\$12,500.00	\$5,000.00	\$5,000.00	\$500.00	\$500.00	\$5,000.00	\$5,000.00	\$1,000.00	\$1,000.00	\$500.00	\$500.00	
21	Bank Run Gravel for Trench Backfill	50/TN	\$40.00	\$2,000.00	\$25.00	\$1,250.00	\$40.00	\$2,000.00	\$15.00	\$750.00	\$75.00	\$3,750.00	\$50.00	\$2,500.00	\$35.00	\$1,750.00	
22	Water Main, 6 In. Diam. (Incl. Removal of Existing Water Main)	116/LF	\$60.00	\$6,960.00	\$95.00	\$11,020.00	\$200.00	\$23,200.00	\$115.00	\$13,340.00	\$85.00	\$9,860.00	\$300.00	\$34,800.00	\$175.00	\$20,300.00	
23	Additional Ductile Iron Fittings	60/LB	\$5.00	\$300.00	\$35.00	\$2,100.00	\$5.00	\$300.00	\$12.00	\$720.00	\$50.00	\$3,000.00	\$3.00	\$180.00	\$6.00	\$360.00	
24	Connection to Existing Water Main	2/EA	\$5,000.00	\$10,000.00	\$3,500.00	\$7,000.00	\$3,000.00	\$6,000.00	\$2,600.00	\$5,200.00	\$5,000.00	\$10,000.00	\$1,500.00	\$3,000.00	\$3,200.00	\$6,400.00	
25	Temporary Water Service	115/LF	\$50.00	\$5,750.00	\$85.00	\$9,775.00	\$30.00	\$3,450.00	\$70.00	\$8,050.00	\$110.00	\$12,650.00	\$30.00	\$3,450.00	\$40.00	\$4,600.00	
26	Temporary Erosion Control	1/LS	\$13,000.00	\$13,000.00	\$2,500.00	\$2,500.00	\$10,000.00	\$10,000.00	\$8,500.00	\$8,500.00	\$12,500.00	\$12,500.00	\$40,000.00	\$40,000.00	\$6,000.00	\$6,000.00	
27	Geotextile Material for Channel Realignment	90/SY	\$3.00	\$270.00	\$8.00	\$720.00	\$7.00	\$630.00	\$4.00	\$360.00	\$50.00	\$4,500.00	\$10.00	\$900.00	\$8.00	\$720.00	
28	Flexible Guide Post	18/EA	\$80.00	\$1,440.00	\$65.00	\$1,170.00	\$40.00	\$720.00	\$80.00	\$1,440.00	\$150.00	\$2,700.00	\$60.00	\$1,080.00	\$60.00	\$1,080.00	
29	Beam Guardrail, Type 31 Non-Flared Terminal	2/EA	\$4,500.00	\$9,000.00	\$3,200.00	\$6,400.00	\$4,000.00	\$8,000.00	\$3,100.00	\$6,200.00	\$250.00	\$500.00	\$3,150.00	\$6,300.00	\$4,000.00	\$8,000.00	
30	Beam Guardrail Placement 25-Foot Span	2/EA	\$2,500.00	\$5,000.00	\$2,200.00	\$4,400.00	\$3,000.00	\$6,000.00	\$2,000.00	\$4,000.00	\$550.00	\$1,100.00	\$2,100.00	\$4,200.00	\$1,400.00	\$2,800.00	
31	Beam Guardrail, Type 31, 8-Foot Long Post	176/LF	\$50.00	\$8,800.00	\$50.00	\$8,800.00	\$75.00	\$13,200.00	\$35.00	\$6,160.00	\$55.00	\$9,680.00	\$50.00	\$8,800.00	\$45.00	\$7,920.00	
32	Beam Guardrail Anchor, Type 10	2/EA	\$2,000.00	\$4,000.00	\$1,400.00	\$2,800.00	\$2,000.00	\$4,000.00	\$3,000.00	\$6,000.00	\$750.00	\$1,500.00	\$1,400.00	\$2,800.00	\$1,800.00	\$3,600.00	
33	Remove and Replace Existing Wood Fence	190/LF	\$50.00	\$9,500.00	\$35.00	\$6,650.00	\$35.00	\$6,650.00	\$50.00	\$9,500.00	\$50.00	\$9,500.00	\$40.00	\$7,600.00	\$50.00	\$9,500.00	
34	Temporary Wire Fence	175/LF	\$40.00	\$7,000.00	\$15.00	\$2,625.00	\$12.00	\$2,100.00	\$10.00	\$1,750.00	\$50.00	\$8,750.00	\$10.00	\$1,750.00	\$18.00	\$3,150.00	
35	Quarry Spalls	125/TN	\$40.00	\$5,000.00	\$45.00	\$5,625.00	\$65.00	\$8,125.00	\$50.00	\$6,250.00	\$85.00	\$10,625.00	\$75.00	\$9,375.00	\$45.00	\$5,625.00	

