

Our mission is to maintain and improve the quality of life reflecting community expectations through a focus on public participation and employees-mayor-council teamwork.



**Anacortes City Council
NOTICE OF SPECIAL MEETING**

**TUESDAY, February 19, 2019
5:00 p.m.**

**Municipal Building Council Chambers
904 6th Street**

NOTICE IS HEREBY GIVEN that the regular Anacortes City Council meeting of February 19, 2019 will begin at 5:00 p.m.

The Public Works Committee meeting scheduled for 5:00 p.m. on February 19, 2019 has been cancelled.

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Media**



Anacortes City Council
Municipal Building Council Chambers
904 6th Street

TUESDAY, February 19, 2019
5:00 p.m.

PRELIMINARY AGENDA

[Packet Materials](#) / [Watch Meeting](#)

1. **Call to Order**
2. **Pledge of Allegiance**
3. **Announcements and Committee Reports**
 - a. Skagit Valley Tulip Festival Poster Presentation
 - b. Port/City Liaison Committee
 - c. Public Safety Committee
4. **Public Comment**
5. **Consent Agenda (Action)**
 - a. Minutes of February 4, 2019
 - b. Approval of Claims in the amount of: \$341,310.32
 - c. Interlocal 278 with Department of Corrections: Law Enforcement Canine Training Program
 - d. Resolution 2034: Waiving Bidding Requirements for the Purchase of SAS Drives
6. **Public Hearings**
7. **Other Business**
 - a. * Ordinance 3036: Municipal Code Chapter 1.30, Contracting (Discussion/Possible Action)
 - b. * Resolution 2030: Purchasing Policy (Discussion/Possible Action)
 - c. * Resolution 2033: Authorizing a Single Source Designation to Furnish and Install an Atlantis Hydrotec Integrated Smart Monitoring System (ISM) for City's Telemetry System (Action)
 - d. * Fire Impact Fees (Discussion)
 - e. Ordinance 3038: Establishing AMC Chapter 19.68, Wireless Service Facilities and Ordinance 3039: Establishing AMC Chapter 5.38, Public Utility and Telecommunications Right-of-Way Use (Discussion/Possible Action)
 - f. * Sewer Utility Revenue Requirement (Discussion)
 - g. * Resolution 2035: Anacortes Maritime Strategic Plan (Discussion)
8. **Adjournment**

Per Resolution 1949, citizens wishing to comment on items not on the agenda may do so under the Public Comment portion of the agenda. Citizens wishing to comment on agenda items indicated with an asterisk () may do so as those items are considered by Council during the course of the meeting. Citizens wishing to speak will please sign in at the back of the Council Chambers prior to the start of the meeting. The Mayor may limit comments to those who have signed in, and may limit the time allotted to each speaker to facilitate the orderly progress of the meeting.*

The City of Anacortes encourages people with disabilities to participate in public meetings.
For assistance with special needs, please contact the City Clerk at 360-299-1960 in advance of the meeting.



Anacortes City Council

Proposed Agenda Items for the Next Eight Weeks Beginning February 25, 2019

Subjects listed below have been tentatively suggested for consideration by the Anacortes City Council on the dates indicated. Items may be added to, removed from or rearranged on this list. Routine business such as approval of minutes and vouchers are not included. The complete Preliminary Agenda for each meeting is published at 3:00 on the Wednesday prior to the meeting. Published Agendas are subject to change and may be updated following the posting period. For additional information on agenda topics, please contact the City Clerk's office at 360-299-1960 to be directed to the sponsoring staff member.

February 25, 2019

- Contract Award: WTP SCADA Systems Upgrade - Engineering Services Phase 1 #19-031-WTR-001
- Public Hearing: Ordinance 3037: Vacating the Alley in Block 31 "Map of the City of Anacortes" (Discussion/Possible Action)
- Public Hearing: Ordinance 3030: Fire Impact Fees (Discussion/Possible Action)
- Resolution 2035: Anacortes Maritime Strategic Plan (Discussion/Possible Action)
- Resolution 2032: Ratifying TBD Vehicle License Tab Repeal and Transportation Sales Tax (Discussion/Possible Action)
- Resolution 2036: Adopting Unified Fee Schedule with Revised Sewer Rates (Discussion/Possible Action)
- Contract Award: Craley ISM (Discussion/Possible Action)

March 4, 2019

- Ordinance 3035: Safety Suggestion Incentive Program for Employees (Discussion/Possible Action)

March 11, 2019

- Contract Award: Emergency Management Services 19-015-IDS-001
- Planning Commission Recommendation: Development Regulations and Zoning Map Amendments (Discussion)

March 18, 2019

- Planning Commission Recommendation: Development Regulations and Zoning Map Amendments (Discussion)

March 25, 2019

- Planning Commission Recommendation: Development Regulations and Zoning Map Amendments (Discussion)

April 1, 2019

April 8, 2019

April 15, 2019

Upcoming City Council Committee Meetings

The public is welcome to attend City Council Committee Meetings.

- Public Works, Tuesday, Feb 19, 2019, 5:00 PM, Main Conference Room, City Hall
- Parks & Recreation, Thursday, Feb 21, 2019, 6:00 PM, Main Conference Room, City Hall
- Planning, Monday, Feb 25, 2019, 5:00 PM, Main Conference Room, City Hall
- Finance, Wednesday, Feb 27, 2019, 5:00 PM, Main Conference Room, City Hall
- Public Works, Monday, Mar 4, 2019, 5:00 PM, Main Conference Room, City Hall
- Planning, Monday, Mar 11, 2019, 5:00 PM, Main Conference Room, City Hall

City Council Minutes – February 4, 2019

At 6:00 p.m. Mayor Laurie Gere called to order the regular Anacortes City Council meeting of February 4, 2019. Councilmembers Eric Johnson, Ryan Walters, Anthony Young, Brad Adams, Liz Lovelett, Bruce McDougall and Matt Miller were present. The assembly joined in the Pledge of Allegiance.

Announcements and Committee Reports

Public Works Committee: Mr. Adams reported from the committee meeting earlier in the evening. He elaborated on topics discussed including fiber optic-based leak detection technology that would be presented to Council for consideration at its next regular meeting, new earthquake warning “shake alert” technology being piloted but the U.S.G.S. that could help staff prepare infrastructure for immanent seismic events, a potential acquisition of property north of the Water Treatment Plant to allow for future expansion, and sewer rate increases discussed in principle by Council in November 2018 that would be coming back to Council for consideration and action at regular meetings in the near future.

Housing Affordability and Community Services Committee: Mr. Johnson reported that the draft Human Services Strategic Plan would soon be posted city’s website. He summarized the highlights of the committee’s recommendations in the plan for taking a more holistic approach to allocating spending for human services. Those recommendations include amending the 2016 Comprehensive Plan to include a Human Services Element and establishing an Anacortes Human Services Commission; initiating a Community Needs Assessment, and establishing strategic priorities. Mr. Johnson described the ongoing research into measures of human services spending by similarly sized cities. He also explained the concept of decriminalizing homelessness and said that topic would initially be addressed at the Public Safety Committee meeting the following day. Finally Mr. Johnson said that the draft plan calls for initiating a public/private partnership to fund a Community Resource navigator and invited Ms. Lovelett to address that subject. Ms. Lovelett contrasted human services spending the City had already committed to, including pass through CDBG funds, with new potential general fund expenditures for human services to achieve some target level to be determined. She also recalled that during the 2019/2020 biennial budget discussion Council had discussed budgeting general fund dollars equal to the amount of administrative cost allocated in the CDBG grant (roughly \$17-20K) and dedicating that amount to provide partial salary and benefits for an employee to staff a community services center for which the Anacortes Family Center had already reserved space. Ms. Lovelett noted that in spite of general support for the notion, no funds had been included in the budget. She urged her colleagues to find that \$20K and amend the 2019 budget to include it for a pilot year during which metrics for effectiveness would be developed.

Mayor Gere invited Parks and Recreation Director Jonn Lunsford to report on winter storm impacts at Washington Park. Mr. Lunsford reported that a steel piling failed and the boat launch float broke free during the high winds and swell earlier in the day. He said city staff had retrieved and secured the float but that the boat launch would be closed until further notice. Mr. Lunsford advised that staff was working with state and federal agencies to expedite permitting to replace the float and the pilings if necessary. He alerted Council that this would significantly hasten the need for dock repairs that had been envisioned for later in the year. Ms. Lovelett urged a media campaign to alert the public to the launch closure including press releases to the *Anacortes American* and the *Skagit Valley Herald*. Mr. Lunsford said he would keep the public updated as information became available. Mr. Johnson confirmed with Mr. Lunsford that the city would pursue any available insurance coverage and state funding to help cover the cost of the repairs. Mr. Miller reminded that the Army Corps of Engineers does offer emergency permitting options. Mayor Gere acknowledged Parks Maintenance staff Jim Rains for retrieving and securing the float.

Mayor Gere reported that Thursday evening and all day Friday seven Norwegian businesses had visited Anacortes on a regional tour and that two of those companies were very interested in business opportunities in

Anacortes. Mayor Gere also reported that on Saturday *F/V America's Finest* was dedicated at Dakota Creek Industries following successful waiver of the Jones Act.

Public Comment

Ward MacKenzie, 1302 7th Street, asked about the fiber optic business plan which he had been unable to locate on the city website. Specifically, Mr. MacKenzie asked if the impacts of the development of 5G wireless had been incorporated into the fiber optic business plan. He noted the potential opportunity to sell fiber capacity to the phone companies and also the potential business risk if phone companies built out their own infrastructure for high speed connectivity. Mr. McDougall acknowledged that both of those questions were central to the business plan that was currently under development. He advised that the committee envisioned that the plan would be finalized soon in conjunction with the fiber manager being hired. Mr. McDougall discussed in more detail the revenue opportunity and competitive risk involved with 5G technology, likely timing of adoption of that technology locally, and the service advantages that would make the city's fiber utility attractive to customers even in the context of 5G.

Consent Agenda

Ms. Lovelett moved, seconded by Mr. Johnson, to approve the following Consent Agenda items. The motion carried unanimously by voice vote.

Mr. Young commented that he looked forward to the upcoming discussion of the revised purchasing policy and asked that councilmembers be given an opportunity to review the draft policy before the meeting. Mayor Gere assured Mr. Young that the policy would be included in the packet materials for the meeting at which it would be considered.

- a. Minutes of January 28, 2019
- b. Approval of Claims in the amount of: \$154,938.07
- c. Contract Award: 2019 Waterline Replacement Project 19-001-WTR-001

The following vouchers/checks were approved for payment:

EFT numbers: 92087 through 92111, total \$36,607.93

Check numbers: 92086 and 92112 through 92138, total \$101,801.01

Wire transfer numbers: 244387 through 244523, total \$20,120.52

There being no further business, at approximately 6:25 p.m. the Anacortes City Council meeting of February 4, 2019 was adjourned.

The following claims against the City of Anacortes have been preaudited and certified by the Clerk-Treasurer as ready for City Council approval at the February 19, 2019 City Council meeting:
[Download this file in OpenDocument spreadsheet format.](#)

Invoice Doc #	Transaction Date	Invoice #	Vendor Full Name	Description	Total Amount	Approval Queue
245167	12/21/2018	60897	SKAGIT SURVEYORS & ENGINEERS	AERIAL MAPPING/ACFL/QUARRY - LAKESIDE/CITY SPLIT EXP	\$ 4,488.75	parks
245041	12/31/2018	10174888	NAVIA BENEFIT SOLUTIONS, INC	DECEMBER, FLEXIBLE SPENDING PARTICIPANT FEE	\$ 50.00	hr
245061	12/31/2018	2018-04 ANA	SKAGIT COUNTY DEM	4TH QTR 2018	\$ 9,086.03	medic
245166	1/1/2019	1294271	MUNICIPAL EMERGENCY SERVICES	LUBRICANT FOR SCBA FIT TESTING/REPAIR	\$ 96.46	medic
245180	1/1/2019	1292348	MUNICIPAL EMERGENCY SERVICES	COUPLINGS/ADAPTERS/FITTINGS - SCBA FIT	\$ 286.36	medic
245182	1/1/2019	1290973	MUNICIPAL EMERGENCY SERVICES	LUBRICANT - SCBA FIT TEST/REPAIR	\$ 45.86	medic
245271	1/1/2019	1287365	MUNICIPAL EMERGENCY SERVICES	5' BREATHING AIR HOSE - FIT TESTING	\$ 39.33	medic
245272	1/1/2019	1291895	MUNICIPAL EMERGENCY SERVICES	LOCTITE, MOLYKOTTE - SCBA FIT TEST/REPAIR	\$ 122.70	medic
245165	1/11/2019	1298915	MUNICIPAL EMERGENCY SERVICES	SEALING COMPOUND- SCBA FIT	\$ 116.04	medic
245042	1/11/2019	173003	SCOTT RICHARDS INSURANCE, INC	RENEW POLICY PD EQUIPMENT	\$ 11,116.00	finance
245044	1/15/2019	173174	SCOTT RICHARDS INSURANCE, INC	CONTRACTOR EQUIPMENT RENEWAL	\$ 9,824.00	finance
245152	1/18/2019	KT563080	UNIVAR USA INC	SODIUM HYDROXIDE (CAUSTIC)	\$ 5,260.99	dwtpt
243810	1/19/2019	21041	TRAILER BOSS	PARKS DEPT TRAILER - 2018 MIRAGE XCEL	\$ 6,008.07	dshop
245112	1/21/2019	1991076775	ARAMARK	LAUNDRY SERVICE FOR WWTP	\$ 72.88	dwwtp
245123	1/22/2019	250006A	BAY CITY SUPPLY	FACILITY SUPPLIES	\$ 497.47	pwwfac
245008	1/23/2019	0232389-IN	REISNER DISTRIBUTOR INC	LUBRICANTS- SHOP	\$ 713.00	dshop
245125	1/24/2019	250764	BAY CITY SUPPLY	FACILITY SUPPLIES	\$ 487.88	pwwfac
245134	1/24/2019	797932	BAYSHORE OFFICE PRODUCTS INC	CITY HALL REPLACEMENT DESK	\$ 1,371.52	pwwfac
245137	1/24/2019	880864	GUARDIAN SECURITY SYSTEMS INC	WTP REPAIR	\$ 1,822.80	pwwfac
245292	1/24/2019	156816	OASYS INC	PRINTER REPAIR	\$ 955.46	pwwfac
245121	1/25/2019	1251	CASCADE HOOD SERVICE	HOOD FAN CLEANING @ ASAC	\$ 298.38	pwwfac
245162	1/25/2019	1303433	MUNICIPAL EMERGENCY SERVICES	LUBRICANTS FOR SCBA FIT TESTING/REPAIR	\$ 305.58	medic
245117	1/25/2019	3067	NW CLEANERS	JANITORIAL SERVICE ASAC/CITY HALL	\$ 230.00	pwwfac
245060	1/25/2019	14697087	WASTEQUIP MANUFACTURING CO LLC	WINCHES- SOLID WASTE	\$ 1,481.09	dshop
245284	1/27/2019	5004730310	FERRELLGAS, LP	JANUARY PROPANE INVOICE - AUTOGAS ACCOUNT	\$ 973.50	finance
245022	1/28/2019	264047-1916	AMERICAN PLANNING ASSOCIATION	APA 2019 MEMBERSHIP KCRICCHIO	\$ 431.00	plan
245131	1/28/2019	251005	BAY CITY SUPPLY	FACILITY SUPPLIES	\$ 116.06	pwwfac
245303	1/28/2019	308820	DEPT OF LABOR & INDUSTRIES	BOILER INSPECTION	\$ 113.76	publib
245013	1/28/2019	08905150	LEXISNEXIS MATTHEW BENDER	PUB DEF LAW LIBRARY	\$ 189.88	court
244938	1/28/2019	300000290043	PUGET SOUND ENERGY INC	STREET LIGHTS (12/1-12/31/18)	\$ 14,693.55	dshop

Invoice Doc #	Transaction Date	Invoice #	Vendor Full Name	Description	Total Amount	Approval Queue
245017	1/28/2019	9823135333	VERIZON WIRELESS	City Cell Phones 12/29/18-01/28/2019	\$ 12,310.48	finance
245174	1/29/2019	9146948	RYAN HERCO PRODUCTS CORP	CLAMPS	\$ 53.44	dwwtp
245116	1/29/2019	1262234	SURETY PEST CONTROL	CITY HALL RODENT CONTROL	\$ 43.40	pwfac
245051	1/30/2019	83100770	BOUND TREE MEDICAL, LLC	PHARMACEUTICALS	\$ 2.80	medic
245133	1/30/2019	S3684519.001	BUILDERS' HARDWARE & SUPPLY	KEYS FOR LIBRARY	\$ 79.10	pwfac
245159	1/30/2019	1305136	MUNICIPAL EMERGENCY SERVICES	FITTINGS FOR SCBA FIT TESTING	\$ 96.87	medic
245296	1/30/2019	156967	OASYS INC	PRINTER CARTRIDGE	\$ 173.95	pwfac
245018	1/31/2019	January 31, 2019	ANACORTES FAMILY CENTER	CDBG PUBLIC SERVICES 2018	\$ 9,790.20	plan
245132	1/31/2019	250329	BAY CITY SUPPLY	FACILITY SUPPLIES	\$ 105.19	pwfac
245151	1/31/2019	170	BUBBA SUDZ CAR WASH, INC.	JANUARY CAR WASHES- 8	\$ 72.00	dshop
245130	1/31/2019	11319127	HACH COMPANY	TITRATOR HARDNESS STANDARD	\$ 79.26	dwwtp
245004	1/31/2019	77533	LAKESIDE INDUSTRIES, INC.	1 1/4" & 1 1/2" GRAVEL- STREET DEPT	\$ 734.33	dshop
245021	1/31/2019	MV206336	MOTOR TRUCKS, INC	CRANKSHAFT SENSOR- VEH #203	\$ 139.59	dshop
245293	1/31/2019	157028	OASYS INC	PRINTER CARTRIDGE	\$ 173.95	pwfac
244998	1/31/2019	7351	PETDATA, INC	PETDATA LICENSING FEES JANUARY	\$ 1,131.60	finance
244999	1/31/2019	001-424551	PISTON SERVICE OF ANACORTES	MISC PARTS- SHOP	\$ 35.71	dshop
245000	1/31/2019	CL82971	REISNER DISTRIBUTOR INC	VEHICLE FUEL - JANUARY	\$ 16,774.66	finance
245054	1/31/2019	600001371	SKAGIT REGIONAL HEALTH	PHYSICALS: OLIVERI, VASCHAICK, PRATT, JESSEN. TRIBBLE	\$ 3,267.00	medic
245181	1/31/2019	114-8007252	UNITED SITE SERVICES, INC	WASHINGTON PARK LOOP-JANUARY 2019	\$ 47.89	parks
245183	1/31/2019	114-8007254	UNITED SITE SERVICES, INC	ACE OF HEARTS DOG PARK - JANUARY 2019	\$ 63.86	parks
245184	1/31/2019	114-8007295	UNITED SITE SERVICES, INC	WASHINGTON PARK JANUARY 2019	\$ 62.00	parks
245185	1/31/2019	114-8007326	UNITED SITE SERVICES, INC	EDWARDS WAY - JANUARY 2019	\$ 82.73	parks
245270	1/31/2019	114-8007374	UNITED SITE SERVICES, INC	WASHINGTON PARK - JANUARY 2019	\$ 82.73	parks
245157	1/31/2019	386000156	US BANK NA - CUSTODY TREAS DIV	INVESTMENT FEES 1/1/2019 - 1/31/2019	\$ 67.00	finance
245052	1/31/2019	58926883	U-SELECT-IT	2019 SUBSCRIPTION FOR PHARMACEUTICAL VENDING SOFTWARE	\$ 1,200.00	medic
245048	1/31/2019	9010121	UTILITIES UNDERGROUND LOCATION	LOCATES FOR JANUARY	\$ 166.41	dshop
245149	1/31/2019	887636	VOIANCE LANGUAGE SERVICES, LLC	LANGUAGE LINE - PHONE CALL KOREAN - APD CASE 19-A00235	\$ 38.76	apd
245064	2/1/2019	248183	ANACORTES ANIMAL HOSPITAL	BOARD & DISTRAINER; JAN 2019	\$ 242.50	apd
245124	2/1/2019	92569006	CHEMTRADE CHEMICALS US LLC	ALUMINUM SULFATE	\$ 4,435.00	dwwtp
245062	2/1/2019	3602930045	FRONTIER COMMUNICATIONS	BACKUP LINES @ 29-1 (2/1 - 2/28)	\$ 149.16	medic
245009	2/1/2019	I5064316	HD FOWLER COMPANY INC	VALVE WRENCH- WATER DEPT	\$ 288.32	dshop
245053	2/1/2019	2/1/19	ISLAND HOSPITAL	JANUARY AMBULANCE SUPPLIES	\$ 895.87	medic
245001	2/1/2019	4387	NWRC	MEMBERSHIP FEE FOR 2019; FREQUENCIES/REPEATER MAINT AND REPAIR	\$ 200.00	apd
245304	2/1/2019	16142246	PACIFIC POWER BATTERIES	BATTERIES	\$ 28.59	publib
245122	2/1/2019	200012505505	PUGET SOUND ENERGY INC	WTP 1/1 - 1/31/19	\$ 64,984.70	dwwtp

Invoice Doc #	Transaction Date	Invoice #	Vendor Full Name	Description	Total Amount	Approval Queue
244948	2/1/2019	5055806882	RICOH USA, INC	S/N C86180481 PARKS 11/1/18-1/31/19	\$ 21.78	parks
245065	2/1/2019	LE=19-04	SKAGIT COUNTY CISM TEAM	ANNUAL FEE FOR SERVICES; CISM TEAM 2019	\$ 500.00	apd
245153	2/1/2019	KT564012	UNIVAR USA INC	SODIUM HYDROXIDE (CAUSTIC)	\$ 5,315.84	dwtpt
245158	2/1/2019	1390054-0043-8	WASTE MANAGEMENT	JANUARY 2019 CONTRACTED SERVICES	\$ 108,209.59	finance
245283	2/2/2019	000099E018059	UNITED PARCEL SERVICE, INC	SHIPPING	\$ 14.41	medic
245110	2/4/2019	1991097162	ARAMARK	LAUNDRY SERVICE FOR WWTP	\$ 72.00	dwwtp
245173	2/4/2019	011888155	GALLS, LLC.	UNIFORM BOOTS; OFC WILSON	\$ 119.34	apd
245007	2/4/2019	888444	GUARDIAN SECURITY SYSTEMS INC	SERVICE CALL- SHOP	\$ 325.50	dshop
245063	2/4/2019	900090	LIFE ASSIST, INC	CASE OF MEGA-MOVERS, 4 OF PREP RAZORS	\$ 302.06	medic
245006	2/4/2019	0236617-IN	SIRENNET.COM	POLICE VEHICLE SUPPLIES- #040A, #041A, #210A	\$ 1,480.89	dshop
245005	2/5/2019	194091-5	BIRCH EQUIPMENT CO., INC	ELECTRIC DRILL- WATER DEPT	\$ 16.28	dshop
245050	2/5/2019	3955394	CARDINAL HEALTH 110, INC.	PHARMACEUTICALS	\$ 62.89	medic
245120	2/5/2019	19-04060	EDGE ANALYTICAL, INC	BAC T ANALYSIS	\$ 15.00	dwtpt
245019	2/5/2019	001-424931	PISTON SERVICE OF ANACORTES	HYDRAULIC HOSES- #601	\$ 99.27	dshop
245298	2/5/2019	220013286525	PUGET SOUND ENERGY INC	HEART OF ANACORTES 01/05-02/04/19	\$ 167.06	plan
245135	2/6/2019	799521	BAYSHORE OFFICE PRODUCTS INC	CITY HALL ITEMS	\$ 267.75	pwfac
245144	2/6/2019	IB44201	FARMERS EQUIPMENT COMPANY	PARTS- VEH #601	\$ 51.67	dshop
245114	2/6/2019	111684	FASTENAL COMPANY	FLASHLIGHT, SAFETY GLASSES, GLOVES,	\$ 416.41	medic
245286	2/6/2019	53914	KROESENS UNIFORMS COMPANY	5 LIEUTENANT CLASS A BADGES	\$ 380.84	medic
245288	2/6/2019	53913	KROESENS UNIFORMS COMPANY	2 CHIEF CLASS A BADGES	\$ 235.88	medic
245291	2/6/2019	53915	KROESENS UNIFORMS COMPANY	8 LIEUTENANT CLASS B BADGES	\$ 609.34	medic
245020	2/6/2019	3-111124	LOUIS AUTO GLASS INC.	INSTALL WINDSHIELD- #514	\$ 193.49	dshop
245297	2/6/2019	220013297076	PUGET SOUND ENERGY INC	1100 STATE ROUTE 20 1/6-2/5/19	\$ 18.12	plan
245045	2/6/2019	174180	SCOTT RICHARDS INSURANCE, INC	COMMERICAL PROPERTY DNLD RENEW	\$ 1,727.00	finance
245046	2/6/2019	173636	SCOTT RICHARDS INSURANCE, INC	BUSINESS AUTO - ADD 2015 FORREST RIVER	\$ 74.00	finance
245055	2/6/2019	173637	SCOTT RICHARDS INSURANCE, INC	COMMERCIAL PROPERTY - DELETED WIND-HAIL EXCLUSION	\$ 355.00	finance
245145	2/6/2019	0236678-IN	SIRENNET.COM	PARTS- #210A	\$ 97.32	dshop
245143	2/6/2019	1149656	SKAGIT PUBLISHING LLC	PUBLISH AA-1863951	\$ 81.20	finance
245128	2/6/2019	331 0446353	UNIFIRST CORPORATION	WTP LAUNDRY SERVICE	\$ 59.49	dwtpt
245002	2/6/2019	I19005180	WASHINGTON STATE PATROL	BACKGROUND CHECKS; JANUARY 2019	\$ 265.00	apd
245010	2/6/2019	I19004672	WASHINGTON STATE PATROL	BACKGROUND CHECKS	\$ 60.00	hr
245059	2/6/2019	I19004652	WASHINGTON STATE PATROL	BACKGROUND CHECKS - BASKETBALL COACHES	\$ 36.00	pkrec
245066	2/7/2019	1991103452	ARAMARK	APD NYLON MATS CLEANED	\$ 16.28	apd
245115	2/7/2019	1991103461	ARAMARK	OPS:MAT CLEANING 02/07/19	\$ 41.56	dshop
245274	2/7/2019	1991103460	ARAMARK	OPS & PARKS LAUNDRY SVC FOR	\$ 70.06	finance

Invoice Doc #	Transaction Date	Invoice #	Vendor Full Name	Description	Total Amount	Approval Queue
245136	2/7/2019	B799521-1	BAYSHORE OFFICE PRODUCTS INC	CHAIR MAT	\$ 79.69	pwfac
245058	2/7/2019	RefundBrendel	BRENDEL, RUSSELL	REFUND - CANCEL EVENT SECONDARY TO INCLEMENT WEATHER	\$ 153.00	parks
245290	2/7/2019	53920	KROESENS UNIFORMS COMPANY	WORK BOOTS (HV)	\$ 206.48	medic
245111	2/7/2019	900976	LIFE ASSIST, INC	QUICK CONNECT FOR CPAP	\$ 113.69	medic
245156	2/7/2019	AFD FM Q4 18	SKAGIT- 911	SPILLMAN FEES- 4TH QTR 2018	\$ 1,172.24	medic
245148	2/7/2019	51315	SKAGIT COUNTY GOVERNMENT	SKAGIT COUNTY IS - SPILLMAN (QTR 4 2018)	\$ 6,328.42	apd
245129	2/7/2019	812475	SKAGIT COUNTY SOLID WASTE FUND	WTP DUMP RUN	\$ 24.90	dwtp
245047	2/7/2019	113952	WALTON BEVERAGE COMPANY, INC	BREAKROOM SUPPLIES	\$ 157.50	dshop
245049	2/7/2019	113950	WALTON BEVERAGE COMPANY, INC	10 LBS COFFEE 2/7	\$ 87.50	medic
245126	2/7/2019	113954	WALTON BEVERAGE COMPANY, INC	BREAKROOM SUPPLIES	\$ 87.50	dwtp
245127	2/7/2019	113955	WALTON BEVERAGE COMPANY, INC	BREAKROOM SUPPLIES	\$ 4.34	dwtp
245169	2/7/2019	113951	WALTON BEVERAGE COMPANY, INC	CITY HALL BREAK ROOM SUPPLIES	\$ 402.50	finance
245177	2/8/2019	177940J-5	BIRCH EQUIPMENT CO., INC	STORAGE CONTAINER AT DEPOT	\$ 151.90	parks
243592	2/8/2019	K069021	CORE & MAIN LP	WATER INVENTORY PARTS	\$ 2,469.66	wdist
245178	2/8/2019	011928535	GALLS, LLC.	UNIFORM SERVICE STRIPES	\$ 108.50	apd
245277	2/8/2019	0420415	PLATT ELECTRIC SUPPLY INC	MOTOR STARTER	\$ 188.50	dwwtp
245146	2/8/2019	0236771-IN	SIRENNET.COM	PARTS- VEH #210A	\$ 318.01	dshop
245118	2/8/2019	190197	T-SHIRTS BY DESIGN	BOYS BASKETBALL T SHIRTS	\$ 41.23	parks
245175	2/8/2019	01282273	WALTON BEVERAGE COMPANY, INC	APD BREAKROOM SUPPLIES	\$ 52.50	apd
245113	2/8/2019	56471	WHITNEY EQUIPMENT CO INC	IMPELLER	\$ 1,411.44	dwwtp
245150	2/9/2019	00005W5A83069	UNITED PARCEL SERVICE, INC	UPS SHIPPING CHARGES; WEEK ENDING 2-9-19	\$ 9.26	apd
245306	2/10/2019	8493 30 017 0490698	COMCAST	CITY HALL INTERNET CONNECTION 2/20-3/19/19	\$ 186.12	finance
245307	2/10/2019	8498 30 030 0111230	COMCAST	WTP 14489 RIVER BEND RD. - 2/19-3/18/19	\$ 230.59	finance
245171	2/11/2019	19911072575	ARAMARK	LAUNDRY SERVICE FOR WWTP	\$ 72.00	dwwtp
245140	2/11/2019	3091843871	LEXISNEXIS	LEXIS NEXIS LEGAL SUBSCRIPTION JAN.2019	\$ 324.42	legal
245141	2/11/2019	19-2016	LIFE TEK, INC	FA/CPR TRAINING	\$ 300.00	dwwtp
245142	2/11/2019	19-2060	LIFE TEK, INC	FA/CPR TRAINING~	\$ 300.00	dwwtp
245154	2/11/2019	ReimbNations	NATIONS, JACQUELINE	ICE MELT FOR APD - SGT NATIONS HAD TO PAY OVER PETTY CASH AMT	\$ 28.33	apd
245155	2/11/2019	REIMB PETTY CASH	PETTY CASH FUND	REIMB PETTY CASH -GRAVEL AND ICE MELT	\$ 59.54	apd
245281	2/11/2019	B09504490	SHI INTERNATIONAL CORP.	MICROSOFT SELECT PLUS AGREEMENT	\$ 5,817.01	infosys
245139	2/11/2019	February	SKAGIT LAW GROUP PLLC	PROSECUTING ATTORNEY SERVICES FEB. 2019	\$ 6,120.00	legal
245168	2/12/2019	87465512	150-PRAXAIR DISTRIBUTION INC	CYLINDER RENTAL AND GAS	\$ 407.54	dwwtp
245279	2/12/2019	799350	BAYSHORE OFFICE PRODUCTS INC	SHIPMENT TO RAINIER	\$ 184.54	dwwtp

Invoice Doc #	Transaction Date	Invoice #	Vendor Full Name	Description	Total Amount	Approval Queue
245179	2/12/2019	011926700	GALLS, LLC.	DRESS UNIFORM METAL NAME TAG, CHIEF SMALL	\$ 19.52	apd
245170	2/12/2019	BINV0007407	GOBLE SAMPSON ASSOCIATES, INC	TUBING	\$ 273.97	dwwtp
245176	2/12/2019	BINV0007406	GOBLE SAMPSON ASSOCIATES, INC	POLY BLEND LMI PUMP KIT	\$ 313.52	dwwtp
245301	2/12/2019	200015995380	PUGET SOUND ENERGY INC	ELECTRICITY	\$ 1,879.52	apd
245172	2/12/2019	S20183162	SUPERIOR SYSTEMS, INC	MODIFY COUPLER	\$ 53.17	dwwtp

Total **\$341,310.32**

The following claims against the City of Anacortes have been preaudited and certified by the Clerk-Treasurer as ready for City Council approval at the February 11, 2019 City Council meeting:
[Download this file in OpenDocument spreadsheet format.](#)

Invoice Doc #	Transaction Date	Invoice #	Vendor Full Name	Description	Total Amount	Approval Queue
244587	11/1/2018	110118-50433	PACIFIC MOBILE STRUCTURES, INC	JOB SHACK RENTAL FOR WATER/SW OFFICE	\$ 435.63	wdist
244594	11/12/2018	18443.02-3	GRAY & OSBORNE INC	ON-CALL STORMWATER ENGINEERING SERVICES CONSULTANT: RICE H AVE SHORT PLAT REVIEW	\$ 1,753.34	pw1
244789	12/4/2018	11534	SKILLINGS CONNOLLY, INC	WWTP SAMPLING AND ANALYSIS PLAN (SAP) - 10/26/18-11/25/18	\$ 1,904.00	dwwtp
244648	12/12/2018	mts235481	MOTOR TRUCKS, INC	REPAIRS VEH #203: PARTS & LABOR, SHOP	\$ 6,166.01	dshop
244607	12/26/2018	87857^	BLYTHE PLUMBING & HEATING, INC	WTP HVAC REPAIR - DRY CHEMICAL BUILDING	\$ 911.58	dwwtp
244617	12/31/2018	40268	GEO-TEST SERVICES, INC	WTP CHLORINATION SYSTEM CONVERSION PROJECT - INSPECTION & TESTING	\$ 345.20	pw1
244792	12/31/2018	29034	REICHHARDT & EBE ENGINEERING	SHIP HARBOR & SR20 INTERSECTION - DEC 2018	\$ 3,240.25	pw1
244787	12/31/2018	48271	ROBINSON BROTHERS	FIBER BUILD - CENTRAL BROADBAND DISTRICT - THROUGH 12/31/18	\$ 21,184.41	hr
244818	12/31/2018	210519	SEAWESTERN, INC.	CALIBRATION GAS FOR DETECTORS	\$ 491.51	medic
244711	1/2/2019	1st qtr	NORTHWEST PARKING EQUIPMENT	1ST QTR MAINTENANCE-WP 2019	\$ 461.13	parks
243195	1/3/2019	1316229	POLYDYNE, INC	CLARIFLOC - POLYMER	\$ 3,357.70	dwwtp
244777	1/4/2019	Pay App 3	AWARD CONSTRUCTION, INC.	CHLORINATION CONVERSION PROJECT - CONSTRUCTION	\$ 298,228.53	dwwtp
244591	1/4/2019	S000470401	VANDERYACHT PROPANE, INC.	FIRE STATION 3 PROPANE TANK RENTAL	\$ 337.79	medic
244596	1/7/2019	18655.00-1	GRAY & OSBORNE INC	WATER TRANSMISSION MAIN REHAB - INSPECTION & ANALYSIS 12/9/18-1/5/19	\$ 2,575.83	pw1
244687	1/8/2019	37218431	WASTEQUIP MANUFACTURING CO LLC	WINCH HANDLES	\$ 227.85	dshop
244623	1/14/2019	007J8251	HARRINGTON INDUSTRIAL	PIPING	\$ 5,891.83	dwwtp
244625	1/15/2019	11297050	HACH COMPANY	TURB REPLACEMENTS X 3	\$ 9,091.22	dwwtp
244610	1/17/2019	87548^	BLYTHE PLUMBING & HEATING, INC	WTP HVAC REPAIR GENERATOR ROOM	\$ 487.73	dwwtp
244778	1/17/2019	2-553331-19	DIAMOND RENTALS, INC.	CEM/COMM GARDEN/TT TRAIL	\$ 342.00	parks
244756	1/17/2019	4050	WASHINGTON RECREATION	WRPA CONFERENCE REGISTRATION - VAUX	\$ 319.00	parks
244781	1/18/2019	2914-21901024	FCS GROUP	SEWER COST OF SERVICE AND RATE DESIGN STUDY - THROUGH 1/18/19	\$ 5,415.00	pw1
244783	1/18/2019	1200168940	HDR ENGINEERING, INC	SKAGIT RIVER 42" WATER LINE PROJECT - PHASE 1 - 11/5/18-12/31/18	\$ 57,414.04	pw1
244621	1/18/2019	1315734	POLYDYNE, INC	CLARIFLOC	\$ 6,274.56	dwwtp
244722	1/19/2019	75908	LAKE SIDE INDUSTRIES, INC.	GRAVEL FOR WASH. PARK	\$ 90.47	parks
244611	1/22/2019	19-02498	EDGE ANALYTICAL, INC	WTP WEEKLY BAC T ANALYSIS	\$ 15.00	dwwtp

Invoice Doc #	Transaction Date	Invoice #	Vendor Full Name	Description	Total Amount	Approval Queue
244718	1/23/2019	01_19JAN23	ACME CREATIVE	PHOTOGRAPHY - LUNSFORD	\$ 245.75	parks
244612	1/23/2019	18-31299	EDGE ANALYTICAL, INC	WTP UCMR	\$ 1,324.00	dwtp
244615	1/23/2019	P1529-24	QCC QUALITY CONTROLS CORP.	ON CALL PROFESSIONAL SERVICES AT WWTP -	\$ 6,597.50	dwtp
244616	1/23/2019	P1529-25	QCC QUALITY CONTROLS CORP.	ON CALL PROFESSIONAL SERVICES AT WWTP - VFDS	\$ 2,355.81	dwtp
244624	1/23/2019	331 0444108	UNIFIRST CORPORATION	WTP LAUNDRY SERVICE	\$ 55.62	dwtp
244649	1/23/2019	114-7957006	UNITED SITE SERVICES, INC	INTAKE STATION PORTA-POTTI RENTAL	\$ 22.98	dwtp
244774	1/24/2019	9500931931	ARROW INTERNATIONAL, INC.	2 BOXES (OF 5) EZ-IO) 25 MM NEEDLES	\$ 1,210.32	medic
244796	1/24/2019	386981	SUN BADGE CO.	REPAIR SERGEANT BADGE	\$ 63.00	apd
244689	1/24/2019	1265252	SURETY PEST CONTROL	WA PARK PEST CONTROL	\$ 70.53	pwfac
244712	1/24/2019	190123	T-SHIRTS BY DESIGN	BOYS BASKETBALL T SHIRTS 2019	\$ 1,872.71	pkrec
244622	1/24/2019	113899	WALTON BEVERAGE COMPANY, INC	WTP BREAKROOM SUPPLIES	\$ 52.50	dwtp
244686	1/25/2019	21340	ECONOWASH LAUNDRY & DRY	UNIFORM CLEANING; 12/25/18 - 1/25/19	\$ 477.13	apd
244773	1/25/2019	21337	ECONOWASH LAUNDRY & DRY	JANUARY LAUNDRY - ALL STATIONS	\$ 1,614.75	medic
244720	1/25/2019	artwalk	SCOTT MILO GALLERY/FRAMEMAKER	FEBRUARY DEPOT ARTWALK 2019	\$ 62.00	parks
244963	1/25/2019	1262235	SURETY PEST CONTROL	LIBRARY PEST CONTROL	\$ 66.19	publib
244750	1/26/2019	76479	LAKESIDE INDUSTRIES, INC.	5/8" AND 3/4" -0 ROCK	\$ 171.19	wdist
244761	1/26/2019	76481	LAKESIDE INDUSTRIES, INC.	EZ STREET ASPHALT	\$ 1,039.00	wdist
244762	1/26/2019	76480	LAKESIDE INDUSTRIES, INC.	ROCK SALES, 5/8 & 3/4, 1 1/2 & 1 1/2	\$ 379.41	wdist
244936	1/26/2019	9823091983	VERIZON WIRELESS	WTP SCADA MODEM 12/27/18 - 1/26/19	\$ 504.35	dwtp
244713	1/28/2019	1991086946	ARAMARK	LAUNDRY SERVICE FOR WWTP	\$ 72.00	dwtp
244785	1/28/2019	63960	CENTRAL WELDING SUPPLY CO, INC	O2 FOR MED SUPPLIES	\$ 98.85	medic
244613	1/28/2019	19-03212	EDGE ANALYTICAL, INC	WTP TCR BLUE HERON	\$ 45.00	dwtp
244614	1/28/2019	19-03237	EDGE ANALYTICAL, INC	WTP TCR BOOSTERS	\$ 165.00	dwtp
244715	1/28/2019	360-293-6427-0218975	FRONTIER COMMUNICATIONS	CITY HALL 911 1/28-2/27/19	\$ 75.29	finance
244788	1/28/2019	360-588-1422-0822015	FRONTIER COMMUNICATIONS	APD BUSINESS LINE (1/28/19-2/27/19)	\$ 290.78	apd
244790	1/28/2019	360-588-9248-0619005	FRONTIER COMMUNICATIONS	APD BACK UP LINES [1/28/19-2/27/19]	\$ 202.03	apd
244791	1/28/2019	360-299-6615-0615165	FRONTIER COMMUNICATIONS	APD 911 LINE (1/28/19-2/27/19)	\$ 68.74	apd
244793	1/28/2019	360-293-4900-0912865	FRONTIER COMMUNICATIONS	APD BAC LINE (1/28/19-2/27/19)	\$ 81.12	apd
244819	1/28/2019	360-293-9063-0925607	FRONTIER COMMUNICATIONS	STA 3 PHONE, FAX, INTERNET: 1/28 - 2/27	\$ 78.17	medic
244958	1/28/2019	360-299-2484-0726025	FRONTIER COMMUNICATIONS	LIBRARY PHONE 1/28 - 2/27/19	\$ 54.71	publib
244956	1/28/2019	609828	MISTER T'S AWARDS &	NAME TAG, MORGAN WHITE, LIBRARY	\$ 20.07	hr
244763	1/28/2019	300000006951	PUGET SOUND ENERGY INC	STREET LIGHTS 12/28/18 - 1/28/19	\$ 62.99	dshop

Invoice Doc #	Transaction Date	Invoice #	Vendor Full Name	Description	Total Amount	Approval Queue
244939	1/28/2019	300000340004	PUGET SOUND ENERGY INC	STREET LIGHTS (12/28-1/28/19)	\$ 66.67	dshop
244940	1/28/2019	220015149234	PUGET SOUND ENERGY INC	STREET LIGHTS: 8147 S MARCH PT RD (12/28/18-1/28/19)	\$ 25.93	dshop
244651	1/28/2019	0231999	REISNER DISTRIBUTOR INC	OILS, BREATHERS	\$ 7,394.43	dwtpt
244688	1/28/2019	92597	SKAGIT RIVER STEEL &	SQ TUBE	\$ 57.66	wdist
244816	1/28/2019	1611689	WOOD'S LOGGING SUPPLY, INC	REPLACEMENT CHAIN SAW CHAIN	\$ 264.48	medic
244685	1/29/2019	798617	BAYSHORE OFFICE PRODUCTS INC	PUBLIC RECORDS COPIES STORMWATER ISSUES	\$ 184.45	plan
244710	1/29/2019	798502	BAYSHORE OFFICE PRODUCTS INC	CHAIR MAT FOR USE @ CITY HALL	\$ 267.75	pwfac
244646	1/29/2019	19-02403	EDGE ANALYTICAL, INC	WTP WEEKLY BAC T ANALYSIS	\$ 49.00	dwtpt
244779	1/29/2019	19-03382	EDGE ANALYTICAL, INC	BAC T ANALYSIS	\$ 15.00	dwtpt
244726	1/29/2019	ContractJenkins	JENKINS, MIKE	DJ FOR DADDY DAUGHTER DANCE	\$ 300.00	pkrec
244636	1/29/2019	18-067-FAC-0011	MOUNT VERNON CARPET	RETAINAGE RELEASE	\$ 3,594.31	pw1
244803	1/29/2019	266536303-001	OFFICE DEPOT, INC.	CLIPBOARDS, PAPER	\$ 80.36	dwtpt
244934	1/29/2019	266534911001	OFFICE DEPOT, INC.	COPY PAPER WWTP	\$ 107.38	finance
244767	1/30/2019	1991091225	ARAMARK	STA 3 MAT SERVICE: 1/30	\$ 21.70	medic
244800	1/30/2019	248 984 6277 5	CASCADE NATURAL GAS CORP.	WTP NATURAL GAS 1/1 - 1/29/19	\$ 3,302.49	dwtpt
244768	1/30/2019	19-00127	EDGE ANALYTICAL, INC	BAC T ANALYSIS	\$ 217.00	dwtpt
244813	1/30/2019	628941	HASA, INC	SODIUM HYPOCHLORITE	\$ 3,568.63	dwtpt
244960	1/30/2019	200000666863	PUGET SOUND ENERGY INC	LIBRARY 10TH STREET LED 1/1 - 1/30/19	\$ 6.66	publib
244961	1/30/2019	200000667218	PUGET SOUND ENERGY INC	LIBRARY 10TH & M ST 1/1 - 1/30/19	\$ 21.02	publib
244812	1/30/2019	1145505	SKAGIT PUBLISHING LLC	PUBLISH AA-1860786	\$ 60.90	finance
244806	1/30/2019	331 0445233	UNIFIRST CORPORATION	WTP LAUNDRY SERVICE	\$ 59.49	dwtpt
244752	1/30/2019	026P266872	WESTERN TRUCK CENTER	WINDSHIELD- #514	\$ 89.54	dshop
244955	1/31/2019	269804	A WORKSAFE SERVICE INC	PRE PLACEMENT DRUG TEST, ZACH RIGELMAN	\$ 55.00	hr
244775	1/31/2019	84208718	ALPHA TECHNOLOGIES SERVICES	DC PLANT & BATTERIES INSTALLATION	\$ 5,854.66	hr
244751	1/31/2019	1991093290	ARAMARK	OPS- MAT CLEANING: 01/31/2019	\$ 33.05	dshop
244759	1/31/2019	1991093289	ARAMARK	OPS & PARKS LAUNDRY SVC FOR	\$ 70.06	finance
244771	1/31/2019	1991093280	ARAMARK	STA 2 MAT SERVICE: 1/31	\$ 21.70	medic
244772	1/31/2019	1991093281	ARAMARK	STA 1 MAT SERVICE: 1/31	\$ 21.70	medic
244795	1/31/2019	1991093284	ARAMARK	APD NYLON MATS CLEANED	\$ 16.28	apd
244717	1/31/2019	0188498606	CONSOLIDATED ELECTRICAL	PHOTO CELL FOR PS15	\$ 20.66	dwwtp
244769	1/31/2019	19-02403	EDGE ANALYTICAL, INC	FECAL COLIFORM, E COLI ANALYSIS	\$ 49.00	dwtpt
244770	1/31/2019	19-03355	EDGE ANALYTICAL, INC	FECAL COLIFORM, E COLI ANALYSIS	\$ 49.00	dwtpt
244780	1/31/2019	19-03633	EDGE ANALYTICAL, INC	INVESTIGATIVE TCR ANALYSIS	\$ 30.00	dwtpt
244782	1/31/2019	18-42394	EDGE ANALYTICAL, INC	UCMR4 ANALYSIS	\$ 1,314.00	dwtpt
244721	1/31/2019	360-299-3674-0214175	FRONTIER COMMUNICATIONS	OPS BACK UP PHONE LINE: 1/28/19 - 2/27/19	\$ 67.70	dshop

Invoice Doc #	Transaction Date	Invoice #	Vendor Full Name	Description	Total Amount	Approval Queue
244724	1/31/2019	360-299-0813-1017915	FRONTIER COMMUNICATIONS	WWTP PHONE BILL	\$ 302.64	dwwtp
244725	1/31/2019	360-293-3725-0501135	FRONTIER COMMUNICATIONS	DEPOT PHONE 360-293-3725 - 1/28-2/27/19	\$ 60.40	parks
244753	1/31/2019	5768	IRONCLAD COMPANY	GUTTER BROOMS- VEH #303	\$ 499.10	dshop
244776	1/31/2019	0119	NELSON, BONNIE	AGING MASTERY PROGRAM ADMINISTRATION - JANUARY 2019	\$ 237.50	hr
244755	1/31/2019	53004	NETWORK COMPUTING ARCHITECTS	BARRACUDA 1YR SPAM & VIRUS FIREWALL LICENSE FOR	\$ 2,789.54	infosys
244757	1/31/2019	53003	NETWORK COMPUTING ARCHITECTS	BARRACUDA 1YR ENERGIZE UPDATE FOR BMA350	\$ 3,207.62	infosys
244786	1/31/2019	IN930232	NOANET	COS SERVICES FOR FIBER PROJECT - JAN 2019	\$ 150.00	hr
244727	1/31/2019	0101836568	NORTHERN SAFETY CO INC	YEARLY SAFETY SUPPLIES - PARKS/ACFL/WP	\$ 1,725.33	parks
244716	1/31/2019	138716	NORTHSTAR CHEMICAL INC.	SODIUM BISULFITE 38% SULUTION	\$ 1,293.32	dwwtp
244719	1/31/2019	1067	NORTHWEST BIOSOLIDS	NORTHWEST BIOSOLIDS MEMBERSHIP	\$ 250.00	dwwtp
244946	1/31/2019	567919447001	OFFICE DEPOT, INC.	COPY PAPER - LIBRARY	\$ 421.08	publib
244935	1/31/2019	200024889996	PUGET SOUND ENERGY INC	WTP INTAKE 1/1 - 1/30/19	\$ 343.66	dwwtp
244799	1/31/2019	636241	SAN DIEGO POLICE EQUIP CO INC	DUTY AMMO	\$ 1,145.28	apd
244969	1/31/2019	INV00461306	SMARSH, INC	ARCHIVING PLATFORM 1/1-1/31/19	\$ 771.05	infosys
244723	1/31/2019	9822654316	VERIZON WIRELESS	SCADA COMMUNICATIONS	\$ 1,086.20	dwwtp
244962	2/1/2019	360-293-1900-0122885	FRONTIER COMMUNICATIONS	CITY MAIN PHONE 2/1-2/28/19	\$ 1,068.20	finance
244754	2/1/2019	56808	JSF TECHNOLOGIES	SCHOOL ZONE BEACON CELL COMM RENEWALS:	\$ 1,475.00	dshop
244798	2/1/2019	249371	LEADSONLINE, LLC	LEADSONLINE INVESTIGATION SYSTEM SERVICE 2019	\$ 1,668.00	apd
244760	2/1/2019	3063	NW CLEANERS	LTAC HEART RESTROOM CLEANING	\$ 550.00	plan
244801	2/1/2019	8292	PORT OF ANACORTES	QD-01A MOORAGE SPACE	\$ 66.80	pkrec
244802	2/1/2019	989	PORT OF ANACORTES	QD-25 MOORAGE SPACE	\$ 33.95	pkrec
244804	2/1/2019	984	PORT OF ANACORTES	QD-24 MOORAGE SPACE	\$ 34.97	pkrec
244805	2/1/2019	983	PORT OF ANACORTES	QD-19 MOORAGE SPACE	\$ 34.97	pkrec
244807	2/1/2019	985	PORT OF ANACORTES	QD-21 MOORAGE SPACE	\$ 34.97	pkrec
244808	2/1/2019	986	PORT OF ANACORTES	QD-22 MOORAGE SPACE	\$ 34.97	pkrec
244809	2/1/2019	530	PORT OF ANACORTES	QD-13M QD-23, QD-27 MOORAGE SPACE	\$ 103.89	pkrec
244811	2/1/2019	987	PORT OF ANACORTES	QD-20 MOORAGE SPACE	\$ 34.97	pkrec
244943	2/1/2019	5055806600	RICOH USA, INC	S/N C86078711 LIBRARY FL1 STAFF COPIER 11/1/18-1/31-19	\$ 739.03	publib
244944	2/1/2019	5055806954	RICOH USA, INC	S/N C86152062 HR COPIES 01/01-01/31/19	\$ 11.72	hr
244945	2/1/2019	5055807058	RICOH USA, INC	S/N C86078755 LIBRARY FL2 ADMIN COPIER 11/1/18-1/31/19	\$ 55.90	publib

Invoice Doc #	Transaction Date	Invoice #	Vendor Full Name	Description	Total Amount	Approval Queue
244949	2/1/2019	5055806570	RICOH USA, INC	S/N C86111692 ENG 11/1/18-01/31/19	\$ 111.18	finance
244950	2/1/2019	5055807137	RICOH USA, INC	S/N C86138599 APD FRONT OFFICE COPIES (1/1/19-1/31/19)	\$ 23.13	apd
244951	2/1/2019	5055806752	RICOH USA, INC	S/N C86146548 APD PATROL OFFICE (11/1/18-1/31/19)	\$ 153.81	apd
244959	2/1/2019	3004401838	THYSSENKRUPP ELEVATOR CORP	LIBRARY ELEVATOR PHONE MONITORING 2/1 - 4/30/19	\$ 52.85	publib
244957	2/1/2019	GB00100301	TRANSAMERICA LIFE INS CO	FEBRUARY, LEOFF LONG-TERM CARE INSURANCE	\$ 998.35	hr
244764	2/1/2019	114742	VENTEK INTERNATIONAL	SERVER HOSTING/CARRIER SERVICES - WP	\$ 135.00	parks
244968	2/1/2019	095964562	XEROX CORPORATION	CLRCUBE XNE-099723 12/21/18-01/21/19	\$ 165.31	finance
244970	2/2/2019	8498 30 017 0319913	COMCAST	LIBRARY INTERNET ACCESS 2/9-3/8/19	\$ 183.12	finance
244794	2/2/2019	00005W5A83059	UNITED PARCEL SERVICE, INC	UPS SHIPPING CHARGES; WEEK ENDING 2-2-19	\$ 10.03	apd
244953	2/4/2019	23963	ALLMAX SOFTWARE, INC.	RENEWAL SUPPORT THROUGH 3/31/20	\$ 2,300.00	infosys
244784	2/4/2019	500641864	ASCAP	2019 ANNUAL MUSIC LICENSE FEE	\$ 357.00	parks
244820	2/4/2019	3952291	CARDINAL HEALTH 110, INC.	PHARMACEUTICALS	\$ 290.34	medic
244810	2/4/2019	02200 C	DEPARTMENT OF HEALTH	2019 OPERATING PERMIT AND OPERATOR CERTIFICATION SYSTEM FEES	\$ 10,411.70	dwtpt
244797	2/4/2019	020419	FIDALGO CLEANING	APD CLEANING & SUPPLIES	\$ 700.00	apd
244765	2/4/2019	188740	REECE, STORMIE	DEPOT CLEANING - JANUARY 2019	\$ 638.00	parks
244942	2/4/2019	047097	SEBO'S DO-IT CENTER	MAINTENANCE SUPPLIES	\$ 7.58	museum
244947	2/5/2019	798918	BAYSHORE OFFICE PRODUCTS INC	REPLACEMENT BANDS FOR DATE STAMP	\$ 35.21	court
244964	2/5/2019	1255576864	GRAY, MATTHEW	DENTAL SERVICES, ROBERT STRICKERT	\$ 208.00	hr
244952	2/5/2019	10181877	NAVIA BENEFIT SOLUTIONS, INC	JANUARY, FLEXIBLE SPENDING PARTICIPANT FEE	\$ 107.90	hr
244954	2/5/2019	15705	ORCA INFORMATION, INC	EMPLOYEE BACKGROUND CHECK, WHITE & MOWRER	\$ 90.00	hr
244941	2/5/2019	300000325005	PUGET SOUND ENERGY INC	STREET LIGHTS (12/7/18- 1/5/19)	\$ 91.64	dshop
244967	2/5/2019	4492120	QUILL CORPORATION	COLLECTION POSTCARDS	\$ 204.65	court
244630	2/6/2019	18-166-WTR-0011	DORAN FENCE CO	RETAINAGE RELEASE	\$ 544.50	pw1
244633	2/7/2019	18-167-WTR-0011	AMAZING WINDOW TREATMENTS	RETAINAGE RELEASE	\$ 193.89	pw1

Total **\$512,062.01**



City Council Contract Agenda Bill

Meeting Date: 2/19/2019 **Agenda Item:** 5c

Subject: Interlocal Agreement 278 with Washington State Department of Corrections for the Law Enforcement Canine Training Program

Staff Contact: Police Chief John Small

Approved for Submittal to Council by:
Darcy Swetnam, City Attorney

Action Type: Interlocal Agreement

Summary Statement: City staff seeks City Council consent to enter into an interlocal agreement with the Washington State Department of Corrections (DOC) to provide for the enrollment of a City police officer in the Narcotic Canine Training Program. The contract amount is \$1,000.00.

Background: Recently the Anacortes Police Department Narcotics K-9 handler, Officer Scott Ray, left APD to move back to his home state. Narcotics canine T-Bone remained with APD and is anticipated to have several years of service left. We selected Officer Tyler Hatcher to be our new dog handler. WAC 139-05-915 requires that all dog teams must certify to the minimum performance standards of the Washington State Criminal Justice Training Commission. This certification process is a mandatory minimum of 200 hours and must be successfully completed prior to a team beginning active duty. We chose the DOC to train our new team as their trainer and training program are regarded as the best in our area. DOC's training program also includes training to the Washington State Canine Association higher "General Performance Accreditation" standard. This higher standard of performance is strongly recommended for dog teams as it alleviates many legal challenges in criminal court cases. Our goal is to continue to have a high performing and successful narcotics detection team.

Key Terms:

- The term of this Agreement shall be from 1/27/19-3/14/19.
- The City will pay the DOC \$1,000.00, and be responsible for all travel and lodging costs and incurred by police officer, and any expenses for the city provided dog.

Previous Council/Committee Action: N/A

Competing Viewpoints Considered: N/A

Recommended Motion: I move that City Council authorize the Mayor to execute the Interlocal Cooperation Agreement 278 between City of Anacortes and the Washington State Department of Corrections.

Alternative Actions: N/A

Attachments: IL278

**INTERGOVERNMENTAL AGREEMENT
BETWEEN
STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
AND
CITY OF ANACORTES**

This Agreement is made and entered into by and between the Washington State Department of Corrections, hereinafter referred to as DOC or the Department, and the City of Anacortes, located at 1218 24th Street, Anacortes, WA 98221, hereinafter referred to as the Agency.