DATE: 6/2019
DRAWN: SC
CHECKED: NL
APPROVED: NL

CITY OF BUCKLEY, WASHINGTON
SPIKETON DITCH CULVERT REPLACEMENT PROJECT
GRAY & OSBORNE #15225

GRAY & OSBORNE, INC.
CONSULTING ENGINEERS

BIDDER	ENGINEER'S ESTIMATE	MIKE MCCLUNG CONSTRUCTION CO.		CCT CONSTRUCTION, INC.		MARSHBANK CONSTRUCTION, INC.		OMA CONSTRUCTION, INC.		R.L. ALIA COMPANY		RODARTE CONSTRUCTION, INC.			
36 Permanent Signing	1 LS	\$300.00	\$300.00	\$5,000.00	\$5,000.00	\$1,000.00	\$1,000.00	\$1,600.00	\$1,600.00	\$10,000.00	\$10,000.00	\$1,000.00	\$1,000.00	\$1,200.00	\$1,200.00
37 Paint Line	750 LF	\$1.00	\$750.00	\$10.00	\$7,500.00	\$3.50	\$2,625.00	\$3.00	\$2,250.00	\$6.00	\$4,500.00	\$2.00	\$1,500.00	\$1.75	\$1,312.50
38 Wetland and Stream Restoration	1 LS	\$30,000.00	\$30,000.00	\$30,000.00	\$30,000.00	\$28,250.00	\$28,250.00	\$38,000.00	\$38,000.00	\$25,000.00	\$25,000.00	\$131,000.00	\$131,000.00	\$70,000.00	\$70,000.00
39 Root Wad Buttress	1 LS	\$20,000.00	\$20,000.00	\$15,000.00	\$15,000.00	\$15,000.00	\$15,000.00	\$14,000.00	\$14,000.00	\$25,000.00	\$25,000.00	\$35,000.00	\$35,000.00	\$20,000.00	\$20,000.00
40 Streambed Aggregate	440 TN	\$50.00	\$22,000.00	\$55.00	\$24,200.00	\$85.00	\$37,400.00	\$60.00	\$26,400.00	\$85.00	\$37,400.00	\$40.00	\$17,600.00	\$55.00	\$24,200.00
41 Project Documentation	1 LS	\$1,000.00	\$1,000.00	\$100.00	\$100.00	\$2,500.00	\$2,500.00	\$1,500.00	\$1,500.00	\$5,000.00	\$5,000.00	\$1,000.00	\$1,000.00	\$1,200.00	\$1,200.00
Subtotal:			\$644,625.00		\$661,100.00		\$680,900.00		\$737,790.00		\$767,165.00		\$767,945.00		\$885,897.50
Sales Tax @ 7.9%			\$50,925.38		\$52,226.90		\$53,791.10		\$58,285.41		\$60,606.04		\$60,667.66		\$69,985.90
TOTAL CONSTRUCTION COST			\$695,550.38		\$713,326.90		\$734,691.10		\$796,075.41		\$827,771.04		\$828,612.66		\$955,883.40
Sealed bids were opened at the City of Buckley, 933 Main Street, Buckley, Washington 98321 on Wednesday, June 5, 2019, at 10:00 a.m. (local time).															
I hereby certify that, to the best of my knowledge, the above tabulations are true and correct transcriptions of the unit prices and total amounts bid.															
															
NANCY LOCKETT, P.E.															

CITY OF BUCKLEY, WASHINGTON
SPIKETON DITCH CULVERT REPLACEMENT PROJECT
GRAY & OSBORNE #15225

DATE: 6/2019
DRAWN: SC
CHECKED: NL
APPROVED: NL

Page 2 of 2

GRAY & OSBORNE, INC.
CONSULTING ENGINEERS

D. CONSENT AGENDA

**City Council
May 28, 2019**

Mayor Johnson called the regularly scheduled meeting to order at 7:00 PM.