WHEREAS, the Washington State Department of Corrections administers the Canine Training Program at the Washington Corrections Center (WCC) (hereinafter referred to as “the Program”).

WHEREAS, the Canine Training Program provides narcotic canine training to correctional officers and commissioned law enforcement officers (hereinafter referred to as “handler”).

WHEREAS, correctional and law enforcement agencies routinely sponsor correctional officers and commissioned law enforcement officers for canine training.

WHEREAS, the purpose of this Agreement to provide the terms and conditions governing canine training to correctional and law enforcement agencies on an as-needed basis. This Agreement is made pursuant to chapter 39.34 RCW, the Interlocal Cooperation Act, and RCW 10.93.130.

THEREFORE, IT IS MUTUALLY AGREED THAT:

1. STATEMENT OF WORK

1.1 The Agency shall have the following responsibilities and duties pursuant to this Agreement:

- 1.1.1 Provide only full-time correctional officers and/or commissioned law enforcement officers who have passed their basic academies to serve as canine handlers for the Program.
- 1.1.2 Provide payment for the services herein as specified in Attachment A.
- 1.1.3 If the Agency supplies the canine:
 - 1.1.3.1 Provide a medically sound canine with current vaccinations.
 - 1.1.3.2 Provide payment for all costs and expenses of the canine to include, but not necessarily limited to, all veterinary services and food for the canine.
 - 1.1.3.3 Provide a letter to DOC accepting full responsibility for the canine if the Agency allows use of a handler-owned canine.

- 1.1.4 Provide veterinary services for the canine beyond the initial veterinary examination provided by DOC, if the canine is supplied by DOC.

1.2 DOC shall have the following responsibilities and duties pursuant to this Agreement:

- 1.2.1 Provide narcotic canine training on a space-available basis in accordance with the Canine Training Program's Narcotic Detection Dog Training Guide, attached hereto as Attachment A, incorporated by reference herein.
- 1.2.2 Provide kennel space for the canine;
- 1.2.3 Provide the initial veterinary services of a veterinarian's examination, hip x-ray, vaccination(s), and fecal examination for the canine upon initial entrance into the Program if the canine is supplied by DOC; and
- 1.2.4 Provide the canine with food and water preceding the Program and during the duration of the Program if the canine is supplied by DOC.

2. PERIOD OF PERFORMANCE

Subject to its other provisions, the period of performance of this Agreement shall commence on January 27, 2019, and be completed on March 14, 2019, unless terminated sooner as provided herein.

3. SAVE HARMLESS

The parties recognize that canine training can be an inherently dangerous activity and that canine actions may be unpredictable. To the extent permitted by law, the Agency, its agents, and employees shall defend, protect, and hold harmless the state of Washington, DOC, or any employees thereof, from and against all claims, suits, or actions arising from any negligent or deliberate wrongful act or omission of the Agency, its agents, or employees while performing under the terms of this Agreement.

To the extent permitted by law, the Agency, its agents, and employees shall defend, protect, and hold harmless the state of Washington, DOC, or any employees thereof, from and against all claims, suits, or actions arising from the actions or omissions of a canine and/or canine handler or Agency officer while in the performance of a search or other related activity, or by utilizing the canine or training techniques provided under the terms of this Agreement.

Upon completion of the Program, the Agency assumes full responsibility for the possession, actions, and omissions of the canine(s) selected to include, but not limited to, the health, welfare, and safety of the canine. The provisions of section three (3) shall survive any termination or the expiration of this Agreement.

4. CANINE SELECTION

The Agency may supply its own canine for the Program if approved by DOC. DOC, at its sole discretion, will determine the canine's suitability for the Program. Consent to the use of a canine will not be unreasonably withheld. DOC may conduct initial testing to determine the canine's suitability and aptitude for the Program.

DOC may determine, at its sole discretion, a canine is unfit for further training after the canine's acceptance into the Program. In the event of this determination by DOC, the Agency will be notified and the Agency may either a) terminate the training, or b) continue with the handler's training with a canine supplied by the Program, provided a canine is available and suitable for the Program as determined by DOC.

5. HANDLER SELECTION

The Agency shall select as a handler a correctional officer or commissioned law enforcement officer who has passed his or her basic academy. The Agency may request assistance in its selection of a handler from DOC. The DOC, at its sole discretion, may assist the Agency in this process by conducting a two-part interview consisting of a verbal and a "hands-on" phase. The Agency shall be solely responsible for the final selection of a handler regardless of a recommendation by DOC.

DOC may determine, at its sole discretion, that a handler selected by the Agency does not display the aptitude necessary for the Program. In the event of this determination by DOC, DOC may reschedule the Agency for the next Program, provided space is available and the Agency requests rescheduling. If space is not available, DOC may reschedule the Agency for the next available Program, at the request of the Agency.

6. POST-PROGRAM TRAINING

The Agency shall be solely responsible for maintenance training after the completion of the Program for the canine and the handler. DOC may conduct maintenance training sessions at DOC-selected locations, dates, and times. The Agency may attend these sessions on a space-available basis.

It is recommended that the Agency provide Agency/jurisdiction-specific training after completion of the Program in subjects to include, but not limited to, Agency policies, legal and liability aspects, search warrants, and affidavits. The Agency shall be solely responsible for Agency/jurisdiction-specific training in laws, rules, regulations, and policies governing canine training.

7. PAYMENT AND BILLING PROCEDURES

Compensation for the work provided in accordance with this Agreement has been established under the terms of RCW 39.34.130. Compensation for services and billing procedures shall be in accordance with the Budget in Attachment "A" which is attached hereto and incorporated herein.

8. RECORDS MAINTENANCE

Each party shall maintain books, records, documents and other evidence, which sufficiently and properly reflect all direct and indirect costs expended by either party in the performance of the services described herein. These records shall be subject to inspection, review, or audit by personnel of both parties, other personnel duly authorized by either party, the Office of the State Auditor, and federal officials so authorized by law. All books, records, documents, and other material relevant to this Agreement will be retained for six years after expiration and the Office of the State Auditor, federal auditors, and any persons duly authorized by the parties shall have full access to and the right to examine any of these materials during this period.

Records and other documents, in any medium furnished by one party to this agreement to the other party, will remain the property of the furnishing party, unless otherwise agreed. The receiving party will not disclose or make available this material to any third parties without first giving notice to the furnishing party and giving it a reasonable opportunity to respond. Each party will utilize reasonable security procedures and protections to assure that records and documents provided by the other party are not erroneously disclosed to third parties.

9. RIGHTS IN DATA

DOC shall be the copyright owner for all purposes under Title 17 U.S.C., of all data which originates from this Agreement. Data shall include, but not be limited to, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to use, copyright, patent, register and the ability to transfer these rights.

10. INDEPENDENT CAPACITY

The employees or agents of each party who are engaged in the performance of this Agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party.

11. AGREEMENT ALTERATIONS AND AMENDMENTS

This Agreement may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

12. TERMINATION

12.1 Either party may terminate this Agreement upon 30 days prior written notification to the other party. If this Agreement is so terminated, the terminating party shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement rendered prior to the effective date of termination.

12.2 DOC may terminate this Agreement immediately by written notice to the Agency if (a) funding from state, federal, or other sources is unavailable, withdrawn, reduced, insufficient, or limited in any way; or (b) DOC determines in its sole discretion it is unable to continue to provide the services herein by reason of any law, rule, regulation, judgment, policy/procedure change by the Secretary of DOC, or act by the Washington State Legislature. In no event will DOC be liable for any damages, termination fees, or other charges as a result of invoking this provision.

13. TERMINATION FOR CAUSE

If for any cause, either party does not fulfill in a timely and proper manner its obligations under this Agreement, or if either party violates any of these terms and conditions, the aggrieved party will give the other party written notice of such failure or violation. The responsible party will be given the opportunity to correct the violation or failure within 15 working days. If the failure or violation is not corrected, this Agreement may be terminated immediately by written notice of the aggrieved party to the other.

14. DISPUTES

In the event that a dispute arises under this Agreement, it shall be determined by a dispute board in the following manner: Each party to this Agreement shall appoint a member to the dispute board. The members so appointed shall jointly appoint an additional member to the dispute board. The dispute board shall evaluate the facts, contract terms and applicable statutes and rules and make a determination of the dispute. The determination of the dispute board shall be final and binding on the parties hereto.

15. GOVERNANCE

This Agreement is entered into pursuant to and under the authority granted by the laws of the state of Washington and any applicable federal laws. The provisions of this agreement shall be construed to conform to those laws.

In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

1. Applicable state and federal statutes and rules;
2. The terms and conditions contained herein; and
3. Any other provisions of the agreement, including materials incorporated by reference.

16. ASSURANCES

The parties agree that all activity pursuant to this Agreement will be in accordance with all the applicable current or future federal, state and local laws, rules, and regulations.

17. ASSIGNMENT

The work to be provided under this Agreement, and any claim arising thereunder, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

18. WAIVER

A failure by either party to exercise its rights under this agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Agreement.

19. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this agreement, and to this end the provisions of this Agreement are declared to be severable.

20. ALL WRITINGS CONTAINED HEREIN

This Agreement contains all the terms and conditions agreed upon by the parties. No other understanding, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

21. CONTRACT MANAGEMENT

The contract manager for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Agreement.

The Contract Manager for the Agency is:	The Contract Manager for DOC is:
John Small Chief of Police City of Anacortes 1218 24 th Street Anacortes, WA 98221 Telephone: (360) 293-4694 Email: johns@cityofanacortes.org	Barbara Davenport Canine Training Program Manager Washington Corrections Center PO Box 900 Shelton, WA 98584 Telephone: (360) 427-4618 Email: barbara.davenport@doc.wa.gov

THIS CONTRACT, consisting of seven (7) pages and one (1) attachment, is executed by the persons signing below who warrant that they have the authority to execute the Contract.

CITY OF ANACORTES

(Signature)

Laurie Gere

(Printed Name)

Mayor

(Title)

(Date)

DEPARTMENT OF CORRECTIONS

(Signature)

Debra J. Eisen

(Printed Name)

Contracts Administrator

(Title)

(Date)

Approved as to Form:

This contract format was approved by the office of the Attorney General.

Approval on file

STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
WASHINGTON CORRECTIONS CENTER

PO BOX 900 • Shelton, Washington • 98584

CANINE TRAINING PROGRAM
NARCOTIC DETECTION DOG TRAINING
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INTRODUCTION

The Department of Corrections (DOC) Canine Training Program is based at the Washington Corrections Center (WCC) in Shelton, WA. The Canine Training Program offers a narcotic detection dog academy to Correctional and Law Enforcement Agencies from within Washington, Oregon and Idaho. Officers attending training must be full time correctional officers or commissioned law enforcement officers, who have passed their basic academies.

Each narcotic dog training class is six weeks in length (see page 12 regarding class break) and meets the requirements set forth in the Washington Administration Code (WAC) 139-05-915. Narcotic dog training classes are offered three times per year, beginning in January, April and October. Each class has three to four students, dependent on the availability of dogs. Approval is granted on an individual and space available basis. Approved requests for training are processed according to the date received.

NOTE: To simplify the designation of an individual as he/she or him/her, the word "he" is used and is not intended to designate a specific gender. In addition, we have used the word "Agency" to represent all types of departments.

THE NARCOTIC DOG TEAM

The trained Narcotic Dog handler directs his dog in a specific "search pattern" watching his dog for any changes of behavior. The Narcotic Detection Dog is trained to recognize specific odors, ie. Marijuana, Heroin, Cocaine, Crack Cocaine and Methamphetamines. Upon detecting an odor he has been trained to recognize, the dog will give a "change of behavior," work to the source of the odor, and give a conditioned "response," or "alert," to the location. At this point the handler will "reward" his dog.

The following will provide a basic understanding of the Narcotic Dog Team:

REWARD: Each dog selected for narcotic training has an extreme fixation on objects or toys. For training purposes we narrow the dog's choice to one item, usually a ball. The first step in training is to condition the dog to believe that every time, and the ONLY time, he receives "his" ball is when he smells a specific odor. After the dog has made the association, he must, upon recognizing the odor, work to the source before receiving his ball or "**reward.**"

CHANGE OF BEHAVIOR: Changes of behavior are those physical changes a dog displays upon encountering an odor he has been trained to recognize. Each handler will be trained to recognize those physical changes that are specific in his assigned dog. A change of behavior in a dog could be one or more of the following: Increased breathing, intense sniffing, a change in the dogs ear set, a change in the dogs tail movement, increased animation in the dog, etc.

RESPONSE OR ALERT: After the dog has learned to work to the source of the odor, he is taught to give a "response" or "alert" before receiving his reward. There are two basic types of responses a dog may be trained to give, "**passive**" or "**aggressive.**"

- ◆ Passive Response: The dog trained to give a passive response will "sit" upon locating the source of an odor he has been trained to recognize. The last place his nose was, before sitting, is the location where the odor is being emitted.
- ◆ Aggressive Response: The dog is trained to give an aggressive response and will scratch at the location where the odor is being emitted.

Although different training techniques are employed to solicit the different responses, both types of dogs work equally well. However, due to the probability of damage to property and for the dog's safety, all Narcotic Detection Dogs **ASSIGNED** to Washington DOC facilities are trained to give a passive response (per department policy). If a non-WA DOC agency wishes to specify a specific alert, we will try to accommodate that request.

SEARCH PATTERNS: The trained handler will direct his dog to search in a specific pattern to ensure that no area has been missed. The handler must be able to read the dogs "change of behavior" that will indicate the presence of odor and to direct a more detailed search if needed. The handler must understand the theory of scent, as applied to narcotics and to be able to assist his dog, especially in high or overhead alerts.

TYPES OF SEARCHES: A Narcotic Dog may be used to search a wide variety of items and locations. Initial training will cover the following areas:

- ◆ Buildings: Residential, office, maintenance, and school type buildings.
- ◆ Vehicles: Personal and maintenance vehicles, buses, and semi-trucks.
- ◆ Open areas: Above ground and buried narcotics.
- ◆ Luggage and Parcels: Mail, luggage, packages and parcels under the previous conditions.

OBEDIENCE: The Narcotic Dog Team receives a minimum of obedience training. The basic commands taught are "heel," "sit," "down," "stay," and "come." Strict or advanced obedience is not stressed as it tends to make the **new** dog "handler-sensitive" and inhibit his narcotic work.

DUAL TRAINING: The Patrol Dog may be dual trained in narcotics, if the dog shows an aptitude for the work **AND** the handler displays a willingness for the additional work and responsibility. Dual training requires twice the maintenance training and three times the record keeping of the single purpose patrol dog. Dual training in dogs assigned to DOC will be avoided.

PERSONAL SEARCHES: Some dogs may have the aptitude to receive additional training in the searching of people. Only those teams assigned to correctional agencies will be scheduled for personal search training. Those teams considered for personal search training should have a minimum of six months actual experience before attending training. The training is one week in length and will be conducted at the team's facility(s). An Agency considering this training for their team must make specific arrangements with the Canine Training Program.

SELECTION OF THE DOG

The Canine Training Program receives approximately 99% of its dogs from local humane societies, animal control facilities and rescue organizations. The remaining 1% are received through private donation from the community. **NO guarantee regarding breed or appearance is made or implied.** We focus first on aptitude to do the work. Most dogs are lab/retriever mixed breeds as they are the most available type; however we occasionally have other breeds/mixes.

An Agency may supply their own dog for training; however, the dog must be surveyed by the Canine Training Program staff and tested for suitability and aptitude for narcotic work before gaining final approval to attend the class.

The three criteria required during initial testing are:

- ◆ **Object Oriented** - sustained fixation on a ball/toy to the exclusion of all else
- ◆ **Footing** - comfortable walking/working on slick surfaces
- ◆ **Friendly with people**

Other factors that are also considered are:

- ◆ Determination and drive to search for a hidden ball/toy
- ◆ Breed and appearance
- ◆ General health (including hip x-rays), size, age,
- ◆ Temperament and self-confidence

After passing the initial testing phase, each dog receives the equivalent of the first week of training. Even after a dog has passed the initial testing and training, and is into the official class phase, the dog may still be found unsuitable for narcotic detection work.

It is always our goal to have more dogs on hand than are needed. However, there is always that possibility that a handler's training will need to be **rescheduled** if the assigned primary dog and secondary dogs do not complete their training. In the event that an Agency supplied dog fails to complete training the Agency may either recall their Team or, providing a dog is available,

continue the handler's training with a dog supplied by the Canine Training Program.

SELECTION OF A HANDLER

The selection of an appropriate handler is just as important as the selection of an appropriate dog. Any individual performing dog-handling duties must do so voluntarily. Not everyone has the ability or the aptitude to deal with a dog on a day-to-day basis. Usually this will be the first time that their performance will depend on a partner they cannot **verbally** communicate with.

Some of the qualities that should be considered when selecting a handler are:

- ◆ Work ethic and drive
- ◆ Ability to work unsupervised
- ◆ Problem solving skills
- ◆ Quality of work
- ◆ Report writing skills
- ◆ Ability to take instructions and accept change
- ◆ Interpersonal skills
- ◆ Temperament and patience
- ◆ Pride in appearance
- ◆ Health and physical conditioning
- ◆ Home environment (rent/own)
- ◆ Regular work assignment (for part-time handlers)

Upon request, the Canine Training Program will provide assistance in making a selection. After the Agency has narrowed the field of applicants, we will conduct a two-part interview consisting of a verbal and a hands-on phase. Upon completing the interviews, we will provide the Agency with our recommendations. The final selection of a handler will rest with the Agency and should be based on **ALL** of the above qualities, **NOT** based solely on the Canine Training Programs recommendation.

Even after a careful selection process, it is possible that an individual will not display the "hands-on" aptitude necessary to work with a narcotic detection dog. In the event that this should happen, the Agency will be **rescheduled** for the next class, if at all possible.

WAC TRAINING REQUIREMENTS

The training requirements prescribed in Washington Administrative Code (WAC) 139-05-915 (3b) for the Narcotic Dog handler (General Detection) require a minimum of 200 hours and will include, but are not limited to the following:

- ◆ Philosophies and theories of Police K-9
- ◆ Legal and liability aspects, including Department policies
- ◆ Public Relations
- ◆ Care and Maintenance
- ◆ Obedience and Control
- ◆ Area Searching
- ◆ Building Searching
- ◆ Evidence Searching
- ◆ Detection of Specific Substances

It must be remembered that this Narcotic Detection Dog training course was established by, and geared toward, the Department of Corrections. Consequently classes on "Philosophies and Theories of Police K-9," "Legal and Liability Aspects," and "Department Policies," have been slanted toward the Department of Corrections.

Upon their handlers return, it is recommended that each Agency provide additional training specific to their Agency and jurisdiction, such as:

- ◆ Department policies

- ◆ Legal and liability aspects
- ◆ Search warrants
- ◆ Affidavits

TEAM TRAINING GUIDELINES

All dog training is dependent upon the handler and the dog's ability, as a "Team", to progress. The following is a basic guideline only, but has been used to set minimum standards for the Team's weekly progression. In most cases the Team will progress faster. If the Team develops a problem in a specific area, causing their progression to be slower than the guidelines, we will try to determine if the problem can be corrected with extra work in that area or if a member of the Team needs to be replaced.

Day 1:

On the designated first day of class, the handlers will meet the trainer at the Washington State Patrol Academy and are assisted with checking into lodging. After in-processing at the Academy, the handlers will be escorted to the Washington Corrections Center (approx. 2 miles away) where they will receive an orientation regarding the facility and receive ID badges providing them with access to the facility. At the Kennel facility the handlers will receive a class on kennel maintenance and have the opportunity to interact with the class dogs.

Day 1 will conclude with a class orientation. During the orientation, the following topics will be discussed and/or demonstrated:

- ◆ Capabilities and utilization of the Narcotic Dog
- ◆ Testing for aptitude in the prospective dog
- ◆ Training requirements
- ◆ Terminology
- ◆ Care and maintenance of the dog

- ◆ Equipment used
- ◆ Training records, and
- ◆ Obedience and control

Day 2:

Day 2 will begin with a safety class regarding the management of untrained dogs. The handlers will load all the class dogs and the class will move to the training site.

The students will be given a class and practice session utilizing the scent box.

The scent box is introduced and utilized to:

- ◆ assist the handler in:
 - body position,
 - leash control,
 - presentation,
 - verbal commands and voice inflection, and
 - timing the reward delivery
- ◆ teach the dog to:
 - associate his reward with a specific odor,
 - follow hand presentations,
 - always work to the strongest source of the odor,
 - give a specific pinpoint

The handlers will rotate through the available dogs, utilizing the lessons learned on the scent box. Day 2 ends with a simple room search of short duration

Day 3:

Day 3 begins with the scent box and quickly moves onto simple furniture searches.

Week 1:

By the end of Week 1, the handlers will have been assigned their primary dog. The teams should have progressed to working training exercises with 6 to 8 training aid (marijuana) combinations on furniture. The automatic response should have been introduced.

Week 1 will conclude with a class at a local Pet Store. During this class the handlers will

receive instruction on nutrition for the working dog, selecting a suitable dog food, and purchasing the necessary equipment for class.

Week 2:

By the end of Week 2, the dog should be associating the odor with the proper response followed by the reward. During this week, we have introduced the dog's first additional odor, heroin. The dog should be giving an automatic response approximately 20% of the time. The Team's search times should be extended to 15 to 30 minutes.

Week 3:

By the end of Week 3, the dog should be giving an automatic response 30 to 40% of the time. The Team's search exercises should be extended to 30 to 45 minutes. The Team should be started on basic vehicle, parcel and open area searches. During this week, the final substances of cocaine, crack and methamphetamines have been added.

Class Break

Due to the length of the class, time away from home and the intensity and repetitious nature of the training, handlers are given a 1-week break to help alleviate training burnout. Dogs will remain at the main kennel facility (with the exception of working patrol dogs) for the duration of the break. During the class break, handlers are returned to their Agency. Handlers should use this opportunity to make final arrangements for housing/kenneling, suitable training aids, vehicle set-up, etc.

Week 4:

By the end of Week 4, the dog should be giving a response on all known odors. Masking agents and distractions are being used. Teams should be conducting building, vehicle, parcel and open area search exercises of up to 1 hour in length.

Week 5:

During the beginning of Week 5, performance testing and evaluations will be conducted to

conclude the basic training phase. Mid week the practical application phase will begin with each Team performing searches under actual conditions at WCC. Preparation for WAC mandated certification and voluntary WSPCA accreditation continues.

Week 6:

Week 6 begins with the WAC certification and WSPCA accreditation. The remainder of the week is spent continuing the practical application phase under actual conditions with the emphasis on diversity of locations.

Additional classes the handler will have received throughout the six-week training:

- ◆ Theory of Scent
- ◆ Legal and Liability Aspects
- ◆ Demonstrations
- ◆ Educating Supervisors
- ◆ Training Records
- ◆ Care and Control of Training Aids
- ◆ Transportation
- ◆ Maintenance Training, and
- ◆ Equipment and Veterinary Services Needed upon Return

CLASS EXPECTATIONS

This class is 90% hands-on training versus classroom type lectures. This is not a class that allows for extra studying in problem areas. On occasion we will have a student that mentally understands the manual handling techniques, however has trouble translating that mental understanding into a physical accomplishment. On these occasions we will provide every assistance to that individual to include bringing in an additional trainer to provide one on one instruction and evaluation. However, not everyone has the aptitude to “work” with a dog or a partner that you cannot verbally communicate with. There may come a point when this student is returned to their Agency.

As with any training class, there are certain requirements and/or expectations that must be met in order to successfully complete this class.

- ◆ A written log detailing the team’s training, from selecting a suitable dog to utilizing the trained dog in a field situation. This log will include different training techniques to accomplish each stage of training, a record of the team’s performance on each training aid in each training scenario, and notes from all additional classes, practical application searches and demos. **A copy of this log must be submitted at the end of class to receive a certificate.**
- ◆ A weekly find ratio of 75% or better.
- ◆ A find ratio of 70% or better on the final performance test.
- ◆ Successful completion of the CJTC administered minimum standard certification test mandated by WAC 139-05-915.

TEAM CERTIFICATION

Since the revision of WAC 139-05-915 in April 2003, all Washington dog teams must certify to the Criminal Justice Training Commission's (CJTC) minimum performance standards. This certification process is **mandatory** and must be successfully completed prior to the team beginning active duty. During the certification process, the team must demonstrate their control and the smoothness of their work in all phases of narcotic work and obedience. The Team's effectiveness will be tested in each of the following areas:

- ◆ Building
- ◆ Vehicle
- ◆ Parcel, and
- ◆ Open Areas
- ◆ Obedience

The Washington State Police Canine Association (WSPCA) also offers a General Performance Accreditation. As the WSPCA accreditation is a higher standard than the CJTC certification, the Canine Training Program utilizes the WSPCA test administered by 2 independent trainers. The CJTC certification is a **lesser-included standard** of the WSPCA accreditation, resulting in both tests running simultaneously. **Due to the perceived conflict of interest, the trainer for the DOC training class will never act as an evaluator during one of these tests.**

For Washington Department of Corrections Teams:

While the CJTC certification is state mandated, DOP 420.280, Canine Teams, requires that each Team obtain their General Performance Accreditation through the Washington State Police Canine Association (WSPCA) as it requires a higher level of performance.

For other Agencies:

The Canine Training Program uses both the CJTC Certification and the WSPCA "General Performance Standards for Narcotic Detection Dogs" for its accreditation. While the

WSPCA accreditation process is a voluntary program for its members, we highly recommend your team's participation, as this test is a higher standard.

MAINTENANCE TRAINING

Upon completion of training, it is imperative the Team receives the cooperation of their Agency in maintaining the standard of proficiency established during their initial training.

REMEMBER: Just like any other new officer straight out of the academy, your Team will need to make the transition from "training" to the "real world." The more varied the applications and training (conducted under real conditions), the more proficient your Team will be.

A maintenance-training program must be established and continued if the efficiency and effectiveness of the Team are to be maintained, even though the Team is working daily. It is recommended that at least two to four hours a week be devoted to training for the Narcotic Dog Team.

The Agency or dog handler may contact the Canine Training Program for assistance at any time. The Canine Training Program is currently conducting 3 narcotic dog academies each year. Teams may drop in to one of these classes for refresher training as needed.

ADMINISTRATIVE FEE

The administrative fee covers the costs associated with the dog such as routine vet screening (health check, vaccinations, x-rays, etc.), feed for the dog, in addition to the training for the handler, and other routine administrative costs. This flat fee takes the place of separate billing and reimbursement for vet bills and food.

The guidelines for the administrative fee are:

\$1500.00 Per student receiving a dog from the Canine Training Program. In the event that a student is terminated without completing training, the agency will be re-scheduled for the next available class at no additional cost.

\$1000.00 Per student, where the gaining Agency supplies a trained narcotic dog or a working patrol dog is being cross-trained in narcotics. All dogs must be surveyed by the Canine Training Program prior to the beginning of class.

All costs and expenses incurred by a dog supplied by the gaining Agency are the responsibility of the gaining Agency. Each dog must be current on all vaccinations and be medically sound. In the event that a gaining Agency allows it's handler to use a personally owned dog, the gaining Agency must supply a letter accepting full responsibility for said dog.

While training requests are processed on first come first served basis, payment of the administrative fee will confirm and secure your handler's class position. An invoice can be supplied upon request.

The administrative fee check should be mailed to:

Department of Corrections
DOC Business Services
PO Box 41107
Olympia, WA 98504
(Reference K11962 "Canine Training")

NOTE: Should the administrative fee and/or a signed contract not be received by the end of the 3rd week, the handler will not be permitted to take the dog for a home visit. Payments and/or contracts not received by the conclusion of the class will result in the dog remaining with the DOC Canine Training Program until payment is received.

FINANCIAL RESPONSIBILITIES

In this section we have outlined the expenses to be expected while your team attends training.

The following are **approximate** figures only:

LODGING: Lodging is the responsibility of the agency. Lodging is available at the Washington State Patrol Academy (\$44.00 per night), located approximately 2 miles from WCC. Agencies should contact WSP directly:

Lieutenant Blaine Gunkel
WSP Training Division
631 West Dayton Airport Road
Shelton WA 98584-8945

Office (360) 426-1661 ext 102
FAX (360) 427-2134

Cell (360) 481-2903
MICRO 82 Ext 102

MEALS: Meals are the responsibility of the agency. Meals are available at the State Patrol Academy for a fee (\$8.00 per meal). Shopping facilities and restaurants are available a short distance away in the town of Shelton.

KENNELING: Kenneling space is provided at the main kennel facility and is covered by the Administrative Fee.

DOGS: Covered by Administrative Fee.

VETERINARY SERVICES: The initial veterinary services that the Canine Training Program provides to each dog include a Veterinarian's examination, hip x-rays, vaccinations, and fecal exam. The cost of these initial services are covered by the Administrative Fee. **Any veterinary services needed beyond the above stipulated, are the responsibility of each Agency.**

The name of the veterinarian service used is as follows:

Portland Ave Small Animal Hospital
7418 Portland Ave
Tacoma, WA 98404
(253) 531-8282

Agencies supplying their own dogs are responsible for ANY services needed by their dog. Portland Ave Small Animal Hospital will bill the Agency directly.