Upon roll call the following members were present: Bender, Smith, Leggett, B Burkett, Wilbanks, Tremblay, and S. Burkett. Also in attendance were City Administrator Schmidt, Police Chief Arsanto, Asst. Police Chief Northam, and Public Works Director Banks.

Mayor Johnson stated that there was an amended agenda distributed and asked if there were any other additions, deletions, or changes to the amended agenda.

Council member Tremblay moved to approve the amended agenda as presented. Council member Smith seconded the motion. Motion carried.

CITIZEN PARTICIPATION

None

STAFF REPORTS

None.

MAIN AGENDA

ORD No. 09-19 Amending and Renaming Chapter 3.314 (Fire Station Construction Fund):

Council member Wilbanks moved to Approve ORD No. 09-19 Amending and Renaming Chapter 3.134 Fire Station Construction Fund of the Buckley Municipal Code to Reflect Completion of the New Facility and Appropriate Future Use of Revenues from this Fund. Council member Smith seconded the motion. Upon roll call vote, motion carried 7/0.

Engineering Services Proposal for Design of 2019 Utilities Project:

Council member S. Burkett moved to Approve the Engineering Services Proposal Design for the 2019 Utilities Project. Council member Smith seconded the motion. Motion carried.

Agreement – Public Safety Testing:

Council member S. Burkett moved to Approve the Subscriber Agreement with Public Safety Testing. Council member Smith seconded the motion. Motion carried.

First Amendment to Memorandum of Agreement CC-92482 Between Pierce County and the City of Buckley:

Council member B. Burkett moved to Approve the First Amendment to Agreement CC-92482 between Pierce County and the City of Buckley for Traffic Maintenance Services. Council member Bender seconded the motion. Motion carried.

Revoke Award of New City Hall Window Contract from Glass Doctor of Western Washington and Award the Contract to Sunrise Glass:

Council member Smith moved to Revoke Award of the bid to Glass Doctor of Western Washington to replace the windows at City Hall and award the Contract to Sunrise Glass. Council member Leggett seconded the motion. Motion carried.

CONSENT AGENDA

Council Member S. Burkett moved to approve the Consent Agenda. Council member Smith seconded the motion. Motion carried:

Approve Minutes of May 14, 2019

Claim check numbers 59948 through 59987 in the amount of \$81,831.59 for the period of May 15, 2019, through May 28, 2019, are hereby approved and ordered paid this 28th day of May 2019.

COMMITTEE REPORTS

Mayor's Report:

Mayor Johnson shared that this weekend is the Rainier to Ruston Relay and there are approximately 2,000 people signed up for this event. This is a fundraiser for the Foothills Rails to Trails Coalition.

Administration, Finance & Public Safety:

Council member Tremblay shared that the Committee met today and reviewed the items on the agenda. We have received 11 applications so far for the Finance Director position. First review will be June 1st. One of the new police vehicles has arrived and the other one is just getting the last equipment installed and then will be here. This Friday night is graduation for the Fire Department. We will be looking at a traffic modification on River due to folks not following the back-in only parking. Police Guild negotiations have been scheduled for July. The next Heritage Walk will be June 26th at 6:00 PM.

Transportation & Utilities:

Council member B. Burkett stated that the Committee covered many of the items on tonight's agenda at their last meeting.

Community Services:

Council member S. Burkett stated that the new irrigation and sod is going in by the Youth Activity Center and should be complete for Music in the Park. Staff has been completing interviews for the new Maintenance Assistant position. The stop signs have been installed on the trail. Next meeting is June 20th at 1:00 PM at City Hall and is open to the public.

Council Member Comments & Good of the Order:

Council member Smith wanted to thank Public Works Director Banks and staff for getting the stop signs installed so quickly on the trail.

Council member Leggett moved to adjourn. Council member B. Burkett seconded the motion. Motion carried.

With nothing further the meeting was adjourned at 7:23 PM.

Mayor

City Administrator

**CITY COUNCIL
STUDY SESSION**

June 4, 2019

ATTENDEES: Councilmembers Bender, Smith, S. Burkett, Leggett, B. Burkett, Smith, and Wilbanks, Mayor Johnson and City Administrator Schmidt.

Mayor Johnson called the Study Session to order at 7:12 PM.

Mayor Johnson opened the study session by discussing briefly the upcoming log show and its events.

The council then had a discussion regarding Comprehensive Plan Elements 7 and 8. City Administrator Schmidt answered questions and stated that this is just for review as we cannot actually adopt until after September 15, 2019.

City Administrator Schmidt also reviewed the small cell telecommunications regulations that will be before Council on June 11, 2019.

The last item shared was regarding the Shoreline Master Program and that it is almost ready for adoption.

With nothing further, the Study Session was adjourned at 8:24 PM.

City Administrator Dave Schmidt

Mayor Pat Johnson

CITY OF BUCKLEY		May 31 2019	TRANSFER VOUCHER		
From Fund #	NAME	AMOUNT	To Fund #	NAME	
	Bars Number			Bars Number	
1	General Fund	\$ 292,858.85		Payroll Fund	
		\$ 123,309.13		Claims Fund	
	597.00.40	\$ 84.00	430	Utility Equip Res	397.00.60
	597.00.65	\$ 4,166.00	2	Contingency Reserve Fund	397.00.10 St Merge
3	GF Cumulative Reserve				
	597.00.30	\$ 6.68	1	G F Investment Interest	397.00.45 St Merge
4	Cemetery			Claims Fund	
	597.00.00	\$ 84.00	430	Utility Equipment Reserve	397.00.20
	597.00.50.30		1	GF Insurance Portion	397.60.80 St Merge
7	P D Maintenance Reserve	\$ 83,081.50		Payroll Fund	
				Claims Fund	
8	Railroad ROW			Payroll Fund	
				Claims Fund	
	597.00.50.30		1	GF Insurance Portion	397.60.81 St Merge
	597.00.00.46	\$ 84.00	430	Utility Equipment Reserve	397.00.70
30	Fire Equipment & EMS Reserve			Payroll Fund	
				Claims Fund	
35	Park Construction	\$ 3,210.08		Payroll Fund	
				Claims Fund	
	597.10.00.10	\$ 363.33	1	G F Investment Interest	397.00.40 St Merge
	597.10.10.10	\$ 417.00	307	Cap Imp Trailhead Parking	397.10.40
	597.10.20	\$ 167.00	430	Utility Equipment Reserve	397.00.75
101	Street Operations	\$ 7,158.04		Payroll Fund	
		\$ 8,501.59		Claims Fund	
	597.00.00	\$ 42.00	430	Utility Equipment Reserve	397.00.10
	597.50.00.30		1	GF Insurance Portion	397.60.82
	597.20.00		1	GF Administration	397.60.20
	597.30.00	\$ 3,125.00	102	Street Capital Improvement	397.00.10.50
	597.50.00.70	\$ 42.00	1	GF Dispatch	397.60.22
102	Street Capital Improvement	\$ 5,289.82		Payroll Fund	
				Claims Fund	
	597.10.00.30		1	GF Investment Interest	397.00.40
	597.10.00.31	\$ 3,518.00	1	GF Project Administration	397.60.95