SUPPLIES/EQUIPMENT: The following is a basic list of supplies and equipment that will be needed for this training course. We will assist the handler in purchasing this equipment on the first day of class:

Supplies:

- ◆ **Logbook** (Bound, with numbered pages)
- ◆ **Small DVD disks**
- ◆ **Small Fanny Pack**

Dog Food:

The Administrative Fee covers the cost for dog food while waiting to enter class and during training. **Agencies supplying their own dog must supply their dog's regular food.**

Equipment:

We will be taking the class to buy supplies on the first day of class.

◆	Leash (Nylon, 4'x 5/8"or 3/4")	6.00
◆	Choke Collar (Metal, Medium Gauge)	5.00 (fitted to dog)
◆	Harness	10.00
◆	Long Line (Nylon, 10')	10.00
◆	Tie-Out Cable (Nylon coated, 10')	13.00
◆	Brush	11.00
◆	Travel Water Bowl	<u>5.00</u>

Approximate Total \$ 60.00

Other suggested equipment and supplies that might be considered are shampoo, kennel crate, collar, toenail trimmers, etc. Vendors will vary. Please plan on having your handler pay for these items at the time of purchase.

REQUESTS FOR TRAINING

All requests for training are approved on an individual and space available basis, regardless of agency size. Approved requests are processed according to the date received. Normal class size is restricted to three students due to the difficulty of acquiring suitable dogs. Additional students may be added if:

- ◆ An agency is sending an experienced narcotic dog to training with a new handler
- ◆ An agency is requesting that a working patrol dog be cross-trained in narcotics
- ◆ An agency, with staff experienced and knowledgeable in the selection of narcotic dog candidates, supplies a minimum of two dogs (tested and approved by the Canine Training Program) for participation in the class.

All requests for training should be addressed to:

Barbara Davenport, Canine Program Manager
Washington Department of Corrections
Canine Training Program
2321 West Dayton Airport Road
Shelton, WA 98584

We suggest that all “Requests for Training” be sent in a timely manner as classes fill quickly and we are scheduling students six months to a year in advance. **A “Request for Training” form has been included with this manual.**

A confirmation letter will be returned indicating the dates of the class your handler has been scheduled for. If the dates create a scheduling conflict for the agency, please contact us as soon as possible and we will re-schedule your handler for the next class. Prompt attention to this detail will allow us to offer the slot to another agency on the waiting list.

The Department of Corrections Contract Office will send a Contract to your agency for signature. This contract should be signed and returned prior to the Department prior to the start date of your

scheduled class. **Failure to return the contract by the end of the 3rd week of training will result in the handler being rescheduled to a future class.**

IN CLOSING

We hope this information has been helpful in gaining insight into the DOC Canine Training Program offered at Washington Corrections Center.

If additional information is needed or you have specific questions, please feel free to contact:

Barbara Davenport

Canine Program Manager

Cell: (253) 732-5959

Email: barbara.davenport@doc.wa.gov

Washington Department of Corrections

Canine Training Program

2321 West Dayton Airport Road

Shelton, WA 98584

Office: (360) 427-4618

Fax: (360) 432-5925



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

WASHINGTON CORRECTION CENTER
2321 West Dayton Airport Road • Shelton, Washington • 98584

REQUEST FOR NARCOTIC DETECTION DOG TRAINING

(See Canine Training Manual for Administrative Fee information and the scheduling process)

Date: _____ **Fed Tax ID#** _____

Agency Head Name: _____

Title: _____ **Email** _____

Agency: _____

Address: _____

Phone: _____ **Fax** _____

Handler's Full Name: _____

DOB: _____ **SSN:** _____

Cell Phone #: _____ **Service Provider** _____

Email: _____

Contact Person: _____ **Title** _____

Phone: _____

Email: _____

***** (To be completed by K-9 Training Program Staff) *****

Date Received: _____ Confirmation Letter Sent: _____

Class Dates Scheduled: _____

Handler Packet Sent: _____ Handler Contact: _____

Dog Assigned: _____

Completion Date/Status: _____



City Council Contract Agenda Bill

Meeting Date: 2/19/2019 **Agenda Item:** 5d

Subject: Resolution 2034 – Designation of Special Market Conditions for the Purchase of Used Dell Serial Attached SCSI (SAS) Drives from xByte Technologies

Staff Contact: Jose Cervantes

Approved for Submittal to Council by:
Darcy Swetnam, City Attorney

Action Type: Resolution

Summary Statement: City staff seeks City Council approval of Resolution 2024 to waive the state competitive bidding requirements for the purchase of used and refurbished Dell Serial Attached SCSI (SAS) drives for City's Information Systems Department, pursuant to RCW 39.04.280.

Background:

- RCW 39.04.280 provides that the City, by resolution, may waive competitive bidding requirements when a purchase is clearly and legitimately limited to a single source of supply, or when the purchase involves special facilities or market conditions.
- The City's Information Systems Department requires Dell Serial Attached SCSI (SAS) drives to transfer data to and from hard drives.
- Special market conditions are generally limited to good deals that are available for a short time, such as a very good price on a piece of used equipment.
- The Information Systems Department researched Dell SAS drives and found a substantial cost savings, averaging over \$5,000 per drive, in purchasing used refurbished re-certified Dell SAS drives at xByte Technologies instead of purchasing new drives.
- xByte Technologies guarantees each item is tested by a Dell certified technician and re-certified, and comes with a one year minimum warranty with optional warranty upgrades.
- The used refurbished re-certified Dell SAS drives offered at a very favorable price by xByte Technologies may be sold before the City could complete a formal bidding process.

Previous Council/Committee Action: N/A

Competing Viewpoints Considered: N/A

Recommended Motion: I move that the Resolution 2034 be approved to waive the competitive bidding requirements of RCW 39.04 pursuant to RCW 39.04.280(1)(b), and declare that the purchase of the Dell SAS drives from xByte Technologies is warranted by special market conditions.

Alternative Actions: N/A

Attachments: Resolution 2034, Price comparisons

RESOLUTION 2034

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANACORTES, WASHINGTON, waiving the state competitive bidding requirement for the purchase of used and refurbished Dell Serial Attached SCSI (SAS) drives for City's Information Systems Department, pursuant to RCW 39.04.280.

WHEREAS, RCW 39.04.280 provides that the City, by resolution, may waive competitive bidding requirements when a purchase is clearly and legitimately limited to a single source of supply, or when the purchase involves special facilities or market conditions; and

WHEREAS, the City's Information Systems Department requires Dell Serial Attached SCSI (SAS) drives to transfer data to and from hard drives; and

WHEREAS, special market conditions are generally limited to good deals that are available for a short time, such as a very good price on a piece of used equipment; and

WHEREAS, the Information Systems Department researched Dell SAS drives and found a substantial cost savings, averaging over \$5,000 per drive, in purchasing used refurbished re-certified Dell SAS drives at xByte Technologies instead of purchasing new drives; and

WHEREAS, xByte Technologies guarantees each item is tested by a Dell certified technician and re-certified, and comes with a one year minimum warranty with optional warranty upgrades; and

WHEREAS, the used refurbished re-certified Dell SAS drives offered at a very favorable price by xByte Technologies may be sold before the City could complete a formal bidding process;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ANACORTES, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. Designation of Special Market Conditions Purchase. The City Council hereby waives the competitive bidding requirements of RCW 39.04 pursuant to RCW 39.04.280(1)(b), and declares that the purchase of the Dell SAS drives from xByte Technologies is warranted by special market conditions.

Section 2. Ratification and Confirmation. Any actions of the City or its officers prior to the date hereof and consistent with the terms of this Resolution are ratified and confirmed.

Section 3. Effective Date. This Resolution shall be in full force and effect from the after its adoption and approval.

The foregoing resolution was ADOPTED by the City Council of the City of Anacortes, Washington, at a regular, open public meeting thereof this 19th day of February 2019.

Laurie Gere, Mayor

ATTEST:

Steven D. Hoglund, City Clerk/Treasurer

APPROVED AS TO FORM:

Darcy Swetnam, City Attorney



Shopping Cart

Summary

Estimate Shipping and Tax

Subtotal **\$18,588.00**Order Total **\$18,588.00**[GO TO CHECKOUT](#)

Item	Price	Qty	Subtotal	
 Dell 1.6TB 2.5" SAS WI MLC 12Gbs SSD Item Sku : CAT-11117-475	\$1,799.00	1	\$1,799.00	 
 Dell 1.6TB 2.5" SAS WI MLC 12Gbs SSD Item Sku : CAT-11117-483	\$1,799.00	1	\$1,799.00	 
 Dell 1.6TB 2.5" SAS WI MLC 12Gbs SSD Item Sku : CAT-11117-509	\$1,799.00	1	\$1,799.00	 
 Dell 1.6TB 2.5" SAS RI MLC 12Gbs SSD Item Sku : CAT-10560-475	\$1,699.00	1	\$1,699.00	 
 Dell 1.6TB 2.5" SAS RI MLC 12Gbs SSD Item Sku : CAT-10560-483	\$1,699.00	1	\$1,699.00	 
 Dell 1.6TB 2.5" SAS RI MLC 12Gbs SSD Item Sku : CAT-10560-509	\$1,699.00	1	\$1,699.00	 
 Dell 1.6TB 2.5" SAS RI MLC 6Gbs SSD Item Sku : CAT-10561-475	\$1,699.00	1	\$1,699.00	 
 Dell 1.6TB 2.5" SAS RI MLC 6Gbs SSD Item Sku : CAT-10561-483	\$1,699.00	1	\$1,699.00	 
 Dell 1.6TB 2.5" SAS RI MLC 6Gbs SSD Item Sku : CAT-10561-509	\$1,699.00	1	\$1,699.00	 
 Dell 1.92TB 2.5" SAS RI MLC 12Gbs SSD Item Sku : CAT-11148-475	\$999.00	1	\$999.00	 
 Dell 1.92TB 2.5" SAS RI MLC 12Gbs SSD Item Sku : CAT-11148-483	\$999.00	1	\$999.00	 
 Dell 1.92TB 2.5" SAS RI MLC 12Gbs SSD Item Sku : CAT-11148-509	\$999.00	1	\$999.00	 

[UPDATE CART](#)[CONTACT US »](#)

(https://buy.hpe.com/home?country=US&locale=en)

Sign In (https://buy.hpe.com/INTERSHOP/web/WFS/HPE-Marketplace-Site/en_US/-/USD/ViewUserAccount-ShowLogin) | Register (https://buy.hpe.com/INTERSHOP/web/WFS/HPE-Marketplace-Site/en_US/-/USD/ViewUserAccount-ShowRegister)

Shopping Cart

← Continue Shopping (https://buy.hpe.com/home?country=US&locale=en)

Items, Availability and Fulfilled by
Item Price
Quantity

Total



(https://buy.hpe.com//pdp?prodNum=873357-B21)

HPE 1.6 TB, SAS, Write Intensive, digitally signed firmware, small form factor, solid state drive in a SmartCarrier with a 3-year

warranty (https://buy.hpe.com//pdp?prodNum=873357-B21)

Product: 873357-B21 Fulfilled by:

Item Total: \$64,625.88

Availability: Limited \$85.00

Estimated Sales Tax \$4,870.67

Quantity: will be calculated at checkout

Total: \$69,581.55

Remove

(https://buy.hpe.com

/INTERSHOP

/web/WFS

/HPE-

Marketplace-

Site/en_US

/-/USD

Save to PDF (https://buy.hpe.com/INTERSHOP/web/WFS/HPE-Marketplace-Site/en_US/-/USD/ViewCartPDF-Cart.pdf)

Email (https://buy.hpe.com/INTERSHOP/web/WFS/HPE-Marketplace-Site/en_US/-/USD/ViewCartEmail-Start)

Remove Product: removeProduct=dn8Q3jPXvTEAAAFoyhVbacn5)

\$27,095.91

Save as favorite (https://buy.hpe.com/INTERSHOP/web/WFS/HPE-Marketplace-Site/en_US/-/USD/ViewUserAccount-ShowLogin?TargetPipeline=ViewCart-View&TargetWishlistID=&TargetURLFragment=add-to-wishlist&LoginToUse=wishlists)

Shipping & return policies

→ Insight (https://buy.hpe.com//aboutpartner?partnerName=Insight&country=US&locale=en&mode=publish)

→ PCM (https://buy.hpe.com//aboutpartner?partnerName=PCM&country=US&locale=en&



Cart

View saved carts (/en-us/work/cart/allcarts/index/).

Cart Sign In Shipping Payment Verify & Submit Order Submitted

Have saved shipping and payment information? Click on Express Checkout to breeze through checkout.

Subtotal (12 Items): \$72,139.17

Checkout

Show Express Options ▼

Item		Quantity	Price
	Dell 1.92TB SSD SAS Mixed Use MLC 12Gbps 2.5in... more Save for later Remove	3	\$13,165.77
	Dell 1.6 TB Solid State Drive Serial Attached... more Save for later Remove	9	\$58,973.40

Dell 1.92TB SSD SAS Read Intensive 12Gbps 2.5in Drive PM1633 (/en-us/work/shop/dell-192tb-ssd-sas-read-intensive-12gbps-25in-drive-pm1633/apd/400-AIZC) was removed from your cart. Undo

Coupons

Coupon code

Apply Coupon

Find coupons (https://www.dell.com/en-us/work/shop/dell-coupons-codes/ab/dell-coupons-codes) or chat with an agent (https://channels.us.dell.com/netagent/cimlogin.aspx?questid=049FD634-AFAA-423A-B417-A2F31B42EAF4&portid=88B394DE-1D38-42BB-8901-89FE759FA0FC) for additional help.

► Additional savings

► Rewards

Summary (12 Items)

Subtotal \$72,139.17

Shipping and taxes not included.

Checkout

Show Express Options ▼

Continue Shopping ▼

Save Cart | Email your cart



City of Anacortes Contracting Ordinance and Purchasing Policy

February 19, 2019



Discussion Overview



Process for developing Documents



City Contract and purchase Info



Contracting Ordinance



Purchasing Policy



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Process for Developing Documents



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Policy/ Authority Adopted by Council

Contracting Authority

- Resolution 1301: 2/22/1994:
Mayor can sign contracts not to exceed \$5,000
- Resolution 1591: 3/4/2002:
Mayor can sign Public Works contracts not to exceed \$30,000
- Resolution 1735: 12/18/2006:
Mayor can sign contracts not to exceed \$30,000
- Resolution 1818: 2/7/2011:
Mayor can sign contracts for water treatment plant not to exceed \$100,000

Purchasing Policy

- Current purchasing policy was adopted in 2012

Procedural Background

- Council and staff began discussing the need for an update to the purchasing policy in 2016
- Staff began work on an update to the contracting ordinance and the purchasing policy mid-2017
- 1st draft of documents was prepared in November of 2017
- Finance Committee met to consider the draft and policy questions
 - December 6, 2017
 - July 11, 2018
 - November 14, 2018
 - January 9, 2019
- Prior to the final draft discussed at the January 9th CFC meeting, the draft was vetted with key staff members who will use the ordinance and policy, including
 - Department Heads
 - Finance staff
 - PW managers

City Contract and Purchase Info



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Contract and Purchasing Statistics from 2018

- Contracts
 - 279 New Contracts (Value: \$19,918,088.54)
 - 90 Contract Modifications
 - 26 Invitations to Bid/Requests for Proposals
 - 585 Invoices processed (\$9,812,743.17 paid)
 - 12% increase over 2017
- Purchases
 - 5190 Purchases
 - \$2,445,784 Total of all purchases

Contracting Ordinance



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Relevant Legal Authority

- Contracting authority for a non-charter code city is vested in the legislative body
- City Council may delegate some of that contracting authority to the Mayor
- Any authorization not specifically delegated remains with City Council
- All Interlocals must be approved by Council – Interlocal Cooperation Act RCW 39.34.030

Contracting Ordinance – Code Structure

- 1.30.010 – General Provisions: Purpose, Applicability, Definitions
- 1.30.020 – Form
- 1.30.030 – Review: Finance Director, City Attorney, Department Head
- 1.30.040 – Approval by Mayor
- 1.30.050 – Approval by City Council
- 1.30.060 – Ratification
- 1.30.070 – Number, Recording, and Retention

Purchasing Policy



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Legal Authority

- Competitive bidding is designed to provide a fair forum for those interested in bidding on public contracts and to help ensure that public contracts are performed satisfactorily and efficiently at the least cost to the public, while avoiding fraud and favoritism in their award. *Gostovich v. West Richland*, 75 Wn. 2d 583, 587 (1969).

Purchasing Policy - Structure

- I. General
- II. Ethics of Procurement
- III. Accountability and Communication
- IV. Grants and Federal Funding
- V. Controlled Commodities
- VI. Determining Contract Value
- VII. Bid Splitting
- VIII. Signature Authority and Approval
- IX. Electronic Signatures
- X. Types of Projects
- XI. Public Works
- XII. Services
- XIII. Purchasing Materials, Supplies, Equipment
- XIV. Exceptions to Competitive Process
- XV. Additional/Special Considerations
- XVI. Disposal of Surplus Property
- XVII. Trade-Ins
- XVIII. Sales Tax and Use Tax
- XIX. Freight
- XX. Payments
- XXI. Appendices

Levels of Competition

- Minimal Competition: Small contracts and purchases below limits. Agencies may seek quotes directly from individual vendors
- Informal Competition: Vendor lists and small public works rosters. Agencies may be able to follow less stringent competitive requirements for projects below a certain threshold by selecting business from small works rosters and vendor lists.
- Formal Competitive Bidding: Above thresholds,

Local Preference – materials, supplies, equipment

Price	Local Preference Allowed
\$0-\$2,500	<u>Policy:</u> All departments shall make a good faith effort to purchase goods within the City when available and suitable to City needs at a price that is competitive
	<u>Legal Restrictions:</u> Even below bid threshold, City has obligation to procure goods at the best price as steward of public funds. Therefore, City may not require only local purchases.
\$2,501-\$7,500	<u>Policy:</u> Departments encouraged to attempt to obtain at least one quote from a local business when procuring under the bid threshold. Should take into account price, delivery times, and return policy.
	<u>Legal Restrictions:</u> Even below bid threshold, City has obligation to procure goods at the best price as steward of public funds. Therefore, City may not require only local purchases.
\$7,501 +	<u>Policy:</u> RCW 39.30.040 allows local sales tax revenue generated by purchase to be considered in determine lowest responsive and responsible bid.
	<u>Legal Restrictions:</u> Over bid thresholds, Cities are only allowed to procure goods as expressly provided by state law. The only allowance for local preference in state law is as provided in RCW 39.30.040, which allows jdx to take sales tax revenue into account.

Questions?

darcys@cityofanacortes.org





City Council Agenda Bill

Meeting Date: 2/19/2019

Agenda Item: 7a and 7b

Subject: Contracting Ordinance and Purchasing Policy

Staff Contact: Darcy Swetnam

Approved for Submittal to Council by	
x	Laurie Gere, Mayor
x	Steve Hoglund, Finance Director
x	Darcy Swetnam, City Attorney

Action Type	
x	Ordinance No. 3036
	Code Revision? Yes
x	Resolution No. 2030

Summary Statement: Tonight's presentation is for discussion only to introduce to Council and the public the draft of the Contracting Ordinance and Purchasing Policy.

Background: Staff have been working for some time on updating the City's contracting ordinance and purchasing policy to align with state law requirements and provide clear guidance to staff and contracting parties. Ordinance 3036 and Resolution 2030 are presented together because they provide the framework for all City procurement and contracting. Ordinance 3036 clearly lays out Council delegation of authority for contracting, while clarifying key requirements of all City contracts. Resolution 2030 adopts the purchasing policy, which identifies City rules for procurement, contracting, and contract administration. These drafts have been reviewed extensively by the Council Finance Committee. They have also been reviewed by City Department Heads and key City staff user groups, including the public works management team, project managers, and administrative support staff. The drafts presented tonight incorporate feedback and comments from all of these groups.

Budget Impact	
Amount Budgeted	N/A

Previous Council/Committee Action: The purchasing policy and contracting ordinance have been presented to and amended by the Council Finance Committee. There have been three meetings over the past year where these items were considered.

Competing Viewpoints Considered: N/A

Recommended Motion: No motion recommended at this time.

Alternative Actions: N/A

Attachments (listed in order presented): Ordinance 3036, Resolution 2030 with attached Purchasing Policy.

**City of Anacortes
Ordinance No. 3036**

An Ordinance of the City of Anacortes, Washington, adopting a new Chapter 1.30 in the Anacortes Municipal Code and repealing Resolutions

Whereas Resolution 1301, adopted in 1994, authorized the Mayor to execute contracts with total dollar values of less than \$5,000 without City Council approval; and

Whereas Resolution 1591, adopted in 2002, authorized the Mayor to execute Public Works contracts with total dollar values of less than \$30,000 without City Council approval; and

Whereas Resolution 1735, adopted in 2006, authorized the Mayor to execute contracts City-wide with total dollar values of less than \$30,000 without City Council approval; and

Whereas Resolution 1818, adopted in 2011, authorized the Mayor to execute contract change orders associated with the Water Treatment Plant Improvement Project with total dollar values of less than \$100,000 during the project without City Council approval;

Whereas the City is in the process of implementing an Electronic Records Management System capable of retaining documents consistent with RCW Chapter 40.14 and WAC Chapters 434-662 and 434-663 governing preservation and destruction of public records and standards for imaging systems accuracy and durability;

Now, therefore, the City Council of the City of Anacortes does ordain as follows:

- Section 1. A new Chapter 1.30 is created in the Anacortes Municipal Code to read as shown in Attachment A.
- Section 2. Resolutions 1301, 1591, 1735, and 1818, and the provisions of any other resolution delegating contract authority are repealed.
- Section 3. Consistent with RCW 35A.12.130, this ordinance takes effect five days after passage and publication.

PASSED AND APPROVED this ____ day of _____, 2019.

CITY OF ANACORTES:

Laurie Gere, Mayor

ATTEST:

Steven D. Hoglund, City Clerk-Treasurer

Approved as to Form:

Darcy Swetnam, City Attorney

Attachment A
Chapter 1.30 Contracts

1.30.010 General Provisions	3
1.30.020 Form	4
1.30.030 Review	4
1.30.040 Approval by mayor.	3
1.30.050 Approval by City Council	4
1.30.060 Ratification.....	4
1.30.070 Numbering, Recording, and Retention	4

Chapter 1.30.010 General Provisions

Purpose.

- A. Per RCW 35A.11.010, the City's authority to contract, and be contracted with, is vested in the City Council.
- B. The City Council wishes to delegate certain authority to contract to the Mayor and provide for the orderly review, presentation, and publication of City contracts.

Applicability.

- A. Generally. This Chapter applies to all contracts, as defined in this section, between the City of Anacortes and any person or entity, and amendments to contracts.
- B. Exceptions. This Chapter does not apply to:
 - 1. Agreements for the purchase of goods, not used in connection with a public works project, that are provided for in the City budget.
 - 2. Any agreements for the acceptance of donations or interests in real property, which are addressed in Chapter 3.10 AMC.

Definitions.

- A. "Contract" means any agreement, written or spoken, between two or more parties that is intended to be enforceable by law, and includes, but is not limited to:
 - 1. Public Works agreements;
 - 2. Personal services agreements;
 - 3. Employment contracts;
 - 4. Grant agreements;
 - 5. Agreements pursuant to the Interlocal Cooperation Act, RCW Chapter 39.34;
 - 6. Leases of real property.
- B. "Goods" means products, materials, supplies, or equipment.

Chapter 1.30.020 Form

- A. Contracts must be written in the name of the City of Anacortes and not any particular city official or department.
- B. Contracts for services must include a detailed scope of work.
- C. The City Attorney must develop form contracts to implement these requirements.

Chapter 1.30.030 Review

- A. All contracts must be reviewed by the City Clerk-Treasurer, the City Attorney, the Department Head responsible for the agreement, and Contract Specialist prior to approval.

Chapter 1.30.040 Approval by mayor.

- A. The mayor is authorized to approve contracts that meet all of the following criteria:
 - 1. The contract is exclusively for the City's purchase of goods which are not to be used in connection with any public work.
 - 2. The contract amount is within budget authority for the specified BARS numbers.
 - 3. The total aggregate value of the contract is less than \$30,000.
 - 4. The contract is made, and the vendor has been selected, consistent with the City's purchasing policy.
 - 5. The contract has been approved by the City Attorney.
- B. The mayor is authorized to approve modifications to contracts that meet all of the following criteria:
 - 1. One of the following applies:
 - a. The modification, either singly or combined with all previous modifications, results in a total contract value under \$30,000.00; OR
 - b. Cost modifications for contracts with an original value between \$30,000-\$99,999 which results in a new total contract amount less than \$10,000 over the original contract amount; OR
 - c. Cost modifications for contracts with an original value \$100,000 or more which results in a new total contract amount less than 110% over the original contract amount.
 - 2. The modification does not modify the contract's general terms and conditions or extend the term of the contract more than one year.
 - 3. The modification has been approved by the City Attorney.
- C. Any contract that the mayor is not authorized to approve may only be approved by the City Council.
- D. All agreements made pursuant to the Interlocal Cooperation Act at RCW 39.34 must be approved by the City Council.
- E. The mayor may not delegate authority to sign contracts to any other person.

- F. The City Council reserves the authority to modify this delegation of authority by resolution or motion.

Chapter 1.30.050 Approval by City Council

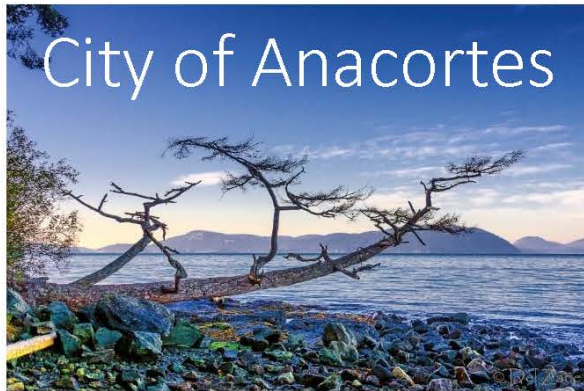
- A. Any contract to be approved by City Council must be presented in its entirety to the City Council, with all attachments.
- B. Prior to presentation to City Council, all contracts must be reviewed in accordance with Section 1.30.030.

Chapter 1.30.060 Ratification

- A. Contracts executed inconsistent with this Chapter are not valid contracts unless ratified by action of the City Council.

Chapter 1.30.070 Numbering, Recording, and Retention

- A. The City Contract Specialist must assign every contract and modification a unique identifier. Contracts must be identified in the form YY-###-CAT-###, where YY is the two-digit year of work and ### is a number with leading zeros incremented for each contract approved that resets to 1 at the beginning of each year. CAT is the category of the contract, and the final ### is the number of the instrument related to the project.
- B. Effective August 1, 2018, all contracts must be recorded in the City's Electronic Records Management System and made available to the public on the City's website within five days of approval.
- C. After recording in the City's Electronic Records Management System and verification of imaging accuracy, the paper version of a contract may be destroyed consistent with RCW.



PURCHASING POLICY



2019

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I. GENERAL

A. Purpose

This document is intended to direct the purchase of goods and services at a reasonable cost. An open, fair, documented, and competitive process is to be used whenever reasonable and possible. The purchasing function's integrity, efficiency, and effectiveness are critical elements of sound government.

B. Objectives

The objectives of the city's purchasing program are as follows:

- To provide a uniform system to obtain supplies, materials, equipment, and services in an efficient and timely manner;
- To facilitate responsibility and accountability with the use of city resources;
- To ensure equal opportunity and competition among suppliers and contractors;
- To promote effective relationships and clear communication between the city and its suppliers and contractors;
- To comply with the comprehensive State procurement statutes which govern expenditures of public funds;
- To promote use of recycled materials and products, and dispose of surplus and scrap materials with regards to cost savings and the environment.

C. Scope

These guidelines apply to purchases of:

- Public works projects
- Professional services (including architectural and engineering design)
- Non-professional services
- Supplies, materials, and equipment

The guidelines do not apply to the acquisition, sale, or lease of real property. If grant funding is involved in the proposed purchase, applicable requirements should be obtained from the funding agency. Such requirements may be more restrictive than the city's policy.

D. Controlling Laws

All purchases shall comply with appropriate and relevant federal, state, and city laws and policies. If the appropriate and relevant federal or state laws, regulations, grants, or requirements are more restrictive than these guidelines, such laws, regulations, grants, or requirements should be followed.

The City Attorney shall be consulted when questions regarding potential conflicts arise. Applicable laws and regulations will be cited throughout this document.

II. ETHICS OF PROCUREMENT

A. Gifts and Conflicts of Interest

The city is committed to providing a very fair, transparent and equitable process to our purchases. We ask all staff participating in a solicitation and/or award process to be thoughtful of any perceived or actual conflicts of interest. Many of the situations defined as prohibited conduct in the city's [Personnel Policies](#) could arise in the procurement context.

1. Reasonable Person Standard. The city seeks to avoid situations that involve conflicts of interests or the appearance of such conflicts based on inappropriate opportunities to influence the solicitation and/or award process. The city uses the measures of how a reasonable person would perceive the situation. A reasonable person standard might consider how the situation would appear if covered by a news story, or viewed from the perspective of a public interest group. Common questions to ask are: Could you comfortably explain your actions? Would taxpayers believe you were acting in their best interest?
2. Limitations on gifts. City staff should refuse gifts, meals and invitations to events such as concerts or sporting events, that could be reasonably perceived as: improperly influencing performance of your official duties; a reward for awarding a contract; or offered or given to influence, find favor, or with a reasonable expectation of creating an obligation to the giver.

Vendors are prohibited from offering gifts during the solicitation and ensuing contract award process.

Contact the Legal Department for assistance if you encounter unusual situations.

B. Former Employees as Vendors/Consultants/Contractors

Contact Legal before initiating a contract with former city employees to determine if doing so would create an actual conflict of interest or the appearance of a conflict of interest.

III. ACCOUNTABILITY AND COMMUNICATIONS

City staff involved in specification development must carefully consider conflicts of interest and other public accountability rules. Consider each of the following:

A. Public Disclosure

The city's procurement process, and the submittals, materials, information, decisions and many of the notes related to that process are all public records subject to public disclosure unless an exemption applies under the Washington Public Records Act (PRA), Chapter [42.56 RCW](#).

- Submittals are subject to disclosure. Certain state law exemptions may apply and disclosure may be reasonably delayed to avoid unreasonable interference with the evaluation and award decision.
- Your notes are subject to disclosure as they pertain to the city's official business, processes and decisions. Do not make remarks or comments that you would not be comfortable sharing with a public audience.
- Keep those notes that help to document the process and decisions, and clearly organize them so they can be understood in the future.
- Important notes and materials that are significant to documenting the decision and process should be given to the Contract Specialist at the end of the process and saved in the event of a public records request.
- The city is not required to create summaries or new public records in response to a PRA request. The city is not required to do research or analysis for vendors under PRA. However, summaries or analyses are subject to disclosure if the city has already created such records.
- Further information regarding public disclosure may be obtained from the Public Records Coordinator.

B. Maintain Confidentiality

Documents, decisions, information and opinions are generally to be kept confidential, except as required to be disclosed under the Public Records Act. Do not share information other than with city staff who are directly involved in the evaluation and selection process. Project Managers, the Contract Specialist, and in some cases selection advisory committee members, may contact respondents to city solicitations seeking additional information and clarification regarding vendor submittals, as well as to negotiate a contract. However, conversations or contact with respondents regarding details of the evaluation process should otherwise be limited, and care must be taken to maintain the objectivity of the evaluation process. If respondents call with questions, particularly with regard to evaluation, or to request documents, refer them to the Contract Specialist.

C. Fair, Prudent and Thorough Evaluation

The process must be fair to all respondents; be thoughtful and deliberative in order to preserve the integrity of the public bid process.

1. The Project Manager, and city staff invited to assist in specification development, solicitation efforts, and/or award processes, must be considerate of conflicts of interest and other public accountability rules.
2. In the event a member of a RFP selection advisory committee has a conflict of interest, he or she must immediately withdraw from the process. If you have a conflict or perceived conflict of interest, you must consult with the Legal Department.

Use caution:

- a) when discussing any aspect or any opinion you might have of the solicitation process, vendors, bids or results until the award is complete.
- b) to avoid actions that give, or may be perceived to give, preferential treatment to any vendor.

IV. GRANTS & FEDERAL FUNDING

Are you trying to procure something that involves any type of grant or federal funding? Then STOP!



Purchases or work that have received a grant or federal funding may not be covered by this manual. These types of purchases often have their own procurement requirements.

ALL GRANTS ARE DIFFERENT, so one size does not fit all. Some grants simply require you to use your own procurement rules, while others require you to insert their contracting clauses into your contract. Contact Legal for advice on how to proceed. We will review your specific grant and guide you on what the next steps are.

The City of Anacortes' internal controls for Federal Awards are detailed in the [Federal Award Standards](#) document.

V. CONTROLLED COMMODITIES

The following items require approval from designated people. They are:

- Cell phones, telephone equipment - **IT Manager**.
- Computers and related equipment, printers, scanners and copiers, software or systems - **IT Manager**.
- Anything purchased using Equipment Rental and Revolving (ER&R) funds – **Fleet Services Manager**.

VI. DETERMINING CONTRACT VALUE

Contract value refers to the total aggregate value of the contract including all base periods, plus potential renewal periods.

- Example #1: A three year contract for \$40,000 per year is considered a \$120,000 contract.
- Example #2: A contract originally routed as a one year \$25,000 contract. If a renewal is negotiated for an additional year for another \$25,000, the aggregate value of the contract becomes \$50,000, which will require City Council authorization.
- Exception: Hardware/software maintenance agreements are treated as stand-alone agreements and do not need to be aggregated to the original hardware/ software purchase agreement.

VII. BID SPLITTING

The breaking of any project into units, or accomplishing any projects by phases, is prohibited if it is done for the purpose of avoiding compliance with bidding statutes¹.

The Washington Supreme Court has held that a city cannot break a public work into phases for the purpose of estimating the cost of a public works project, even though those phases are performed at different intervals of time. Instead, a city, while completing the actual project in phases, must total the cost of all phases of the public work or purchase. If the aggregate cost exceeds the applicable bid limit, the city must bid each phase of the project even though a single phase may cost less than the bid limit.

To avoid bid splitting:

- A. Combine all phases of a public work project when estimating cost.
- B. Combine the total of foreseen identical items purchased at the same time or within a calendar years' time, in which the cost exceeds competition limits (i.e. office supplies, laundry services, janitorial paper products, etc.)
- C. Items that are designed, or intended to be used together (i.e., water meters and covers), and the cost exceeds competition limits should be bid together.

¹ [RCW 35.23.352\(1\)](#)

VIII. SIGNATURE AUTHORITY AND APPROVAL

Per [RCW 35A.11.010](#), the City's authority to contract, and be contracted with, is vested in the City Council. City Council has delegated authority to the Mayor to execute contracts and modifications that meet the criteria of Anacortes Municipal Code Chapter 1.30². **Only the Mayor has the designated signature authority to sign contracts and binding agreements for the City.**

City Council approval is required for public works, professional, purchased, or personal services contracts that:

- A. Are contracts with a total aggregate value of \$30,000 or more
or
- B. Are cost modifications that, either singly or combined with all previous modifications, pushes the total contract amount from under to over the \$30,000 signature threshold
or
- C. Are cost modifications for contracts with an original value between \$30,000-\$99,999 that results in a new total contract amount \$10,000 or more over the original contract amount.
or
- D. Are cost modifications for contracts with an original value \$100,000 or more that results in a new total contract amount 110% over the original contract amount

Example 1: a \$200,000 contract has a modification for \$18,000 for a new contract amount of \$218,000. The original contract amount is over \$100k so the next step is to figure out if the new total contract amount is 110% over the original value(D). 110% of \$200,000 would be \$220,000, so this modification does not result in a new total contract amount 110% over the original contract amount and does not need to be approved by Council.

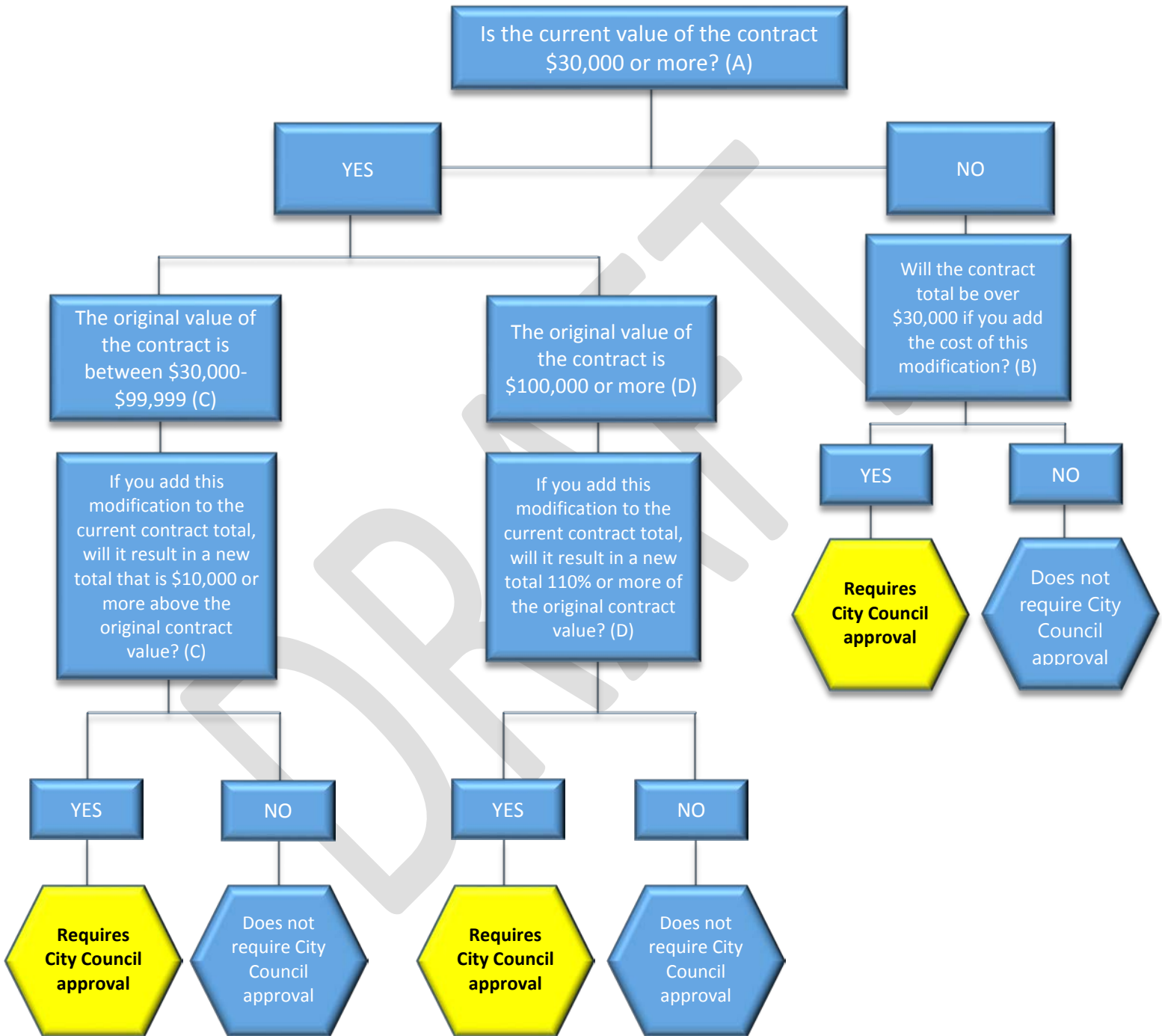
Example 2: a \$35,000 contract already had modification #1 for \$5,000 approved and executed. Now there is a new modification #2 for \$6,000. The original contract amount is between \$30,000-\$99,999, so the next step is to determine if this modification results in a new contract amount \$10k or more over the original contract value(C). Adding together Mod 1 and Mod 2 equals \$11,000 which is over \$10,000, so modification #2 does need to be approved by Council.

Example 3: a \$10,000 contract has a modification of \$1,500 for a new contract amount of \$11,500. The modification does not have a total value of \$30k or more(A), does not push the total contract amount over the \$30k threshold(B), and is not for a contract with an original value between \$30,000-\$99,999(C) or \$100k or more(D), so it does not need to be approved by Council.

Example 4: a \$25,000 contract has already had a modification #1 of \$1,000 and now has a modification #2 of \$5,000 for a new contract amount of \$31,000. Modification #1 did not meet any of the requirements of A, B, C, or D so it did not need to be approved by Council. Combined with the previous modification, modification #2 does push the total contract amount from under to over the \$30k signature threshold(B) and so it does need to be approved by Council.

² Ordinance 3036

Contract Modification Approval Requirements



IX. ELECTRONIC SIGNATURES

Electronic (digital) signatures are defined under [RCW 19.34.020](#):

"Digital signature" means an electronic signature that is a transformation of a message using an asymmetric cryptosystem such that a person having the initial message and the signer's public key can accurately determine:

- (a) Whether the transformation was created using the private key that corresponds to the signer's public key; and
- (b) Whether the initial message has been altered since the transformation was made."

The City, pursuant to [RCW 19.360.020\(5\)](#), declares DocuSign as the electronic signature provider for the City. Specifically, the Mayor, City Attorney, and Finance Director, and their designees, are authorized to use DocuSign, or any future replacement of such platform, to affix electronic signatures to electronic records. A City document that is required by law to be signed in non-electronic media may not be digitally or electronically signed. This Section does not supersede the requirements detailed in Section VIII or Ordinance 3036.

X. TYPES OF PROJECTS

Local government purchases and projects generally fall into one of five categories:

[Public works](#): All work, construction, alteration, repairs, or improvements to physical property, other than ordinary maintenance, that are paid for by a municipality.

[Professional architecture and engineering services](#): Professional services provided by a consultant that fall under architecture, engineering, land surveying, or landscape architecture.

[Personal services](#): Technical expertise provided by a consultant to accomplish a specific study, project, task, or other work statement, not including professional architecture and engineering services.

[Purchased services](#): Services provided by vendors for the routine, necessary, and continuing functions of a local agency, mostly related to physical work.

[Materials, Supplies, Equipment](#): Purchases of goods, equipment, supplies, or materials that are not connected with a public works project.



PUBLIC WORKS



XI. PUBLIC WORKS

A. Definition: What is a Public Work?

This covers more than you think: "all work, construction, alteration, repair or improvement other than ordinary maintenance"³ to pretty much any structure or facility the city owns. L&I considers "ordinary maintenance" to be that performed by your own staff, so that means every time you call in a carpenter, plumber, electrician, painter, roofer, elevator repair technician, tree trimmer, fencing company, HVAC repair technician, equipment operator or other person wearing tools who isn't city staff, the purchase falls under public works procurement rules.

Contact the Contract Specialist if there is any question whether your project falls under "Public Works" or as to which procurement process is necessary.

ALL public work in ANY amount requires a written contract, payment of prevailing wages, and insurance.

B. THRESHOLDS:

Public Works			
	DOLLAR LIMIT	FORMAL BID PROCESS	APPROVAL
Single Trade or Craft	\$0-\$40,000	Optional	\$0-\$29,999 = Mayor \$30,000+ = City Council
	Over \$40,000	Required	City Council
Multi Trade or Craft	\$0-\$65,000	Optional	\$0-\$29,999 = Mayor \$30,000+ = City Council
	Over \$65,000	Required	City Council
	DOLLAR LIMIT	QUOTES	APPROVAL
Using MRSC Small Works Roster	\$0-\$34,999	Minimum 3 quotes requested	\$0-\$29,999 = Mayor \$30,000+ = City Council
	\$35,000-\$149,999	Minimum 5 quotes requested	City Council
	\$150,000-\$300,000	Minimum 5 quotes requested and must notify all contractors on roster list	City Council
	DOLLAR LIMIT	PROCUREMENT PROCESS	APPROVAL
Unit-Priced On-Call Contracts	\$0-\$300,000	Follow the Small Works Roster Rules	\$0-\$29,999 = Mayor \$30,000+ = City Council

"Craft" or "trade" means a recognized construction trade or occupation for which minimum wage categories are established by the Department of Labor and Industries of the State of Washington in the locality of the city's projects or purchases.

³ [RCW 39.04.010](#)

C. Day Labor

The city may use our own employees to perform public works projects with an estimated cost up to \$40,000 (single craft) or \$65,000 (multiple craft). For larger projects, you must contract with a responsible contractor. However, the city must provide a report to the state auditor of the costs of all public works in excess of \$5,000 that are not let by contract. For any project using city workers that costs in excess of \$25,000, the city must publish a description of the project and its estimated cost in its official newspaper at least fifteen days before beginning the work⁴.

D. Determining the Cost of a Public Work

The total construction cost of each **project** must be estimated in order to correctly apply bid limit dollar amounts to determine if a public works project must be competitively bid. The estimate shall include all phases and anticipated contracts for the entirety of the project, and include materials, supplies, equipment, and labor on the construction of that project AND applicable sales and use taxes. However, the value of volunteer labor, material, or equipment need not be included in the cost estimate for a public works project, as these are not a cost to the agency. If the total project amount is over the bid thresholds then all contracts, no matter the individual dollar amount, must be procured through the bid process. The estimate may be prepared by an outside third party, however the final cost estimate must be validated by the city. The estimate needs to be prepared before any work begins and should be sent to the Contract Specialist.

E. Procuring Through Quotes

Projects for single craft or multiple crafts with a reasonably anticipated price equal to or less than the dollar thresholds do not require the use of competitive quotes or bids.

- It is recommended the Project Manager make every effort to obtain more than one quote.
- The Project Manager forwards solicitation, quotes, and project information to the Contract Specialist who administers the contract process.

F. Small Works Roster (SWR)⁵

When the estimated cost of a public works project is \$300,000 or less, the city may follow the Small Works Roster (SWR) process⁶ for construction of a public work or improvement as an alternative to the general competitive bidding requirements. The City of Anacortes has contracted with the Municipal Research and Services Center of Washington (MRSC) for the city use of a statewide electronic database for small public works roster and consulting services developed and maintained by MRSC.

⁴ [RCW 39.04.020](#)

⁵ [RCW 39.04.155](#)

⁶ [Resolution 1836](#)

Publication:

At least once a year, on behalf of the city, MRSC shall publish in a newspaper of general circulation within the jurisdiction a notice of the existence of the roster or rosters and solicit the names of contractors for such roster or rosters. Responsible contractors shall be added to the appropriate MRSC roster or rosters at any time that they submit a written request and necessary records.

To use the SWR:

- Notifications and postings must emphasize that bids will be accepted only from contractors on the small works roster.
 - Sample text: *In accordance with competitive bid requirements set forth under RCW 39.04.155, Small Works Roster Contract Procedures, the City of Anacortes is pleased to invite you to submit a bid under the subject solicitation. Contractors who bid on this project must be registered on the Small Works Roster by the time that bids are due.*
- Notifications and postings should list if bonds and prevailing wage will be required.
- Project Manager or Contract Specialist contacts contractors off the Small Works Roster. Invitation for quotations shall include an estimate of the scope and nature of the work to be performed, materials and equipment to be furnished, and the date, time and location to return quote. However, detailed plans and specifications need not be included in the invitation.
- At the time bids are solicited, the city shall not inform a contractor of the terms or amount of any other contractor's bid for the same project.
- No city employee may negotiate with any of the bidders. Some submissions may involve errors, omissions, or other irregularities; contact Legal to decide how to handle them.
- The Project Manager or Contract Specialist shall make a written record of each contractor's bid on the project and of any conditions imposed on the bid. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry.
- The Project Manager forwards solicitation, quotes, and project information to the Contract Specialist who initiates the contract process.
- Formal bids are not required.
- Advertising is not required.
- Bid bonds are not required.
- A signed contract IS required.
- Prevailing wage IS required.
- Insurance IS required.

Small Works Roster “Limited Public Works Process” – up to \$34,999

- If a work, construction, alteration, repair, or improvement project is estimated to cost less than thirty-five thousand dollars (\$35,000), the city may award such a contract using the limited public works process.⁷
- A minimum of three electronic or written quotations from the appropriate small works roster is to be solicited and the contract shall be awarded to the lowest responsible bidder⁸.
- The city will maintain a list of the contractors contacted and contracts awarded during the previous 24 months under the limited public works process, including contractor name, registration number, amount of contract, brief description of work and date contract awarded.
- If the contract value is \$30,000 or more it is required to be approved for award by City Council.

Small Works Roster Process - Between \$35,000 and \$149,999

- Quotations may be invited from all appropriate contractors on the appropriate small works roster. As an alternative, quotations may be invited from at least five contractors on the appropriate small works roster who have indicated the capability of performing the kind of work being contracted, in a manner that will equitably distribute the opportunity among the contractors on the appropriate roster.
- The contract is required to be approved for award by City Council.

Small Works Roster Process - Between \$150,000 and \$300,000

- Quotations may be invited from all appropriate contractors on the appropriate small works roster. As an alternative, quotations may be invited from at least five contractors on the appropriate small works roster who have indicated the capability of performing the kind of work being contracted, in a manner that will equitably distribute the opportunity among the contractors on the appropriate roster. However, if the city chooses to solicit bids from less than all the appropriate contractors on the appropriate small works roster the city must also notify the remaining contractors on the roster that quotations on the work are being sought. The city has the sole option of determining whether this notice to the remaining contractors is made by:
 - o publishing notice in a legal newspaper in general circulation in the area where the work is to be done;
 - o mailing a notice to these contractors; or
 - o sending a notice to these contractors by facsimile or email
- The contract is required to be approved for award by City Council.

⁷ [RCW 39.04.155\(3\)](#)

⁸ [RCW 39.04.350](#)

G. Formal Bid Process – Public Works

Competitive bidding is designed to prevent favoritism in awarding public work contracts and to enable local governments to obtain the best work or supplies at the most reasonable prices. It is also designed to provide a fair forum for bidders and to protect the public interest.

1. The Project Manager submits the project information, including technical specifications, bid and contract timeframes, pre-bid conference dates/times (if applicable), and BARS # to the Contract Specialist.
2. The Contract Specialist compiles the bid package.
3. The notice to bid is to be published in the city's official newspaper, or a newspaper of general circulation most likely to bring responsive bids, at least 13 days prior to the submittal deadline. The notice shall state the nature of the work for which plans and specs will then be available free of charge online and on file.
4. Bids must be sealed and filed with the City Clerk within the time specified.
5. Each bid requires a bid proposal deposit of 5% or more in the form of cashier's check, postal money order, or surety bond.
6. Public bid opening is required.
7. The Project Manager verifies the bids meet the requirements of the Invitation to Bid and notifies the Contract Specialist of the lowest responsive bid.
8. The Contract Specialist verifies the contractor is a responsible bidder.
9. The Contract Specialist determines contract award approval requirements, and if required, schedules and prepares the City Council documents.
10. The Contract Specialist administers the contract process.

H. Requests for Bid Documents

The City of Anacortes Purchasing Policy requires that the City maintain the integrity of official bid documents sets, provide swift response when incorporating addenda changes, and communicate in a singular, fair, and equitable manner to registered bidders.

Builders Exchange of Washington (BXWA) provides prime bidders, subcontractors, suppliers, and other interested parties, virtual free-of-charge access to a complete set of project bid documents, including the ability to download, view, print, order full/partial plan sets from numerous reprographic sources, and free access to an on line digitizer/take-off tool.

Therefore, the City designates BXWA as the official source of bid packages for most capital public work projects, which insures that all bidders receive complete documentation, including all addendum, changes, and clarifications.

I. Unit-Priced Contracts – On-Call and Systemwide Maintenance

Effective June 7, 2018, all cities, towns, and port districts are authorized to use unit-priced contracts⁹. A unit-priced public works contract, sometimes called an “on-call” public works contract, is when a local government contracts for an unknown number of small public works projects over a fixed period of time (“indefinite quantity, indefinite frequency”). State statute defines a unit-priced contract as:

“[A] competitively bid contract in which public works are anticipated on a recurring basis to meet the business or operational needs of the [agency type], under which the contractor agrees to a fixed period indefinite quantity delivery of work, at a defined unit price for each category of work.”

While traditional public works contracts are awarded for specific projects/scopes with a specific total dollar value, unit-priced contracts are not associated with a particular project, do not guarantee any amount of work, and do not establish a total dollar value (although the contract may cap the dollar value at a certain level over the life of the contract). Instead, the agency agrees to pay a defined “unit price” for certain types of anticipated (but unplanned) work or trades over a certain time period.

The prices for different tasks may be based upon different units. Commonly used units include:

- Weight, such as tons
- Surface area, such as square feet or acres
- Volume, such as gallons or cubic yards
- Length/depth, such as linear feet or vertical linear feet
- Time, such as hours
- Quantity of items
- Lump sum per task

When a specific project is identified, individual work orders are authorized based upon either a “not-to-exceed” time and materials basis or a negotiated lump sum amount using the previously established unit prices.

COA Unit-Priced On-Call Contract Requirements:

1. Can only be used for activities that are not specifically planned and have no set project-specific budget.
2. The contract total aggregate value is limited to a maximum of \$300,000, the Small Works Roster threshold.
3. The term of the contract must expire at the end of the current budget cycle or within two years, whichever is first.
4. The Small Works Roster procedures must be used for procurement.
5. Modifications: During the course of a contract, there may be occasions when the original unit prices do not address particular work items that are needed. In those situations, new line items may be added by contract modification.

⁹ [RCW 35.23.352](#)

To Bid a Unit-Priced On-Call Contract:

- Use the Small Work Roster procedures applicable to the estimate total aggregate value of the contract.
- The Invitation to Bid must:
 - o Specify that the contract will expire when the work orders total the estimate total aggregate value (\$300,000 maximum) including WA sales tax, or the contract term expiration date, whichever occurs first.
 - o Specify how work orders will be issued and include a sample work order.
 - o State that there is no minimum volume of work guaranteed.
 - o Specify that Prevailing Wage rates in effect at the beginning date of contract year must be applied.
 - o Specify that Prevailing Wage rates must be updated and Intents and Affidavits submitted to Labor and Industries annually (12-month contract period).

Unit Priced Systemwide Maintenance and Repair Contracts:

There are also some systemwide maintenance and repair contracts that are sometimes referred to as “on-call contracts” but actually fall under traditional public works contracting as long as the scope is clearly and properly defined.

To qualify as a traditional public works contract instead of an on-call contract, a systemwide maintenance or repair contract must cover specific activities planned in advance and budgeted (as opposed to on-call contracts which cover activities that are not specifically planned and have no set budget).

Examples include:

- Sewer or storm drain “jetting” (cleaning) up to a certain budget amount, but not an exact number of linear feet
- Sidewalk/trail construction or reconstruction in relation to the city’s pedestrian master plan (not necessarily a fixed quantity), up to a certain budget amount
- Storm pond maintenance
- Annual contracts for pavement crack sealing, chip seals, overlays, etc.

These contracts can be structured so that they qualify as public works projects with readily determinable quantities and costs related to a fixed scope. Systemwide maintenance and repair contracts should not cover unanticipated projects or emergency repairs, which would fall under on-call contracting.

J. Withdrawal of Bids – Cancellation of Awards

Bids may be modified or the bid may be withdrawn by written notice received prior to the time set for opening in the office designated in the invitation for bids. After bid opening, withdrawal of bids shall be permitted only to the extent that the bidder can show by clear and convincing evidence presented in a sworn affidavit or declaration submitted no later

than 5:00 p.m. on the first business day after bid opening, that a clerical mistake was made and not a mistake in judgment, and the bid price actually intended. All decisions to permit the withdrawal of bids after bid opening, or to cancel awards or contracts based on bid mistakes, shall be made by the Mayor after consulting with legal counsel.

K. Cancellation of Invitations for Quotations or Bids

An invitation for quotations or bids may be canceled at the discretion of the department director. The reasons shall be made part of the contract file. Each invitation for quotations or bids issued by the city shall state that the invitation may be canceled. Notice of cancellation shall be sent to all parties that have been provided with a copy of the invitation. The notice shall identify the invitation for quotations or bids and state briefly the reasons for cancellation.

L. Responsive Bid

What is a Responsive Bid?

Responsive bids are bids that are submitted on time with all of the information the city requested. Bids submitted after the submittal deadline or at the wrong location should be rejected as non-responsive – in other words, the city will neither accept nor open late bids. If a contractor claims extenuating circumstances, refer them to the City Attorney.

Typically, bidders must provide the following information at the time of bidding:

- Sealed bids, with the name of the project and the time and date of the bid opening clearly stated on the outside of the bid packet
- Bid guarantee in the form of a bid bond, cashier's check, certified check, or personal money order
- Lump sums, unit prices, and total prices in the spaces provided on all of the bid forms, including all appropriate sales taxes
- Receipt of addenda acknowledged
- Acknowledgment of attendance at mandatory pre-bid meeting (to be verified)
- Non-collusion affidavit certificate
- Mandatory bidder responsibility questionnaire with all items filled in

While it is possible to do a brief check when the bids are first opened, the city reserves the right to ascertain full compliance with the bid proposal requirements after a more detailed review, generally within a maximum of 30-45 days.

Additional items may be required shortly after bid opening:

- If supplemental bidder responsibility criteria are required (see below), a separate questionnaire must be filled out and submitted within 72 hours after bid opening. However, this questionnaire should only be required of the apparent low bidder and the next two lowest bidders

- For projects that cost an estimated \$1 million or more, a list of all subcontractors for HVAC, plumbing, or electrical work must be submitted¹⁰. The bidder may also submit itself for any of these categories. This list may either be submitted within one hour after the bid opening (the preferred method) or at the time the bid is submitted.

In addition, [RCW 39.04.350\(2\)](#) allows agencies to adopt additional relevant responsible bidder criteria for individual projects. Supplemental criteria may be on two levels:

- A basic level that may include such things as no delinquent state taxes, no federal debarment, minimal prevailing wages violations, no excessive claims against retainage and bonds, no public bidding violations, no termination for cause or default, and unwarranted lawsuits with respect to public contracting.
- A secondary level whose criteria relate to the nature of a specific project. For example, the city may require that a contractor must have completed three projects of a similar scope and dollar volume within the past five years.

These supplemental criteria and associated evaluation methods must be provided in the invitation to bid or bidding documents.

M. Responsible Bidder

The city is required to award public works contracts to a responsible bidder with the lowest responsive bid¹¹. This applies to informal bidding, such as a small works roster, as well as formal competitive bids.