From Fund #	NAME	AMOUNT	To Fund #	NAME	Bars Number
102	Street Capital Improvement				
	597.10.00.32	\$ 1,250.00	307	Cap Imp Trailhead Parking	397.10.80.60
	597.10.00.33	\$ 834.00	430	Utility Equipment Reserve	397.00.80
103	Tranportation Benefit District	\$ 22.40		Claims Fund	
	597.00.00	\$ 3,125.00	101	City Street	397.42
	597.30.48	\$ 3,883.00	101	City Street	397.20.10
105	EMS	\$ 9,368.88		Payroll Fund	
		\$ 9,782.43		Claims Fund	
	597.90.00	\$ 500.00	030/131	Fire Equip/EMS Res	131-397
	597.90.00.40	\$ 125.00	30	Fire/EMS Bunker Gear	397.10.10
109	Criminal Justice			Payroll Fund	
				Claims Fund	
	597.10.00.20	\$ 4,167.00	7	PD Maintenance Reserve	397.00.00
134	Fire Station Construction			Payroll Fund	
				Claims Fund	
	597.10.00.30	\$ 110.13	202	FS Bond Investment Interest	397.00.40
136	Visitor Promo	\$ 510.74		Payroll Fund	
				Claims Fund	
	597.10.00.10		1	GF Investment Interest	397.00.40
	597.51.00.30		1	GF Insurance Portion	397.60.90
	597.52.00.60		1	GF Brick Sales Administration	397.60.91
202	Fire Station Construction Bond	\$ 79,510.00		Claims Fund	
307	Capital Improvement	\$ 3,500.54		Payroll Fund	
				Claims Fund	
	597.10.00.10		1	GF Investment Interest	397.00.40
	597.10.00.31	\$ 2,438.00	1	GF Project Administration	397.60.99
	597.00.20.00		102	St CIP - River Avenue	397.00.20
	597.10.00.32		102	PW Admin Bldg	397.10.50
308	Comp Plan Cap Imp	\$ 10,284.40		Payroll Fund	
				Claims Fund	
	597.10.30	\$ 1,250.00	307	Cap Imp - PW Admin Bldg	397.10.80.50
	597.10.20		102	St CIP - River Avenue	397.10.40
401	Natural Gas Operations			Claims	
	6% tax 533.10.54	\$ 10.40	1	GF Business Tax	316.43
	597.00.00.70		1	GF Gas System Sale	397.60.93

From Fund #	NAME	AMOUNT	To Fund #	NAME	Bars Number
402	Water Sewer Operations	\$ 92,534.22		Payroll Fund	
		\$ 43,097.11		Claims Fund	
	10% tax W 534.10.54	\$ 7,436.01	1	GF Business Tax	316.42
	10% tax S 535.10.54	\$ 17,421.21	1	GF Business Tax	316.44
	597.00.00.50	\$ 542.00	1	GF Dispatch	397.00.60
	597.00.00.51	\$ 6,016.00	1	GF Admin Water	397.60.10
	597.00.00.52	\$ 7,360.00	1	GF Admin Sewer	397.60.10
	W 597.00.00.53		1	GF Insurance Portion	397.60.60
	S 597.00.00.55		1	GF Insurance Portion	397.60.60
	597.00.00.70	\$ 59,354.00	405	Sewer Imp Fund	397.00.00 St Merge
	597.00.00.80	\$ 16,815.00	406	Water Imp Fund	397.00.00 St Merge
	597.00.00.40	\$ 2,084.00	430	Utility Equipment Reserve	397.00.40
	597.00.00.90	\$ 1,250.00	307	Cap Imp - PW Admin Bldg	397.10.60
403	Solid Waste	\$ 84,312.18		Claims Fund	
	10% tax 537.10.54	\$ 10,528.47	1	GF Business Tax	316.45
	597.00.00.10	\$ 5,077.00	1	GF Administration	397.60.40
	597.00.00.55		1	GF Insurance Portion	397.60.83
405	Sewer Ext & Replacement			Payroll Fund	
		\$ 529,371.72		Claims Fund	
	597.10.00.31	\$ 2,231.00	1	GF Project Administration	397.60.96
	597.10.00.32	\$ 1,250.00	307	Cap Imp - PW Admin Bldg	397.10.80.70
	597.10.00.33	\$ 2,083.00	430	Utility Equipment Reserve	397.00.85
406	Water Line Replacement & Ext			Payroll Fund	
		\$ 110,576.55		Claims Fund	
	597.10.00.31	\$ 2,678.00	1	GF Project Administration	397.60.97
	597.10.00.32	\$ 1,250.00	307	Cap Imp - PW Admin Bldg	397.10.80.80
	597.10.00.40	\$ 1,250.00	430	Utility Equipment Reserve	397.00.90
407	Storm Drain Operation & Maint	\$ 17,498.01		Payroll Fund	
		\$ 7,188.88		Claims Fund	
	10 % tax 531.30.44.01	\$ 4,908.11	1	GF Business Tax	316.48
	597.00.00	\$ 1,250.00	430	Utility Equipment Reserve	397.00.50
	597.00.00.10	\$ 9,549.00	408	Storm Drain Cap	397.00.30 St Merge
	597.00.00.20	\$ 5,820.00	1	GF Admin	397.60.40.10
	597.00.00.53		1	GF Insurance Portion	397.60.71
	597.00.00.57	\$ 42.00	1	GF Dispatch	397.60.21

E. COMMITTEE REPORTS