Responsible bidders¹² must meet a number of mandatory criteria. The bidder must:

- At the time of bidding be a registered contractor in compliance with chapter [18.27 RCW](#)
- Have a current Washington State Unified Business Identifier (UBI) number
- If applicable, have industrial insurance/workers' comp coverage required in [Title 51 RCW](#)
- Have an Employment Security Department (ESD) account as required in [Title 50 RCW](#)
- Have a state excise tax registration number as required in [Title 82 RCW](#)
- Not be disqualified from bidding under RCW [39.06.010](#) or [39.12.065\(3\)](#)
- Not have any apprenticeship violations, if applicable
- Certify through a sworn statement that they are not a willful violator of labor laws in reference to [RCW 49.48.082](#).

¹⁰ [RCW 39.30.060](#)

¹¹ [RCW 39.04.010](#)

¹² [RCW 39.04.010](#), [RCW 39.04.350](#)

N. Bid Deposit, Performance Bond, and Payment Bond for Public Works Improvement Projects

Whenever competitive quotes or bids are required, a bidder may be required to make a deposit in the form of a certified check or bid bond in an amount equal to not less than five percent of the total bid, which percentage shall be specified in the call for bids. As part of any bid submitted, the bidder shall be required to warrant that the bid is a genuine bid, and that he/she has not entered into collusion with any other bidder or any other person. All public works contractors shall furnish a performance bond and a payment bond in an amount equal to the total amount of the contract on a form approved by the City Attorney. In lieu of a performance bond on contracts of \$150,000 or less a contractor may request to have 10 percent of the contract retained for a period of 30 days after the date of final acceptance¹³. The request will be evaluated and accepted or rejected by Legal.

O. Retainage

State law¹⁴ requires the city to withhold up to five percent (5%) of the contract price earned by the city's contractor during performance of public work and construction contracts. The withheld amount, known as "retainage," is for the benefit of laborers and material suppliers in the event the contractor fails to pay them. Retainage may also be used to satisfy tax claims by the Department of Revenue and/or the city, prevailing wage related claims by the Department of Labor and Industries, unemployment compensation related claims by the Employment Security Department, and contract performance claims by the city itself. Retainage is not paid ("released") to the contractor until appropriate releases are received from the involved state agencies and city departments/divisions.

A contractor has several options in how retainage will be held¹⁵:

1. The most common is to have the city withhold and retain five percent (5%) from each payment made during performance of the contract in a non-interest bearing fund.
2. A bond in-lieu-of retainage (aka "retainage bond") may be submitted by the contractor on the city's standard form or one that is acceptable to the city for all or any portion of the contract retainage amount.
3. The amount(s) retained may be deposited by the city in an interest bearing account. Interests on such monies shall be paid to the contractor and is not subject to withdrawal until after final acceptance of the work.
4. An escrow account may be jointly established by the contractor and the city with a bank. This escrow option must utilize the city's standard forms. The monies placed in escrow must be converted into bonds and securities approved by the city and any interest is paid to the contractor as it accrues.

¹³ [RCW 39.08.010](#)

¹⁴ [Chapter 60.28 RCW](#)

¹⁵ [RCW 60.28.011](#)

Retainage requirements are not mandatory for non-public works supplies or services, but may be used in the discretion of the department/division. Note that even when the city has required a performance bond for these types of contracts, retainage is not held unless specified in the solicitation and contract. This is rare.

At the conclusion of contract performance, any retainage reserved by the city will be released or otherwise disbursed according to the city's standardized contract close out process.

P. Prevailing Wages

- State law requires prevailing wages to be paid by the contractor on all public works projects and all public building service maintenance contracts¹⁶. To see the list of applicable labor categories go to State of Washington Department of Labor and Industries [website](#). Prevailing wage questions may be directed to the Department of Labor and Industries (L&I), Prevailing Wage Section, 360-902-5335.
- Public works contracts require that each and every employer on the project file a Statement of Intent to Pay Prevailing Wages (Intent), and Affidavit of Wages Paid (Affidavit), regardless of the size of the contract. The forms are filed with L&I and, once they are approved, are submitted by the employer to the city's Contract Specialist.
- Owner/Operators that do not have any employees do not need to pay themselves prevailing wages, however, they do still need to file Intents and Affidavits with the Department of Labor and Industries and list in section 3 of the form that they are Owner/Operator.
- For all public works contracts, except janitorial and building service maintenance contracts, the applicable prevailing wage rates shall be those in effect on the submittal due date. These rates shall remain in effect throughout the duration of the contract. If a contract is not awarded within six months of the submittal due date, the applicable prevailing wage rates shall be those in effect on the date the contract is awarded, and shall remain in effect for the duration of the contract¹⁷.
- For janitorial, building service maintenance contracts, and unit-priced contracts, the prevailing wage rates in effect on the submittal due date are the minimum rates that must be paid for the first year of such contract and thereafter. However, any janitorial, building service maintenance contract, and unit priced contract, of more than one year in duration must include wage increase language specifying that wages will be altered annually to follow the most recent publication of prevailing wage rate¹⁸.

¹⁶ [RCW 39.12](#)

¹⁷ [WAC 296-127-011](#)

¹⁸ [WAC 296-127-023](#)

- Specification documents must state that workers shall receive the prevailing rate of wage. The specifications must either list all of the applicable prevailing wage rates, or else provide the URL address for L&I's [Prevailing Wage Rates for Public Works Contracts](#) with the exact wage publication date and county. NOTE: Prevailing wage rates are adjusted twice annually – usually in the spring and fall.
- Payments by the city are not allowed when contractors have not submitted an Intent form that has been approved by the L&I industrial statistician. The city may not release retainage until all contractors and subcontractors have submitted an Affidavit form that has been certified by L&I. The requirement to submit these forms should also be stated in the contract.
- There is no minimum dollar amount for public work or prevailing wage. Prevailing wages must be paid for any work, construction, alteration, repair or improvement, other than ordinary maintenance, that the city causes to be performed by a private party through a contract.
- Should the city fail to comply the city can be held responsible for any unpaid prevailing wages.

****Federal Prevailing Wage Requirements**

The federal government has its own public works prevailing wage requirements, or wage decisions, established by the Davis-Bacon Act (DBA). For any public works project receiving federal funding, contractors must pay the higher of the state or federal wage rates¹⁹. This should also be stated in the bid specifications and contracts.

To look up current federal wage decisions by trade and county, see Wage Determinations Online [Selecting DBA Wage Decisions](#).

¹⁹ [WAC 296-127-025](#)



SERVICES



XII. SERVICES

The first step in successfully contracting for services is to determine the category of service that you will be contracting for, as there are distinct differences between service types and the manner of solicitation. Distinguishing between services and public work is also important, as services may have different bidding requirements.

A. Architectural and Engineering Services (A&E Services)

Professional architecture and engineering (A&E) services are services provided by any person, other than an employee of the agency, that fall under the general statutory definitions of:

- Architecture (Chapter [18.08 RCW](#))
- Engineering (Chapter [18.43 RCW](#))
- Land surveying (Chapter [18.43 RCW](#))
- Landscape architecture (Chapter [18.96 RCW](#))

Purchases of A & E Services

Architectural and Engineering consultants are initially selected based upon their qualifications, rather than price. The defining characteristic of chapter [39.80 RCW](#) is its strict insistence on qualification-based selection (QBS) of A&E professionals. In contrast to public works contracts, purchases (equipment, materials, and supplies), and purchased service contracts, an agency **cannot consider price** in the selection process for professional A&E services: it must select the most qualified firm, and then negotiate a price for the work contemplated. There are two ways to select an A&E firm based upon their qualifications:

1. Procure using a request for proposals (RFP) process. This process requires the city representative to develop a written scope of the project and any criteria used to select the service provider and then select a qualified contractor from the city's MRSC architectural, landscape architectural, and engineering service roster, following the procedures of [39.80 RCW](#).
2. If the Project Manager does not choose to use the appropriate roster, then a formal Request for Qualification (RFQ) process must be followed, following the procedures of [39.80 RCW](#). Contact the Contract Specialist for assistance.

The city will negotiate a contract with the most qualified firm at a price which the city determines is fair and reasonable. In making its determination the city shall take into account the estimated value of the services to be rendered as well as the scope, complexity, and professional nature. If the city is unable to negotiate a satisfactory contract with the firm selected at a price the city determines to be fair and reasonable, negotiations shall be terminated and the city shall begin negotiations with the next highest qualified firm. Forward all documentation to the Contract Specialist for archiving. Once a firm has been selected, the information will be provided to the Contract Specialist who then administers the contract process.

B. Personal Services

Services provided by independent consultants that require specialized knowledge, advanced education, professional licensing or certification and where the primary service provided is mental or intellectual, involving the consistent exercise of judgment and discretion.

- Examples: accountants, attorneys, consultants, graphic artists, strategic planning, studies/analysis, training, certification services

Purchases of Personal Services

1. Send a written solicitation to qualified firms or individuals describing the needed services. The MRSC Consultant Roster can be used if desired. Request prices, schedules, and qualifications.
2. If a formal Request for Proposals is needed, contact the Contract Specialist for assistance.
3. Submit all proposals and any evaluation documents to the Contract Specialist who then administers contract process.

C. Purchased Services

Purchased services are those provided by vendors for routine, necessary, and continuing functions of a local government agency, mostly relating to physical activities. These services are usually repetitive, routine, or mechanical in nature, support the agency's day-to-day operations, involve the completion of specific tasks or projects, and involve minimal decision-making. For most purchased services, the main determinant of award is price and there are no bid limits or requirements for advertising, bonds and/or retainage, or, depending on the specific facts, prevailing wages. Contractors whose work includes only observing, directing, verifying, and reporting would not have a prevailing wage requirement. There are a number of purchased services, however, that hover over that thin gray line between purchased services and public works contracting. Purchased service contracts require, on the whole, much less paperwork than public works contracts. If a particular contract is very near the gray line, the conservative approach is to consider it a public works contract.

Contact the Contract Specialist if there is any doubt as to if a project is a purchased service or public work.

- Examples: janitorial services, elevator or equipment inspection (but not *repair*), grounds keeping, pest control, moving services, fire extinguisher inspection, vehicle towing

L&I considers some service contracts, such as HVAC maintenance or road striping, to be public works and subject to public works bidding requirements.

Purchases of Purchased Services

1. Determine if you will procure through obtaining quotes, a formal bid, or RFP. The Contract Specialist must be involved in the formal bid or RFP process.
2. If obtaining quotes, request quotes from 1 or more qualified firms or individuals describing the desired services. Request prices (including prevailing wage if applicable), schedules, and qualifications.
3. Evaluate the proposals and determine the lowest responsible bidder.
4. Submit proposals and all evaluation documents to the Contract Specialist who then administers contract process.

D. Publication

[RCW 39.80.030](#) requires that the city shall publish in advance the city's requirement for professional services. The city may comply with this section by (1) publishing an announcement on each occasion when professional services provided by a consultant are provided by the city; or (2) announcing generally to the public its projected requirements for any category of type of professional service to create a Consultant Roster. Advertising for the Consultant Roster must be done at least once a year by MRSC on the city's behalf. The MRSC Consultant Roster will distinguish between professional architectural and engineering services as defined in [RCW 39.80.020](#) and other consulting services. Firms or persons providing consulting services shall be added to the appropriate roster at any time they submit a written request and necessary records. The city reserves the right to publish an announcement on each occasion when professional services or other consulting services are required.



MATERIALS, SUPPLIES, AND EQUIPMENT



XIII. PURCHASING MATERIALS, SUPPLIES, EQUIPMENT

(Unrelated to Public Work/Construction, Services, A&E)

At first glance, one would think there would be no trouble figuring out what purchases fall into the category of “materials, supplies, and equipment” not used in connection with a public work project or improvement. Stationery, rubber bands, fire trucks, and copy machines come to mind. And, services should also be pretty easy to identify. But sometimes the situation is ambiguous.

Distinguishing between public works and materials, supplies and equipment not used in a public work is important, as different bidding requirements apply to each.

Common sense can be a good guide in this area of the law, but sometimes gray areas can create confusion and uncertainty. If you are concerned about a specific situation, consult the Contract Specialist.

A. THRESHOLDS:

DOLLAR LIMIT	PROCUREMENT PROCESS	APPROVAL*	LOCAL PREFERENCE
\$ -0- to \$2,500	Competition not required Departments encouraged to determine price is fair and reasonable and document in department files.	Department Head	All departments shall make a good faith effort to purchase goods within the City of Anacortes when they are available and suitable to city needs at a price that is competitive.
\$2,501 to \$7,500	3 Quotes Requested Must be attached to the electronic invoice	Department Head	Departments are encouraged to attempt to obtain at least one quote from a local business when procuring under the bid threshold. Staff should take into account price, delivery times, and return policies when evaluating quotes.
\$7,501 to \$15,000	MRSC Vendor Roster or Formal Sealed Bid Process (Contact Contract Specialist)	Department Head	RCW 39.30.040 allows any local sales tax revenue generated by the purchase to be considered in determining the lowest responsive and responsible bid. Any other preferences favoring local businesses are not permitted during any formal bid process.
\$15,001+	Must use Formal Sealed Bid Process (Contact Contract Specialist)	Department Head	RCW 39.30.040 allows any local sales tax revenue generated by the purchase to be considered in determining the lowest responsive and responsible bid. Any other preferences favoring local businesses are not permitted during any formal bid process.

***Approval:** The Department Head may only approve purchases that are provided for in the city budget. Any vendor provided contracts should first be reviewed by the Contract Specialist and can only be signed by the Mayor.

All dollar limits include freight, handling, set-up cost, and appropriate sales tax.

It is the Department Head's/Division Manager's responsibility to appoint who shall make purchases for their department on the city's behalf under the respective quote limits.

B. Informal Competitive Quotes - Materials, Supplies or Equipment between \$2,501-\$7,500

1. A city representative shall make an effort to contact at least three vendors. Departments are encouraged to attempt to obtain at least one quote from a business within the City of Anacortes. The number of vendors contacted may be reduced if the item being sought is only available from a smaller number of vendors. When fewer than three quotes are requested or if there are fewer than three replies, an explanation shall be attached to the electronic invoice.
2. Whenever possible, quotes will be solicited on a lump sum or fixed unit price basis.
3. At the time quotes are solicited, the city representative shall not inform a vendor of any other vendor's quote.
4. A written record shall be made by the city representative of each vendor's quote on the materials, supplies, or equipment, and of any conditions imposed on the quote by such vendor.
5. It is allowable to use criteria other than cost (e.g., qualifications, available staff, delivery timelines, return policies, etc.) in making an award.
6. Award shall be made to the vendor submitting the lowest and best responsible quote.
7. Whenever there is a reason to believe that the lowest acceptable quote is not the best price obtainable, all quotes may be rejected and the city may obtain new quotes.
8. Attach all quotes to the electronic invoice.

Notes:

- If your quote is of a complex nature, let the Contract Specialist obtain the quotes for you to ensure everything is apples-to-apples.
- In the request for quotes, be sure technical information defines acceptable quality and insure vendors are quoting on equal and comparable items. All vendors must be provided the same information. If one vendor offers an acceptable alternate, it must be re-quoted using the alternate specifications.
- The city will not pay for any technical information from the vendor. If the information is to be shared with other vendors, it must be stated so up front. If you use a vendor's technical information without their approval, you may find yourself in a legal tangle.
- Staff may arrange on-site demonstrations or delivery of preview/trial merchandise but must keep in mind that just because you have demoed

someone's product does not mean you will be able to buy it. Competition may still be required and it must be made clear to the vendor beforehand that no preferential treatment will be given.

- Obtain freight pricing (FOB Destination, Freight Prepaid).

C. Vendor Roster – Materials, Supplies, or Equipment \$0 -\$15,000

When purchasing materials, supplies, or equipment not connected to a public works project in the amount of \$15,000 or less, the city may award purchasing contracts by a vendor list process²⁰. The City of Anacortes has contracted with the Municipal Research and Services Center of Washington (MRSC) for the city use of a state wide electronic vendor roster developed and maintained by MRSC.

Publication:

At least twice a year, on behalf of the city, MRSC shall publish in a newspaper of general circulation within the district a notice of the existence of a roster(s) of vendors for materials, supplies, and equipment, and shall solicit names of vendors for the roster.

To use the Vendor Roster, the Project Manager:

- Drafts a written description of the specific materials, supplies, or equipment to be purchased, including the number, quantity, quality, and type desired, the proposed delivery date, and any other significant terms of purchase.
- Makes a good faith effort to contact at least three (3) of the vendors on the roster to obtain telephone or electronic solicitation quotations from the vendors for the required materials, supplies, or equipment.
- Doesn't share telephone quotation from one vendor with other vendors solicited for the bid on the materials, supplies, or equipment.
- Saves a written record of each vendor's bid on the material, supplies, or equipment, and of any conditions imposed on the bid by such vendor and attaches them to the electronic invoice.

D. Formal Bid Process – Materials, Supplies, or Equipment \$7,501+

Unless the Vendor Roster process is used, purchases of supplies, goods, materials, and/or equipment over \$7,500 that are not part of a public works and improvements contract must call for bids using the formal bid process, with price being the primary factor in the contract award decision. Purchases of custom or specialty goods, and/or products that are subject to proprietary design or similar rights, are sometimes conducted using the Request for Proposal (RFP) process, with price performance criteria as well as price being factors in the contract award decision. Contact the Contract Specialist to discuss whether the formal bid or RFP process best fits your situation.

- Unless otherwise specifically approved by the City Council, all contracts relating to the purchase of materials, equipment, or supplies shall be in accordance with

²⁰ [RCW 39.04.190](#), Resolution 2030

the city budget.

- The Project Manager notifies the Finance Department regarding any budget transfers to cover funding.
- The Project Manager submits the project information, including technical specifications, bid and contract timeframes, pre-bid conference dates/times (if applicable), BARS #, as well as a list of potential vendors (if applicable), to the Contract Specialist.
- The Contract Specialist compiles the bid package and administers the bid process.
- An invitation for bids shall be issued which shall include the specifications and the contractual terms and conditions applicable to the procurement.
- Public notice of the invitation for bids shall be published at least once in a newspaper of general circulation. The public notice shall state the date and time of bid opening. Bids not received by the date and time stated for bid opening will not be accepted or considered.
- Bids shall be opened publicly and recorded at the time and place designated in the invitation for bids.
- Withdrawal of Bids - Cancellation of Awards. Bids may be modified or the bid may be withdrawn by written notice received in the office designated in the invitation for bids prior to the time set for opening. After bid opening, withdrawal of bids shall be permitted only to the extent that the bidder can show by clear and convincing evidence presented in a sworn affidavit or declaration submitted no later than 5:00 p.m. on the first business day after bid opening, that a clerical mistake was made and not a mistake in judgment, and the bid price actually intended. All decisions to permit the withdrawal of bids after bid opening, or to cancel awards or contracts based on bid mistakes, shall be made by the Mayor after consulting with legal counsel.
- The Project Manager verifies the bids meet the requirements of the Invitation to Bid and notifies the Contract Specialist of the lowest responsible bidder.
- Award. The award of bid shall be made to the lowest responsible bidder whose bid meets the specifications and evaluation criteria set forth in the invitation for bids. The City may reject all bids at its discretion.
- The Contract Specialist administers the contract process, if applicable.
- The Project Manager places the order.

E. Lowest Responsible Vendor

The following factors, in addition to price, may be taken into account by the city in determining the lowest responsible vendor. If any or all of these criteria will be applied during the evaluation process then they must be included in the Invitation to Bid:

1. The ability, capacity, and skill of the vendor to perform the contract;
2. The character, integrity, reputation, judgment, experience, and efficiency of the

- vendor;
3. Whether the vendor can perform the contract within the time specified;
 4. The quality of performance of previous contracts or services;
 5. The previous and existing compliance by the vendor with laws relating to the contract;
 6. Such other information as may be secured having a bearing on the decision to award the contract.

If recommendation for award is being made to anyone other than the low bidder, send a memo stating specific reasons why the low bid is not acceptable to the Contract Specialist for evaluation.

F. Life Cycle Costing

In considering the purchase of materials, equipment, supplies, whenever there is a reason to believe that applying the "life cycle costing" method of quote evaluation would result in the lowest total cost to the City, first consideration shall be given to purchases with the lowest life cycle cost which complies with the specifications.

G. Telecommunications and Data Processing (Computer) Equipment or Software

Recognizing the unique aspects of computer and telecommunication systems, the legislature established an alternative process for making such purchases. [RCW 39.04.270](#), which is available to all municipalities, allows purchases through use of an alternative competitive negotiation process requiring, at a minimum, the following steps:

1. A request for proposals (RFP) must be published in a newspaper of general circulation at least 13 days before the last date on which the proposals will be received.
2. The RFP must identify significant evaluation factors, including price, and their relative importance.
3. The city must provide reasonable procedures for technical evaluation of the proposals, identification of qualified sources, and selection for awarding the contract.
4. The award must be made to the qualified bidder whose proposal is "most advantageous" to the city.
5. The city may reject all proposals for good cause and request new proposals.

XIV. EXCEPTIONS TO THE COMPETITIVE PROCESS

The Washington State statutes²¹ contain exceptions to the previously discussed bidding requirements. Exceptions, when exercised, should make good business sense and be in the best interest of the city.

It is important to note that ONLY the requirement for competitive bidding or advertising is waived. It does not waive any contractual requirements, approvals, or insurance requirements.

NOTE: If you think your project or purchase falls under one of the exceptions to the bid law, think again. The bid laws are there for a reason – to try to ensure that cities get the best buy for their money. Many of the projects or purchases that a city might consider to fall within exceptions are in the “gray” area of the law. If there is any doubt, the Finance Director or Contract Specialist should check with the city’s auditor.

Exemptions to the competitive bidding requirements:

- Purchases that are clearly and legitimately limited to a single source of supply
 - o Licensed or patented good or service
 - o Items that are uniquely compatible with existing equipment, inventory, systems, programs or services
 - o Meets City standards (i.e. water meters)
 - o Factory-authorized warranty services
- Purchases involving special facilities or market conditions
 - o Item is of special design, shape or manufacture that matches or fits with existing equipment, inventory, systems; used items; auctions
- Purchases in an emergency
- Inter-Governmental Cooperative Purchases
- Purchases of insurance or bonds
- Pollution control facilities and some neighborhood “self-help” projects may be exempt from bidding requirements
- Cities may hire the state or county to do road projects without going out for bids

A. Brand Name and Sole Source Purchases

Brand Name Bidding

Cities may advertise for bids by specifying a particular brand name item as long as the responsible officials have exercised their judgment and determined that a certain brand name is of higher quality or is better suited to the municipality’s needs. In *Smith v. City of Seattle*, the city advertised for bids for incandescent lamps, specifying a particular brand. In a suit brought by a maker of a similar lamp, the court stated that as long as the officials involved exercised their discretion in determining that a particular brand of lamps was more desirable, the city’s procedure was proper in the absence of abuse of

²¹ [RCW 39.04.280](#), [RCW 39.34.030](#),
[RCW 39.30.045](#), [RCW 35.21.278](#)

discretion or fraud. In this case, the fact that the city had used the specified lamps previously and they had performed satisfactorily provided a rational basis for city authorities to limit the bid advertisement to that specified brand of lamps, and the court found no abuse of discretion. There is no requirement that bid specifications naming a particular brand also include a phrase such as "or an equal brand." Contact the Contract Specialist for assistance in determining and documenting the brand name need, and preparation of bidding documents.

Sole Source Purchases

A sole source is a unique exception to the city's purchasing policies. A sole source situation is when it is only feasible to obtain a good or service from one supplier or service provider. Sole source conditions include such things as: (a) products, systems, information, or services that are subject to patent or other proprietary use rights; (b) supplies or services that only one vendor is capable of providing or authorized to provide; (c) items that are available from a single source and such items are required in order to function with existing equipment, systems, programs, or services; (d) situations where the sole source is the only practical way to meet the city's requirements or delivery deadlines; and/or (e) security requirements or information mandates that limit procurement from only a single vendor.

- Unless a specific sole source condition exists, the department/division and project manager shall follow standard competitive solicitation process.
- If there is any doubt, the department/division should pursue a competitive solicitation.
- Specifications must be expansive as possible to ensure the greatest pool of bidders to compete. There must be a clear and appropriate reason for specifications that narrow the field to a sole source.
- A late start to the project does not justify a sole source.
- Prior contracts with a vendor for work on a project is not necessarily an appropriate reason for a sole source waiver.
- The department/division making such a waiver request must document sufficient information that objectively establishes there is only a single source or that a patented or proprietary use right restriction exists. If you have used expansive specifications and find significant data that indicate a sole source, complete a [Sole Source Justification Form](#) and submit to the Contract Specialist.
- Sole source waivers require a City Council resolution.
- The Contract Specialist will prepare the City Council documents and administer the contract process.

B. Special Market Conditions

Special Market Conditions – What Are They?

[RCW 39.04.280\(1\)\(b\)](#) provides a “special market conditions” waiver from the bidding requirements for purchases of materials, supplies, or equipment. To use this exemption, the City Council must pass a resolution stating “the factual basis for the exception”.

What are special market conditions? No definition is given in the statutes. Some have suggested that if supplies or used equipment are offered at a very favorable price and will be sold before a city will have a chance to complete the bidding process, there is a special market condition. However, since there have been no court cases or attorney general’s opinion on this subject, if an employee wishes to invoke “special market conditions” to waive the bidding requirements, the Contract Specialist and City Attorney should be consulted.

Auctions

Sometimes the city will find exactly what it needs, at a favorable price, at an auction. Obviously, seeking bids would be impossible in an auction setting. [RCW 39.30.045](#) authorizes a city to acquire supplies, materials, and equipment through an auction conducted by the United States or any agency thereof, an agency of the state of Washington, a municipality or other government agency, or any private party, without bids, if the items to be purchased can be obtained at a competitive price. This authority, it would seem, would allow a city to make a purchase on an internet-based auction service, such as eBay, as well as through more traditional, in-person auctions. The Department Head must pre-approve an upper bidding limit, (which must be within the approved city budget), for the person doing the bidding.

C. Emergency Purchases

For purposes of this section “emergency” means unforeseen circumstances beyond the control of the city that either: (a) present a real, immediate threat to the proper performance of essential functions; or (b) will likely result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken. Competitive bidding may be waived subject to the following process:

1. Obtain concurrence of the Department Head or designee that a qualifying emergency requiring immediate acquisition of goods or services exists.
2. The Project Manager must inform the contractor that prevailing wage rates apply and the paperwork will be required as soon as possible, and before payment is made.
3. Promptly notify the Contract Specialist of emergency situations by submitting a memo describing the situation as soon as an emergency is known.
4. The Contract Specialist prepares the contract and City Council documents.
5. Once approved by City Council, the Contract Specialist sends the contract, bonds

and insurance requirements to the contractor. Work may begin without the required documents but the executed contract must be obtained, along with an executed bonds, and insurance documentation, as soon as possible, and before any payment is made.

State law requires that if a contract is awarded without competitive bidding due to an emergency, a written finding of the existence of an emergency must be made by the governing body or its designee and duly entered of record no later than two weeks following the award of the contract²².

Public works and improvements emergencies (e.g., broken water main, washed out road, sewer main break, etc.) require contract, performance bond, prevailing wages, and insurance. Local, state and federal laws do not exempt these requirements during an emergency.

D. Inter-Governmental Cooperative Purchases

[RCW 39.34.030](#) allows the city to join with other governmental agencies for the purchase of supplies, equipment, or services. This is done by entering into a written Intergovernmental Cooperative Purchasing Agreement (also known as an “interlocal agreement”). Contact the Contract Specialist for assistance through this process.

Prior to making a purchase under such an agreement, the city must ensure that the procedure used by the agency that originally awarded the bid, proposal, or contract is allowable within the city’s purchasing policy by using the [Cooperative Purchasing Checklist](#). The originating agency must also have fulfilled one of two additional public notice requirements:

- Posted the bid or solicitation notice on a web site established and maintained by a public agency, purchasing cooperative, or similar service provider, for purposes of posting public notice of bid or proposal solicitations.
- Provided an access link on the state's web portal to the notice.

The originating agency’s procurement, advertisement, contract documents, and the completed [Cooperative Purchasing Checklist](#) must be saved with the city’s contract documents.

The city may also make a bid call with another government entity as a joint purchase that complies with the procurement requirements of both jurisdictions. When practical, the city should include language in its solicitations that allows other public agencies to purchase from Anacortes’ contracts, provided that other agencies provide similar rights and reciprocal privileges to the City of Anacortes.

The City Council must approve all Intergovernmental Cooperative Purchasing Agreements.

²² [RCW 39.04.280](#)

E. Pollution Control Facilities

Chapter [70.95A RCW](#), relating to pollution control facilities and enacted in 1973, may offer an important exception to bidding requirements. The term “facility” is defined to mean “any land, building, structure, machinery, system, fixture, appurtenance, equipment or any combination thereof . . . which is used or to be used . . . in furtherance of the purpose of abating, controlling, or preventing pollution.” “Pollution” is defined broadly to include water pollution, land pollution, solid waste disposal, thermal pollution, radiation contamination, or noise pollution. To exercise this exemption, the Project Manager must receive a written certification from the Department of Ecology, or applicable regulating agency, that the project is designed to abate, control, and/or prevent pollution. The Contract Specialist must be involved in this process.

F. Neighborhood “Self-Help” Projects

The city may contract with certain groups to do neighborhood improvement projects without regard to the competitive bidding laws. These groups include chambers of commerce, service organizations, community, youth, or athletic associations, or other similar associations located in and providing service to the immediate neighborhood. The contracting association may make park and recreation improvements, install equipment and artwork, and provide maintenance services while being reimbursed by the city for its expenses. The consideration received by the city (the improvements, artwork, etc.) must be at least equal to three times the city’s payment to the association. All payments made by the city under the authority of this section for all such contracts in any one year shall not exceed twenty-five thousand dollars or two dollars per resident within the boundaries of the city, whichever is greater.

G. State or County Construction or Repair of Streets²³

By passing a resolution, the City Council may authorize Skagit County to construct, repair, or maintain a city street. The city pays the “actual cost” of the work, with the payment being deposited in the county road fund. The state Department of Transportation may also provide engineering assistance road projects or do the actual construction. The state is reimbursed from the city’s share of the motor vehicle excise tax in the motor vehicle fund. Such agreements with the county or the state do not require competitive bids.

²³ [RCW 47.24.050](#)

XV. ADDITIONAL/SPECIAL CONSIDERATIONS

When hiring anybody to do anything for the city, there are three main requirements that need to be met.

A. Certificates of Insurance

The contractor or consultant must furnish the city with a Certificate of Insurance, naming the City of Anacortes as primary and noncontributory **additional insureds with an additional attached endorsement**. Insurance requirements are determined by the City Attorney.

B. Washington State Contractor's License

It is unlawful for the city to hire *anyone* to perform public work on our property that does not have a valid State of Washington Contractor's License. If someone is not properly licensed, DO NOT HIRE THEM. You may look up a contractor to determine if they have a valid Contractor's License at:

- [Department of Labor and Industries](#)
- [Department of Revenue](#)

C. City of Anacortes Business License

A City of Anacortes business license is required for any business working inside the city limits whose annual value of products, gross proceeds of sales, or gross income of the business in the city is more than \$2,000. You may look up business licenses on the [Department of Revenue website](#).

XVI. DISPOSAL OF SURPLUS PROPERTY

The city has a separate policy for the disposal of surplus property. Refer to the [Fixed Asset Policies and Procedures](#) for more information.

XVII. TRADE-INS

Trade-Ins are allowed on new purchases if approved by Legal and Finance in advance. Trade-Ins must be negotiated, documented at "Fair Market Value" by the Project Manager, and declared surplus ahead of time.

Fair Market Value can be obtained by finding comparable units that have been sold at online auctions, e.g. www.publicsurplus.com, www.ebay.com, www.rockanddirt.com, www.ironplanet.com or other online sources such as Edmunds.com, Kelley Blue Book, or NADA. www.govdeals.com is a good place to find auction results for comparables.

Trade-Ins may also be requested ahead of time in the Bid Specifications as a "Guaranteed Buy Back". Work with Legal if you would like to consider this option.

XVIII. SALES TAX AND USE TAX

A. Sales Tax

The City of Anacortes is not sales tax exempt. State law defines which activities are subject to the retail sales tax. Generally, all sales of tangible personal property to consumers for their own use are considered retail sales, as well as a variety of services.

Sales tax is "destination based" for shipped or delivered merchandise and is collected based on the location where the buyer receives or takes possession of the merchandise.

- Destination based tax does not apply to the sales of motor vehicles, trailers, semi-trailers, aircraft, watercraft, modular homes, manufactured and mobile homes, towing services, and florists. Sales tax is based on the seller's location even if the seller delivers the items to customers.
- Sales tax on services are coded to the location where they are performed.
- Over-the-counter (in person) sales are based on the location of the sale.

To look up tax rates, visit the Washington State Department of Revenue (DOR) [website](#).

B. Use Tax

Use tax is a tax on goods and certain services that are paid to the state when sales tax is owed but was not collected by the seller. For example, if the seller should have collected sales tax on the sale, or sales tax is owed because the seller is out of state and does not collect Washington sales tax, the city still owes the tax and pays it to the state in the form of use tax. Use tax is destination based.

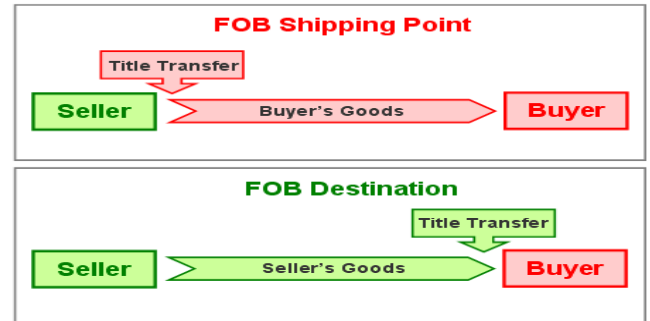
Use tax is due if:

- Goods are purchased in another state that does not have a sales tax or a state with a sales tax lower than Washington's. For example, items purchased from a business in Oregon to be used in Washington are subject to use tax.
- Goods are purchased from someone who is not authorized to collect sales tax. For example, purchases of furniture from an individual through a newspaper classified ad or a purchase of artwork from an individual collector.
- Goods are purchased out of state by subscription, through the Internet, or from a mail order catalog company. Some of these companies collect Washington's sales tax, but if the company from which you order does not, the city still must pay use tax.
- Personal property is acquired with the purchase of real property.

XIX. FREIGHT

A. Shipping Terms

Whenever you are purchasing an item that will incur freight charges, always request that it be shipped Freight-On-Board (FOB) Destination, Freight Prepaid. What this means is that the vendor you ordered the merchandise from owns it until it reaches your door and there won't be a separate invoice for freight. If anything should happen to the merchandise during shipping, the vendor (not the city) is responsible for filing the claims with the carrier. FOB determines at what point the ownership transfers. If an item is FOB origin, the city owns the merchandise from the point of shipping while it is in transit.



Freight prepaid or collect refers to who is responsible for paying shipping charges - the city or the seller.

B. Receiving Freight

It is the responsibility of the individual who signs for the carrier's delivery receipt to properly receive all cartons they are signing for. Anyone who accepts and signs for receipt of goods, acknowledges that the item was received and accepted as delivered.

Get what you sign for

1. Confirm the package or carton is being delivered to the proper location.
2. Verify the number of cartons, crates or pieces is correct according to quantities on the packing slip.
3. Open packages and verify order is correct.

Damaged Cartons

Any person receiving freight must make a notation on the carrier's delivery receipt of apparent damage to packages. State the specific type of damage on the delivery receipt and obtain the driver's signature (not just initials) on your copy of the receipt.

Concealed Damage

If the shipment of goods received showed no sign of damage upon receipt, but damage to the contents is found upon opening, concealed damage exists.

1. Call the carrier immediately upon discovery of the damage and request an inspection. Notate the date and the person contacted.
2. Notify the vendor to file a claim.
3. All shipping cartons should be retained for inspection on any damage.
4. When making a request for an inspection, advise the carrier whenever possible what the value of the damaged goods is. If the value is less than \$50.00, most

carriers will frequently waive inspection. Indicate person contacted on the claim form.

5. When an inspection is made, specific damages should be notated by both parties and signed by both on the inspection report. Send the report to the vendor and keep a copy for the city records.

XX. PAYMENTS

Inform all vendors to send invoice(s) to:

City of Anacortes
Accounts Payable
PO Box 547
Anacortes, WA 98221
360-299-1962
or by email to accountspayable@cityofanacortes.org

All questions regarding payments should be directed to the city Accounts Payable.

Invoices related to contracts are processed by the Contract Specialist.

The City of Anacortes offers EFT/ACH deposit for remittances. If a vendor would like to apply they need to complete the [EFT/ACH form](#) and return it to the City of Anacortes.

Accounts payable checks are paid on the next business day after approval at a regular City of Anacortes City Council meeting.

A P-Card is an alternate way to pay for something. See the City's [policy](#) for details and requirements.

XXI. APPENDICES

A. Glossary

Bid

The executed document submitted by a bidder in response to an invitation to bid (ITB), a request for proposals, or a request for quotations.

Bid Bond

A bond or deposit submitted with a bid, for a sum not less than 5% of the bid amount (including sales tax). Designed to help ensure that a bid has been made in good faith and that the bidder will enter into a contract if a bid is accepted.

Bidder

A person or legal entity who submits a bid in response to a solicitation.

Change Order

Work that is added or removed from the original scope of work, as agreed upon in the contract signed by city and contractor before work began. As the work proceeds, either the city or the contractor decides a change is needed to be made to accommodate unforeseen factors. Change orders can be agreed to by the Project Manager, but does not obligate any party until a contract modification is fully executed.

Contract

A verbal or written, legally binding mutual promise between two or more parties.

Contract Modification

Written modification to a contract (sometimes called an amendment). A modification may include one or more change orders, and must be fully executed by both parties before it obligates the contractor to render services, or the city to pay for services rendered, in excess to the original contract.

Final Acceptance

Final acceptance occurs when the city formally accepts the work as complete, and it starts the clock for releasing retainage held on the contract. The Notice of Final Acceptance cannot be issued until all requirements of the contract have been met including, but not limited to:

- Intents to Pay Prevailing Wages for the contractor and any subcontractors have been approved by the Department of Labor and Industries
- Final invoice for the project received by the city
- The Project Manager has determined the contractor has completed the required deliveries or performed the required services
- All as-builts have been received by the city

Fully Executed

A document is fully executed when all parties have agreed to the terms and conditions by signing and dating the document, and initialing any changes.

Notice of Completion

After final acceptance of any public works project over \$35,000, a public agency must file a Notice of Completion with the Department of Revenue (DOR), Department of Labor and Industries (L&I), and Employment Security Department (ESD)²⁴. Each state agency must approve the Notice of Completion separately, at which point each agency will send a certificate of release certifying that all applicable taxes, premiums, and penalties have been paid. If DOR, L&I, or ESD report that there are unpaid taxes or fees, the agency must pay the missing amount to the state within 10 days and subtract it from the retainage²⁵.

Request for Proposal (RFP)

All documents, whether attached or incorporated by reference, utilized for soliciting competitive proposals. The RFP procedure permits negotiation of proposals and prices, as distinguished from competitive bidding and a notice inviting bids. The procedure allows changes to be made after proposals are opened and contemplates that the nature of the proposals and/or prices offered will be negotiated prior to award.

Request for Quotation/Qualification (RFQ)

A document generally used for obtaining a summary of qualifications from prospective providers of professional services.

Payment Bonds

The purpose of a payment bond is to guarantee that the Contractor shall “pay all laborers, mechanics and sub-contractors.”

Performance Bonds

The purpose of a performance bond is to guarantee that the Contractor shall “faithfully perform all provisions of the contract.”

Sealed Bid

A bid which has been submitted in a sealed envelope to prevent its contents from being revealed before the deadline for the submission of all bids.

Specifications

A description of what the purchaser seeks to buy or accomplish - and consequently what a bidder must be responsive to in order to be considered for award of a contract. May be a description of the physical or functional characteristics, or the nature of a supply or service. May also include a description of any requirements for inspecting, testing, or preparing a supply or service item for delivery.

²⁴ [RCW 60.28.051](#)

²⁵ [RCW 60.28.060](#)

B. Matrix of Contract Requirements

Yes = REQUIRED; No = OPTIONAL

City of Anacortes Contract Requirements

	Estimated Cost	Quotes	Formal Bids	Advertisement & Public Bid Opening	Bid Bond	Council Approval	Retainage	Performance / Payment Bonds	Intents & Affidavits	Notice of Final Acceptance	Notice of Completion
Public Works											
Single Trade or Craft	\$0-\$40,000	1+	No	No	No	If \$30K+	5%, or 10% with Bonds Waiver	Yes, or Waiver with 10% Retainage	Under \$2,500 use the no-fee Combined Form; \$2,500+ Yes	Yes	If \$35K+
	\$40,001-\$150,000	Not allowed	Yes	Yes - 13 Days Before Bid Opening	Yes - 5% of Bid	Yes	5%, or 10% with Bonds Waiver	Yes, or Waiver with 10% Retainage	Yes	Yes	Yes
	\$150,000+	Not allowed	Yes	Yes - 13 Days Before Bid Opening	Yes - 5% of Bid	Yes	5%	Yes	Yes	Yes	Yes
Multiple Trade or Craft	\$0-\$65,000	1+	No	No	No	If \$30K+	5%, or 10% with Bonds Waiver	Yes, or Waiver with 10% Retainage	Under \$2,500 use the no-fee Combined Form; \$2,500+ Yes	Yes	If \$35K+
	\$65,001-\$150,000	Not allowed	Yes	Yes - 13 Days Before Bid Opening	Yes - 5% of Bid	Yes	5%, or 10% with Bonds Waiver	Yes, or Waiver with 10% Retainage	Yes	Yes	Yes
	\$150,001+	Not allowed	Yes	Yes - 13 Days Before Bid Opening	Yes - 5% of Bid	Yes	5%	Yes	Yes	Yes	Yes
MRSC Small Works Roster (SWR)	\$0-\$34,999	3+	No	No	No	If \$30K+	5%, or 10% with Bonds Waiver	Yes, or Waiver with 10% Retainage	Yes	Yes	No
	\$35,000-149,999	All on Roster list or 5+	No	No	No	Yes	5%, or 10% with Bonds Waiver	Yes, or Waiver with 10% Retainage	Yes	Yes	Yes
	\$150,000-\$300,000	5+, must notify all contractors on the roster list	No	No	No	Yes	5%	Yes	Yes	Yes	Yes
	Over \$300,000	Can't use SWR - See bid requirements above									
Materials, Supplies, Equipment (Unrelated to Public Work/Construction, Services, A/E)											
	\$0-\$2,500	1+	No	No	No	No	No	No	No	No	No
	\$2,501-\$7,500	3+	No	No	No	No	No	No	No	No	No
	\$7,501+	Not allowed	Yes	Yes - No Min # of Days	No	No	No	No	No	No	No
MRSC Vendor List	\$0-\$15,000	3+	No	No	No	No	No	No	No	No	No
	Over \$15,000	Can't use Vendor List - See bid requirements above									
Personal Services											
May Use MRSC Consultant Roster	Any Amount	1+	No	No	No	If \$30K+	No	No	No	No	No
Purchased Services											
	Any Amount	1+	No	No	No	If \$30K+	No	No	Possibly	No	No
Architectural and Engineering (A/E) Professional Services											
	Any Amount	Both a RFQ and RFP Required - NO Quotes or Bids		Yes - No Min # of Days	No	If \$30K+	No	No	No	No	No
MRSC Consultant Roster	Any Amount	RFP Required - NO Quotes or Bids		No	No	If \$30K+	No	No	No	No	No



Fred Buckenmeyer, Director Public Works Department

CITY OF ANACORTES

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WATER LOSS DATA

2017

For 2017, 435 million gallons of water were lost system wide. That totals a loss of 6.13% of what the plant produced. To put that into perspective, if the plant produces an average of 19 million gallons of water per day, 435 million gallons adds up to:

- 22 days of operating the plant at 19 MGD.
- 1.19 million gallons of water loss per day.
- 826 gallons per minute of water loss.
- Approximately \$309 per million gallons to treat.
- Approximately \$134,415 lost in annual revenue
- If we were to assume that 50% of our loss is in the transmission line we would reduce our leaking to 3.06% annually which would be a savings of 217.5 million gallons. At \$309 per million gallons we would save \$67,000 annually and would see a simple pay back of the ISM in 6 years.

GOAL

Our Water Use Efficiency goal from 2016-2022 is to reduce the residential water consumption by 917,500 gallons per year for the 6 years during the goal period. ISM on the transmission line would further improve our conservation efforts.



City Council Contract Agenda Bill

Meeting Date: 2/19/2019 **Agenda Item:** 7c

Subject: Resolution 2033 – Sole Source Procurement of Integrated Smart Monitoring System (iSM) from Craley Group

Staff Contact: Fred Buckenmeyer

Approved for Submittal to Council by:
Darcy Swetnam, City Attorney

Action Type: Resolution

Summary Statement: City staff seeks City Council approval of Resolution 2023 to waive the state competitive bidding requirements for the purchase and installation of Integrated Smart Monitoring (iSM) system for City's telemetry system.

Background:

- The City has installed Atlantis Hydrotec T-Series system, an ASNI/NSF certified micro-duct system, within City water pipes for the conduit of the City's telemetry system.
- Craley Group Limited of Farnborough, Hants, United Kingdom, a company that institutes an ISO 9001-2008 quality management system, is the sole owner of the patented Integrated Smart Monitoring (iSM) technology which is installed within the Atlantis Hydrotec T-Series system and allows in-pipe leak detection and asset security for the City's telemetry system.
- Craley Group Limited of Farnborough, Hants, United Kingdom, a company that institutes an ISO 9001-2008 quality management system, is the sole owner of the patented Integrated Smart Monitoring (iSM) technology which is installed within the Atlantis Hydrotec T-Series system and allows in-pipe leak detection and asset security for the City's telemetry system.
- Craley Group Limited is the sole distributor of the iSM system.

Previous Council/Committee Action: At the [December 5, 2016](#) meeting, City Council adopted [Resolution 1977](#) authorizing a single source designation for the Atlantis Hydrotec T-Series micro-duct system from Craley Group Limited.

Competing Viewpoints Considered: N/A

Recommended Motion: I move that the Resolution 2033 be approved designating Craley Group Limited as the sole source supplier and installer for the Integrated Smart Monitoring System (iSM) and related system components.

Alternative Actions: N/A

Attachments: Resolution 2033, Sole Source Justification Form, Craley iSM Informational Leaflet

RESOLUTION 2033

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANACORTES, WASHINGTON, waiving the state competitive bidding requirement for the purchase and installation of Integrated Smart Monitoring (iSM) system for City's telemetry system, pursuant to RCW 39.04.280.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ANACORTES, WASHINGTON, AS FOLLOWS:

Section 1. Recitals and Findings

1.1 RCW 39.04.280 provides that the City, by resolution, may waive competitive bidding requirements when a purchase is clearly and legitimately limited to a single source of supply, or when the purchase involves special facilities or market conditions.

1.2 The City has installed Atlantis Hydrotec T-Series system, an ASNI/NSF certified micro-duct system, within City water pipes for the conduit of the City's telemetry system.

1.3 Craley Group Limited of Farnborough, Hants, United Kingdom, a company that institutes an ISO 9001-2008 quality management system, is the sole owner of the patented Integrated Smart Monitoring (iSM) technology which is installed within the Atlantis Hydrotec T-Series system and allows in-pipe leak detection and asset security for the City's telemetry system.

1.4 Craley Group Limited is the sole distributor of the iSM system.

Section 2. Designation of Single Source Purchase. Therefore, because the iSM is installed within the Atlantis Hydrotec T-Series system used by the City, and is owned, patented, and solely distributed by Craley Group Limited, it is appropriate for the City to waive the competitive bidding requirements as to the purchase and installation of the iSM system and related system components.

Section 4. Ratification and Confirmation. Any actions of the City or its officers prior to the date hereof and consistent with the terms of this Resolution are ratified and confirmed.

Section 5. Effective Date. This Resolution shall be in full force and effect from the after its adoption and approval.

The foregoing resolution was ADOPTED by the City Council of the City of Anacortes, Washington, at a regular, open public meeting thereof this 19th day of February 2019.

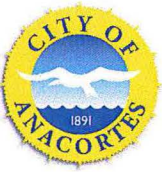
Laurie Gere, Mayor

ATTEST:

Steven D. Hoglund, City Clerk/Treasurer

APPROVED AS TO FORM:

By:_____
Darcy Swetnam, City Attorney



SOLE SOURCE JUSTIFICATION FORM

ITEM: ATLANTIS HYDROTEC INTEGRATED SMART MONITORING (ISM) **IN-PIPE LEAK DETECTION AND ASSET SECURITY**

1. Describe the item and its function.

Integrated Smart Monitoring (iSM) is a technology application that can be overlaid onto an Atlantis Hydrotec installation of fiber optic cable within a water pipeline. The City deployed the Craley Group Atlantis Hydrotec PFM fittings and armored micro duct technology in 2018 allowing us to connect to the water treatment plant to the whistle lake pump station with fiber optic telemetry. This technology allows the highly cost-effective deployment of fiber optics using a patented pipe-in-pipe technology that uses existing water mains infrastructure acting as a conduit.

iSM uses a sensor cable inserted within an Atlantis Hydrotec installation to act as an extremely sensitive real-time activity monitor within the pipeline. This sensor has the ability to identify specific events, such as a leak, along the pipe infrastructure and identify the location of the event to within a few meters. The data is captured and monitored using the iSM Analyzer Unit, which can monitor close to 25 miles of pipeline. This allows rapid and pro-active engineering response to facilitate a 'fix before fail' repair before the leak turns into a major event or serious burst. Additionally, iSM can be used for Third Party Intruder (TPI) detection for perimeter and road security of key asset locations and man holes, identifying unauthorized digging activity, to achieve very accurate pipe locating for GIS plotting and leak site identification, and much more.

2. The item is a sole source* because:

- ☒ sole provider of a licensed or patented good or service
- ☒ sole provider of items that are compatible with existing equipment, inventory, systems, programs or services
- ☐ sole provider of goods and services for which the City has established a standard**
- ☐ sole provider of factory-authorized warranty service
- ☐ sole provider of goods or services that will meet the specialized needs of the City or perform the intended function (detail below or in an attachment)
- ☐ the vendor/distributor is a holder of a used item that would represent good value and is advantageous to the City (attach information on market price survey, availability, etc.)

3. What necessary features does this vendor provide which are not available from other vendors? Be specific.

While numerous leak detection technologies exist, the iSM is the only patented system that is installed within the Atlantis Hydrotec system already used by the City, and offers the extensive features and

unparalleled sensitivity that iSM can offer on a 24/7 365 real-time basis. Therefore, this technology is only available from directly CRALEY Group.

4. What steps were taken to verify that these features are not available elsewhere?
- ☐ other brands/manufacturers were examined (list phone numbers and names, and explain why these were not suitable):
 - ☐ other vendors were contacted (list phone numbers and names, and explain why these were not suitable):
 - ☒ other (please explain):

Patent applied for technology wholly owned by CRALEY Group. The iSM solution relies upon a unique combination of an in-pipe sensor cable and an analyzer unit located at one end of the sensor cable and is installed within the Atlantis Hydrotec system.

SOLE SOURCE JUSTIFICATION FORM

Department: PUBLIC WORKS

Department Contact: NICOLE TESCH Phone: 360.588.8330

Requested Vendor: CRALEY GROUP

Vendor's Address: S.L. Carrer Moli d'en Saborit, 2 Edifici Auditorium, Oficina 4.2, 08500 Vic Barcelona

Vendor Contact: ANDY HARRIS Phone: +34 931 315 643

Cost Estimate: €322,200 (includes 3 year warranty)

My department's recommendation for sole source is based upon an objective review of the good/service being required and appears to be in the best interest of the City. I know of no conflict of interest on my part or personal involvement in any way with this request. No gratuities, favor, or compromising action have taken place. Neither has my personal familiarity with particular brands, types of equipment, materials or firms been a deciding influence on my request to sole source this purchase when there are other known suppliers to exist.

Nicole Tesch

Signature of Requestor

2/6/2019

Date

[Signature]

Signature of Department Head or Designee

2-6-19

Date

[Signature]

Signature of Contract Specialist

2/6/19

Date

* Sole Source: only one vendor possesses the unique and singularly available capability to meet the requirement of the solicitation.

** Procurements of items for which the City has established a standard by designating a brand or manufacturer or by pre-approving via a testing shall be competitively bid if there is more than one vendor of the item.



European Headquarters:

CRALEY Group Europe S.L.
Carrer Moli d'en Saborit
2 - Edifici Auditorium, Oficina 4.2
08500 Vic (Barcelona)

T: +34 931 315 633
E: office@craley.com
W: www.craley.com



A revolutionary solution for managing water networks



A Sensing Cable is installed INSIDE the pipeline providing unmatched sensitivity to events



Leaks
& Bursts



Asset
Security



Passive
Sensing



Approved
& Certified



Instant Alerts
for...



Leaks
& Bursts



Intruders
(TPI)

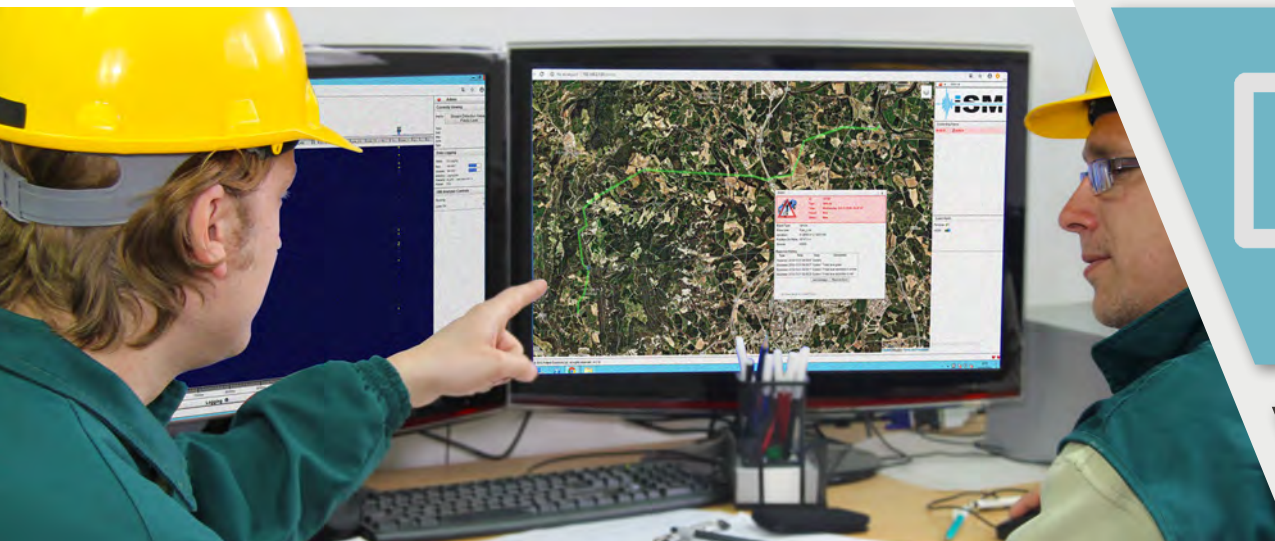


Digging
Activity



Vehicle
Movements

and iSM is suitable for use in any pipe size or material



All alerts can be sent directly to any device that is connected to the internet, specifying the time, type of alert and the exact location displayed on a map.

iSM 'in-pipe' leak detection



With iSM, it is possible to detect any kind of leakage:

- ▶ Identifies existing leaks, once deployed
- ▶ Detects new leaks - facilitating a 'fix before fail' strategy
- ▶ Identifies existing service connections
- ▶ Differentiates service connections from leaks
- ▶ Potential to detect unauthorised connections
- ▶ Real-time data of active service connections

iSM is suitable for use in any pipe size or material and provides real-time event alerts with accurate location data

Fix
BEFORE **FAIL**

Why iSM?

- ▶ It provides 24/7 365 real-time alerts for Leaks, Bursts and Third-Party Intrusion
- ▶ The Sensing Cable only requires power to one end and is totally passive along its route (up to 40km/25 miles)
- ▶ Because the sensing is performed inside the pipe it gives unparalleled leak detection sensitivity and accuracy
- ▶ It can precisely locate leaks down to an accuracy of several meters
- ▶ Alarms can be sent instantly to any device connected to the internet
- ▶ Detecting even the smallest of leaks allows a fix-before-fail strategy
- ▶ Saves time and resources trying to locate known leaks; eradicating dry-holing
- ▶ It optionally offers Third-Party Intrusion detection - no requirement for local power
- ▶ Protects your assets against malicious attack and/or theft

(TPi) Third-Party Intrusion Detection with iSM TPi Zone™



Optionally, the iSM Sensor Cable can exit the pipeline and surround a critical asset, creating a TPi Zone™, to offer unparalleled security, with no local power requirement.

In fact, it is possible for the iSM Sensor Cable to exit and re-enter the pipeline multiple times to create as many TPi Zones™ as required.

TPi Zones™ could include:

- ▶ Remote water treatment works
- ▶ Service reservoirs
- ▶ Private access roads
- ▶ Water towers
- ▶ Pumping stations

TPi Zones™ protect your assets from malicious attack and/or theft, by detecting people or vehicle movements and digging activities near to the pipeline or asset

CRALEY Group's Integrated Solutions

At CRALEY Group, our message is 'Innovation in SMART Infrastructure' and our unique set of products are designed to provide significant advances on current techniques to provide better, faster and more cost-effective solutions.

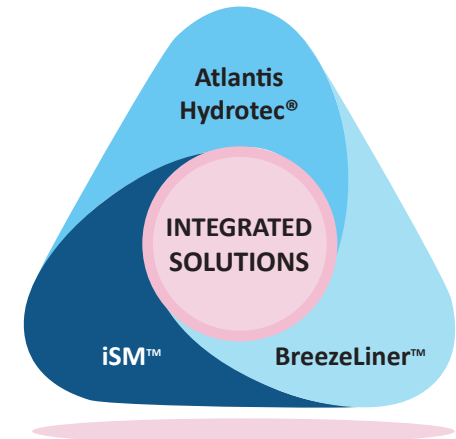
The whole suite of solutions have been designed to complement and integrate seamlessly with each other, creating a unique set of solutions specifically designed for trench-less pipeline management and communications; we call this integration our Internet-of-Pipes Platform™.

Atlantis Hydrotec® is a 'pipe-in-a-pipe' solution in which a special purpose, small-bore 'Messenger Pipe' is inserted into existing water pipelines or similar for the purposes of installing ultra-fast fibre optic communication cables.

This simple but effective solution overcomes the difficulties associated with more conventional fibre broadband (FTTx) delivery solutions: specifically the problems relating to digging up roads and driveways to the building, costs of excavation and time to install the fibre.

BreezeLiner™ enables the fast and cost effective re-lining of waste-water ducts, at the same time installing fibre cable into the infrastructure.

The BreezeLiner™ solution uses a new and patented technique for pipe re-lining: LIPPT™ (Laminate in Place Polymer), and offers a radical, lower cost, quicker to install and greener alternative to traditional Cured in Place Polymer (CIPP) systems using chemical resins with hot water, steam or UV curing.



Atlantis
HYDROTEC

iSM

BreezeLiner





City Council Agenda Bill

Meeting Date: 2/19/2019

Agenda Item: 7d

Subject: Updating of Fire Impact Fees which were first approved in 1993

Staff Contact: Dave Oliveri, Fire Chief

Approved for Submittal to Council by	
	Laurie Gere, Mayor
	Steve Hoglund, Finance Director
	Darcy Swetnam, City Attorney

Action Type	
	Ordinance No.
	Code Revision?
	Resolution No.
	Contract
	Public Hearing
	Staff Report

Summary Statement: The Fire Department is requesting an update to the Fire Impact Fees to better address the significant Capital Facilities needs of the Fire Department in the coming years.

Background: The original Fire Impact Fees were approved over 25 years ago and had a very minimal scope. The recommended new fee structure will better address the overall impact new development has on the Fire Department while addressing critical Capital Facilities needs.

Budget Impact	
Amount Budgeted	
Budget Account (BARS)	
Proposed Expenditure	
Budget Amendment Required?	
Revenue Source	

Proposed Contract	
Contractor	
Amount	
Start Date	
End Date	

Previous Council/Committee Action: Presentation by [Berk Associates](#) at the [December 10, 2018](#) Council Meeting; review by the Finance Committee on January 23, 2019 and by the Public Safety Committee on February 5, 2019

Competing Viewpoints Considered: N/A

Recommended Motion: Discussion only at this time

Alternative Actions: Do not adjust the impact fees; adjust the impact fees to some other level

Attachments (listed in order presented): Fire Impact Fee calculations, Fire Impact Fee Memorandum, Fire Impact Fee comparison chart

Anacortes Fire Department

MEMORANDUM

"Serving our community, saving lives, and protecting property"



From the Office of the Fire Chief

FIRE IMPACT FEES

- Significant Capital expenditure needs in the coming years:
 - I. 10 projects total \$5,739,551.
 - II. Top 5 high priority projects total \$4,171,724
- New Revenue streams sought to aid the City in meeting these challenges:
 - I. Fire Impact Fee adopted in 1993, not updated in 25 years
 - II. Original F.I.F. was designated to cover a portion of the ladder truck replacement, was not designed to cover 2019 Capital needs & expenditure levels.
 - III. City has embraced Impact Fees overall to address the stressors that development places on the existing Levels of Service
- This proposal increases Fire Impact Fees to sensible levels in order to maintain the desired Level of Service to the expanding community while addressing capital needs:
 - I. Residential Fee per Unit: Single Family @ ~\$447, Multi-Family @ ~\$379
 - II. Commercial Fee per 1,000 ft² : Retail @ ~\$1,283, Industrial @ ~\$11, Services @ ~\$2,151, Government/Educational @ ~\$408
 - III. Affordable housing developments already have exemptions, modifications can be made if necessary or desired such as square footage limitations
 - IV. December/2018 Stats: Average sale price of a single family residence: \$465,000, Recommended F.I.F. @ \$447 is less than 0.1% of the average sale price, F.I.F. percentage of new construction is even lower due to a much higher average sale price
 - V. Neighboring City of Mount Vernon has begun discussion/review
 - VI. With the proposed schedule, the Impact Fee still doesn't meet 100% our Capital needs
 - VII. If we reduce the Fee Schedule, which projects do we lose due to lack of funding? What other options are available for increasing revenue to offset costs?
- Development impacts all City services with increased costs to maintain existing Levels of Service, if we don't pass-on more of these costs to the new Developments, we are essentially making all of our residents pick-up the tab to cover these impact costs. Is this the most fair & equitable system? Would passing on the Development impacts & costs to everyone be supported city-wide?

Future Needs: Fire CFP Projects

*

Project Description	Total Project Cost	Impact Fee Eligible Project Cost	% of Project Cost from Impact Fees
Fire Projects			
⑥ Ladder Truck Training Tower	\$45,000	\$33,750	75%
⑩ Main Fire Station Upgrade	\$900,000	\$810,000	90%
② ✓ March Point Fire Station	\$1,600,000	\$1,360,000	85%
⑦ ✓ Replace Station Equipment	\$157,256	\$94,354	60%
④ ✓ Purchase Fire Engines	\$585,000	\$438,750	75%
⑤ ✓ Replace Rescue Truck	\$173,279	\$121,295	70%
③ ✓ Replace Ambulances	\$601,316	\$300,658	50%
⑦ Fire & EMS Equipment	\$363,967	\$218,380	60%
⑨ Command Unit	\$101,604	\$50,802	50%
① ✓ Aerial Ladder Truck	\$1,212,129	\$787,884	65%
Total Fire Projects	\$5,789,551	\$4,215,873	73%

Sources: City of Anacortes, 2018; BERK, 2018.

* PRIORITY ORDER PER CHIEF OLIVERI.

Final Fire Impact Fee Calculation

- For residential development, by type
 - Levied per housing unit

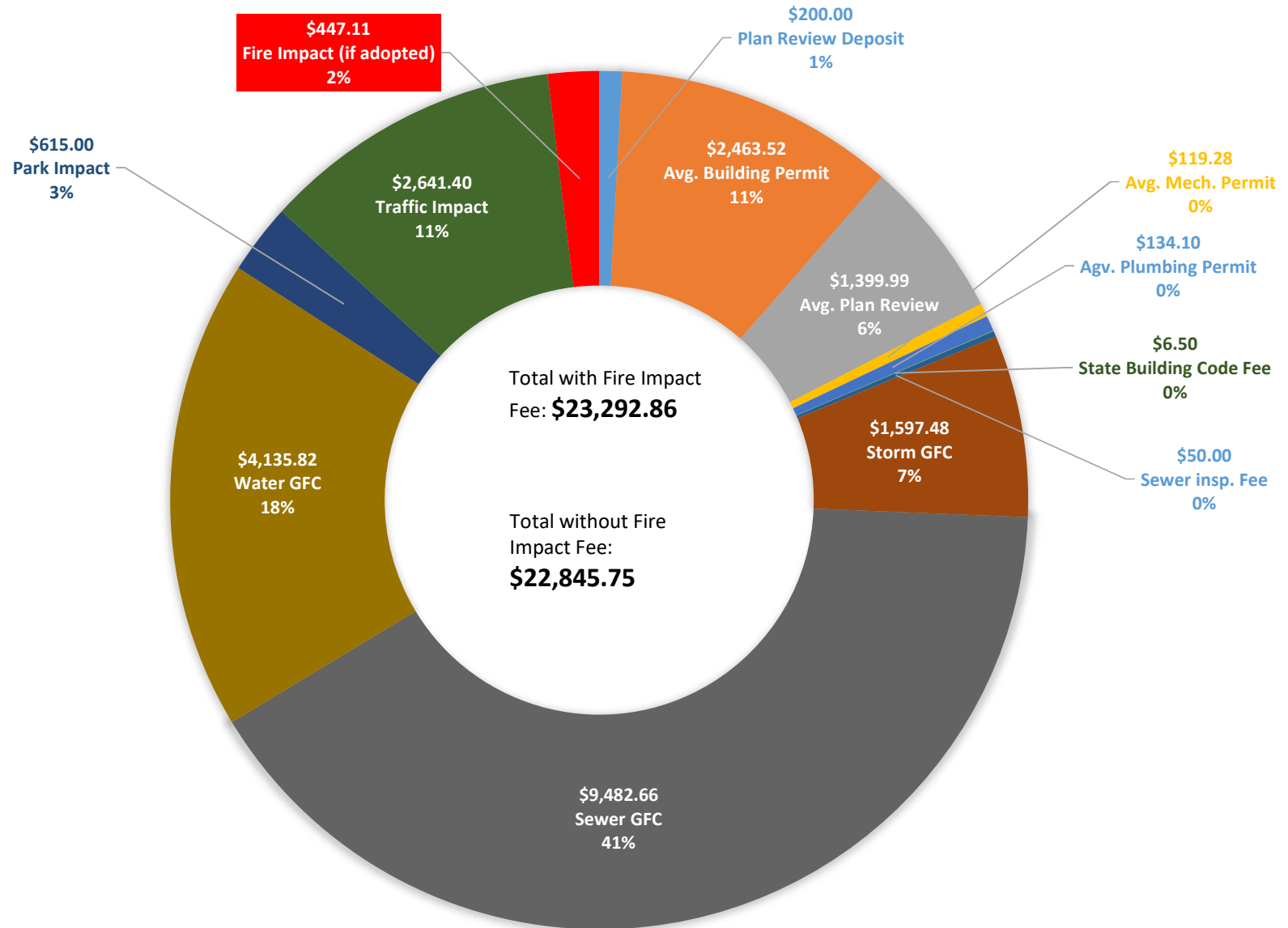
Residential	Single Family	Multifamily	Total
Average 2016-2017 Units	6,428	1,423	7,851
Average 2016-2017 Incidents	1,061	197	1,258
Incidents per Unit	0.17	0.14	
Cost per Incident			\$2,915
Unadjusted Fee: Cost per Unit	\$481.12	\$403.50	
Expected Revenue per Modified per Capita			\$14.08
People per Unit	2.42	1.75	
Expected Revenue per Unit	\$34.00	\$24.57	
Adjusted Fee: Cost per Unit	\$447.11	\$378.92	

Final Fire Impact Fee Calculation

- For **commercial** development, by type
 - Levied per 1,000 square fee

Commercial	Retail	Industrial	Services (FIRES & Health)	Government & Education	Total
Avg. 2016-2017 Built Sq.Ft.	807,056	2,278,060	977,290	301,104	3,881,390
Avg. 2016-2017 Built 1,000 Sq.Ft.	807.056	2,278.060	977.290	301.104	3,881.390
Avg. 2016-2017 Incidents	364	20	744	48	1,175
Avg. 2016-2017 Incidents per Built 1,000 Sq.Ft.	0.45	0.0085	0.75	0.15	
Cost per Incident					\$2,797
Unadjusted Fee: Cost per Unit	\$1,311.22	\$24.64	\$2,194.67	\$451.00	
Expected Revenue per Modified per Capita					\$14.08
Employees per 1,000 Sq.Ft.	2	1	3	3	
Expected Revenue per 1,000 Sq.Ft.	\$28.15	\$14.08	\$43.31	\$43.31	
Adjusted Fee: Cost per 1,000 Sq. Ft.	\$1,283.07	\$10.56	\$2,151.36	\$407.68	

TYPICAL SINGLE FAMILY RESIDENCE BUILDING PERMIT FEES (2018 FEES)



**ORDINANCE 3038: WIRELESS
SERVICE FACILITIES
ORDINANCE 3039: PUBLIC
UTILITY AND
TELECOMMUNICATIONS RIGHT-
OF-WAY USE**

February 19, 2019





BACKGROUND

TIMELINE - MORATORIUM

- Ordinance 3010: August 28, 2017: established six month moratorium on the receipt and processing of applications to site wireless towers and antennas and on the receipt and processing of applications for telecommunications franchises.
- Resolution 1995: October 2, 2017: affirmed the moratorium and adopted a work plan to update relevant sections of the Anacortes Municipal Code
- Ordinance 3020: February 20, 2018: extended the moratorium for an additional six months to allow work to continue updating AMC.
- Ordinance 3027: August 27, 2018: extended moratorium for an additional six months through February 28, 2019

TIMELINE – PLANNING COMMISSION

- January 3, 2019: Stakeholder meeting with Planning Commission
- January 16, 2019: Public hearing opened on wireless drafts
- January 30, 2019: Public hearing closed and Planning Commission recommended approval to Council as amended.

AMC 19.16.090: Legislative Actions: Review by City

- A. Upon receipt of the PC's recommendation, CC must consider and take action on the recommendation.
- B. The CC may take final action with no further process in any of the following situations:
 - 1. When the ...development recommendation to be adopted by CC conforms substantially to the proposal as made available for public comment....
 - 2. Pursuant to RCW 36.70A.035, when any of the following are true:
 - A. An EIS has been proposed and the change is within proposed alternatives
 - B. Proposed change is within scope of alternatives available for comment;
 - C. Proposed change corrects typographical errors, corrects cross-references, makes address or name changes, or clarifies language of a proposed ordinance or resolution without changing its effect;
 - D. Proposed change is to an ordinance making a capital budget decision in RCW 36.70A.120
 - E. Proposed change is to an ordinance enacting a moratorium or interim control under RCW 36.70A.390....
- C. Except as provided in B, CC must allow additional public comment opportunity prior to final action. CC can select one of the following:
 - 1. Additional public comment period
 - 2. One or more public hearings before CC
 - 3. Remand issues to PC after additional public comment or hearing, or both



WHAT PROBLEM ARE WE TRYING TO
SOLVE?

Problems with Current AMC Sections

- Current provisions in the AMC do not account for
 - New technology
 - Recent types of requests received by the City
 - Recent federal and state case law
- Don't address wireless facilities in ROW
 - E.G. Towers in residential zones must be set back 100% of their height or 200 feet – what about placement in ROW?
- Don't anticipate new small cell technology
 - Placement of antennae and appurtenances on existing poles
 - Requests for replacement of current poles with taller poles (e.g. replace 45' pole with 80' pole)
- Procedural rules for master permits and permits need to be updated to comply with federal and state law



Governing Legal Framework

- Federal:

- Statutes:

- Telecommunications Act of 1996
 - Middle Class Tax Relief and Job Creation Act of 2012

- Admin law: Federal Communications Commissions Orders, including FCC Order No. 18-133

- State law:

- Regulation of City ROW and local zoning: RCW 35.99
 - SEPA: RCW 43.21C, WAC 197-11-800(25)

PROPOSED CODE UPDATES



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ORD 3038: AMC 19.68: Wireless Service Facilities

- Governs Wireless Service Facilities (WSF)
- Types of permit processes
 - WSF permit: Type 1 (Administrative Ministerial Action)
 - WCUP permit: Type 3-HE (Hearing examiner)
 - Small Wireless Facilities
 - Based on location of facility
- Establishes shot clocks consistent with FCC Order
- Differentiates between substantial and nonsubstantial changes to existing facilities
- Clarifies relevant application and criteria based on type of facility/permit process
- Provides visibility and performance standards for facilities based on type and location

ORD 3039: AMC 5.38: Public Utility and Telecommunications Right-of-Way Use

- Provides for two types of permits:
 - Master Permits
 - Authorizes general use of City ROW
 - Good for 5 years
 - Compensation based on City's cost
 - Construction Permit
 - Allows project-specific work in ROW
- Provides timeline for project review consistent with FCC Order
- Provides risk mitigation for City
 - Security fund
 - Performance bonds
 - Insurance Requirements
 - Indemnification
 - Correction, revocation process

QUESTIONS?

Thank You!



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City Council Agenda Bill

Meeting Date: 2/19/2019

Agenda Item: 7e

Subject: Ordinance 3038: Establishing AMC 19.68, Wireless Service Facilities and Ordinance 3039: Establishing AMC Ch. 5.38, Public Utility and Telecommunications Right-of-Way Use

Staff Contact: Darcy Swetnam, Don Measamer

Approved for Submittal to Council by	
	Laurie Gere, Mayor
	Steve Hoglund, Finance Director
X	Darcy Swetnam, City Attorney
X	Don Measamer

Action Type	
X	Ordinance No. 3038 & 3039
X	Code Revision?
	Resolution No.
	Contract
	Public Hearing
	Staff Report

Summary Statement: On January 30, 2019, the Anacortes Planning Commission held a public hearing and subsequently recommended to City Council approval of proposed amendments to the Anacortes Municipal Code relating to siting of wireless service facilities within the City. The Planning Commission's recorded motion and recommendation is attached.

[AMC 19.16.090 Review by City Council](#) outlines the options for City Council's consideration and action on the Planning Commission's recommendation. The City Council may take final action with no further process in any of the following (applicable) situations:

- When the development regulation to be adopted by the city council conforms substantially to the proposal as made available for public comment.
- Pursuant to RCW 36.70A.035, when any of the following are true:
 - The proposed change is within the scope of the alternatives available for public comment.
 - The proposed change only corrects typographical errors, corrects cross-references, makes address or name changes, or clarifies language of a proposed ordinance or resolution without changing its effect.
 - When the action is to preserve the status quo and reject any and all changes in their entirety.

Background: See attached.

Previous Council/Committee Action: Adoption of Ordinances [3010](#), [3020](#), and [3027](#) relating to adoption of and extending a moratorium on the receipt and processing of applications to site wireless communications towers and antennas pursuant to [Ch. 17.63](#) of the Anacortes Municipal Code and on the receipt and processing of applications for telecommunications franchises or master permits pursuant to [Ch. 5.36](#) of the AMC. The moratorium terminates on February 28, 2019.

Competing Viewpoints Considered: See attached.

Recommended Motion: I move to adopt Ordinance 3038 Establishing AMC Chapter 5.38, Public Utility and Telecommunications Right-of-Way Use and Ordinance 3039 Establishing AMC Ch. 19.68, Wireless Service Facilities.

Alternative Actions: Do not adopt the ordinance and preserve the status quo; allow additional public comment opportunity per AMC 19.16.090.C; substantially modify the proposal and adopt Council's own findings of fact and reasons for action per AMC 19.16.090.D.

Attachments (listed in order presented): Draft Ordinances 3038 & 3039; Planning Commission Recorded Motion; Draft Minutes from 1/3/19 & 1/16/19 PC meetings (only video available for [1/30/19 PC meeting](#)); public comments received during public comment period.

CITY OF ANACORTES

ORDINANCE NO. 3038

**AN ORDINANCE OF THE CITY OF ANACORTES, WASHINGTON, ADOPTING A
NEW CODE CHAPTER 19.68 ENTITLED “WIRELESS SERVICE FACILITIES”,
REGULATING THE PLACEMENT AND FORM OF WIRELESS SERVICE
FACILITIES, AND REPEALING ATTACHMENT A, CHAPTER 17.63 OF
ORDINANCE NO. 2794**

**THE CITY COUNCIL OF THE CITY OF ANACORTES, WASHINGTON, DOES
ORDAIN AS FOLLOWS:**

Section 1. Preamble.

1. WHEREAS, the Telecommunications Act, 47 U.S.C. § 332, preserves local government zoning authority over the placement, construction, and modification of personal wireless services.
2. WHEREAS, Washington state law preserves local governments’ ability to regulate the placement of wireless facilities through their local zoning or police power, under RCW 35.99.040.
3. WHEREAS, the City code does not currently provide for colocation of wireless facilities under Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a).
4. WHEREAS, the City code does not currently provide for zoning or aesthetic criteria, shot clocks, or colocation procedures for small wireless facilities under Federal Communications Commission Order No. FCC 18-133.
5. WHEREAS, the City code does not currently provide a State Environmental Policy Act exemption for certain wireless services facilities under WAC 197-11-800(25).
6. WHEREAS, the City finds that a substantial amount of time was spent by applicants (and the City) deciphering the siting requirements pertaining to wireless facilities under the City’s prior code section 17.68, and seeks to streamline the application and review process by enacting this new code section, 19.68.
7. WHEREAS, the City has received proposed changes to the new code section from citizens and agencies (including the City);
8. WHEREAS, the proposed new code section has been the subject of public hearings before the Planning Commission and subject to SEPA review;

9. WHEREAS, notice of the possible adoption of these changes has been provided to the State;
10. WHEREAS, the City Council has determined that it is in the best interest of the City to adopt a new code section that regulates the placement and form of wireless service facilities within the City of Anacortes and to repeal Chapter 17.63 of Attachment A, Ordinance No. 2794.

Section 2. Repealer.

Attachment A, Chapter 17.63, of Ordinance No. 2794, entitled “AN ORDINANCE OF THE CITY OF ANACORTES MUNICIPAL CODE ENTITLED “ZONING”, ADDING A NEW CHAPTER 17.27 ENTITLED “OLD TOWN OVERLAY DISTRICT,” AND REPEALING ORDINANCE 2776 ENTITLED “AN ORDINANCE ADOPTING INTERIM ZONING PROHIBITING MULTIFAMILY UNITS IN THE R3 ZONE, NORTH OF 12TH, EAST OF “D” AVENUE, AND WEST OF COMMERCIAL AVENUE DURING CALENDAR YEAR 2008” ” as codified at chapter 17.63 of the City code, is hereby repealed.

Section 3. New Chapter of AMC, 19.68.

A new chapter, 19.68 of the AMC, is adopted to read as follows:

WIRELESS SERVICE FACILITIES

Sections:

19.68.010	Purpose.
19.68.020	Applicability.
19.68.030	Definitions.
19.68.040	Permit required.
19.68.050	Substantial Change.
19.68.060	Non-Substantial Change.
19.68.070	Optional Pre-application.
19.68.080	Eligible Facilities Request applications.
19.68.090	Permit application – Small Wireless Facility.
19.68.100	Permit application – all other Wireless Facilities.
19.68.110	Permit approval process.
19.68.120	Permit review – general criteria.
19.68.130	Permit review – supplemental criteria for conditional uses.
19.68.140	Completeness review.
19.68.150	Timeframe for review.
19.68.160	Construction.
19.68.170	Appeals. 20
19.68.180	Prohibited Locations.
19.68.190	Permitted locations.
19.68.200	Visibility and performance standards.
19.68.210	Requirements for colocations.

19.68.220	Requirements for Non-Substantial Changes.
19.68.230	Maintenance of facilities.
19.68.240	Testing of facilities required – Radio-frequency (RF) emissions.
19.68.250	Testing of facilities required – Noise emissions.
19.68.260	Security fencing.
19.68.270	Abandonment of facilities.
19.68.280	Signs.
19.68.290	Lighting standards.
19.68.300	SEPA.

19.68.010 Purpose.

The purposes of this chapter are as follows:

- A. Establish development regulations consistent with the City’s Comprehensive Plan;
- B. Protect property values and promote tourism through protection of scenic vistas of the mountains, tree-covered hillsides, the waterfront, and tourist-related zones and areas;
- C. Facilitate the use of public property and structures for wireless service facilities to reduce the impact of such facilities upon residential and other property;
- D. Maintain the quality of life associated with the aesthetic character of the City’s surroundings;
- E. Provide adequate sites for locating wireless service facilities in areas where the adverse impact on the community is minimal;
- F. Provide facilities and infrastructure to provide wireless communications service to City residents, businesses, and others when in Anacortes;
- G. Encourage optimal colocation and sharing of new and existing facilities, and minimize the total number of towers throughout the community;
- H. Encourage use of most appropriate technology and prompt removal of outdated or abandoned wireless service facilities;
- I. Encourage the location of wireless service facilities upon alternative support structures;
- J. Require that the design of wireless service facilities incorporate camouflage, disguise, screening and concealment technology so that such facilities blend into their surroundings;
- K. Avoid the potential damage to adjacent properties from tower failure by engineering and careful siting of tower structure;
- L. Enhance the ability of the providers of wireless services to provide such services to the community quickly, effectively, and efficiently; and

M. Provide a level, nondiscriminatory competitive environment and thereby encouraging increased competition among providers of functionally equivalent wireless services.

19.68.020 Applicability.

- A. Except as otherwise provided herein, the placement of any wireless service facility at any location within the City is subject to the provisions of this chapter.
- B. The standards and process requirements of this chapter supersede all other review process and approval criteria, setback, height or landscaping requirements of this title.
- C. Except as provided herein, all wireless telecommunication service facilities must comply with the provisions of this chapter.

19.68.030 Definitions.

A. A definitions.

“Antenna” means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

B. B definitions.

“Base station” means a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a “Tower” or any equipment associated with a Tower.

- The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
- The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks).
- The term includes any structure other than a tower that supports or houses equipment 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 such support.
- The term does not include any structure that does not support or house equipment for wireless telecommunications services.

C. C definitions.

“Camouflage” means a palette of techniques used to disguise, hide and conceal a wireless service facility from public view by blending its appearance into elements of the visual background. The term connotes the use of paint, landscaping, building materials and artificial screens in patterns that merge with the elements in the background environment.

“Colocation” for the purposes of Eligible Facilities Requests means the placement or installation of wireless facilities on existing structures that include a wireless facility or a wireless support structure, including water towers and other buildings or structures. The term includes the placement, replacement, or modification of wireless facilities within an approved equipment compound.

“Colocation” for the purpose of applications to site Small Wireless Facilities and other wireless facilities, excluding Eligible Facilities Requests, means:

- Mounting or installing an antenna facility on a pre-existing structure, and/or
- Modifying a structure for the purpose of mounting or installing an antenna facility on that structure.

D. D definitions.

“Director” means the Director of Planning, Community, and Economic Development.

“Electrical transmission tower” means a structure that physically supports high voltage overhead power lines. The term does not include a utility pole.

E. E definitions.

“Eligible Facilities Request” or “EFR”. Any request for modification of an existing tower or base station that does not substantially change the physical dimension of such tower or base station, involving:

- Colocation of new transmission equipment;
- Removal of transmission equipment; or
- Replacement of transmission equipment.

“Eligible Support Structure.” Any tower or base station, provided that it exists at the time the relevant EFR application is filed with the state or local government.

“Equipment Cabinet” means an **enclosure that** is mounted above base flood elevation or placed on a concrete slab that contains improvements, personal property, and facilities to operate its wireless services including: radio receivers, transmitters, related facilities, and/or related cables and utility lines, location-based power sources, the electrical meter and any other necessary equipment.

“Equipment Shelter” means an enclosed structure, shed or box at the base of a mount to store improvements, personal property, and facilities to operate its wireless services including: radio

receivers, transmitters, related facilities, and/or cabinets, related cables and utility lines, location-based power sources, the electrical meter and any other necessary equipment.

“Existing.” Any tower or base station is existing for purposes of this chapter if it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not permitted when it was built, but was lawfully constructed, is existing for purposes of this chapter.

F. F definitions.

“Facilities” means all of the towers, equipment, fixtures, antennas, equipment cabinets, equipment shelters, and other appurtenances necessary to furnish and deliver wireless services, including but not limited to utility poles and monopoles with cross arms or without cross arms, wires, lines, conduits, cables, communication and signal lines and equipment, braces, guys, anchors, vaults, and all attachments, appurtenances, and appliances necessary or incidental to the distribution and use of wireless services. Facilities include “Small Wireless Facilities” as defined below.

“FCC” or “Federal Communications Commission” means the federal agency, or its lawful successor, authorized to regulate and oversee wireless telecommunications carriers, services and providers.

G. G definitions.

H. H definitions.

I. I definitions.

J. J definitions.

K. K definitions.

L. L definitions.

“Lattice tower” means a type of mount that is self-supporting with multiple legs and cross bracing of structural steel.

M. M definitions.

“Monopole” means a type of mount that is self-supporting with a single shaft of wood, steel or concrete and a platform or racks for panel antennas arrayed at the top. A monopole includes self-supporting mounts that provide light (or light poles).

N. N definitions.

O. O definitions.

P. P definitions.

“Public street” means any highway, street, road, alley or other public way for motor vehicle travel within the city and under the jurisdiction and control of the city which has been acquired, established, dedicated or devoted to street purposes.

Q. Q definitions.

R. R definitions.

“Right(s)-of-way” means all public streets and associated 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, sidewalks, bikeways and horse trails, whether improved or unimproved, including any air rights, subsurface rights or easements related thereto.

S. S definitions.

“Service provider” means every corporation, company, association, joint stock association, firm, partnership, person, city, town, or other legal entity owning, operating, or managing any facilities used to provide and providing wireless telecommunications services for hire, sale, or resale to the general public. Service provider includes the legal successor to any such corporation, company, association, joint stock association, firm, partnership, person, city, town, or other legal entity.

“Site” means the current boundaries of the leased or owned property surrounding the facility and any access or utility easements currently related to the site, and for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.

“Small Wireless Facility” encompasses facilities that meet the following conditions:

The facilities—

- are mounted on structures 50 feet or less in height including their antennas,
- are mounted on structures no more than 10 percent taller than other adjacent structures, or
- 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;

Each antenna associated with the deployment, excluding associated antenna equipment, is no more than three cubic feet in volume;

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;

The facilities do not require antenna structure registration under Federal law;

The facilities are not located on Tribal lands, where Tribal lands means all lands within the exterior boundaries of any Indian reservation and all dependent Indian communities; and

The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified under Federal law pertaining to wireless facilities.

“Stealththing” means designing facilities to be architecturally incorporated into the surrounding community’s environs while minimizing aesthetic impacts. Examples of stealththing include, but are not limited to, steeples, windmills, water towers, flag poles, light poles, or chimneys.

T. T definitions.

“Telecommunications” means the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received.

“Tower” means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio, and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

“Transmission equipment” means equipment that disseminates information by wire, radio, optic cable, electromagnetic, or similar means for any FCC-licensed or authorized wireless telecommunication 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 telecommunications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

U. U definitions.

“Utility pole” means a pole privately owned or installed by a utility company for the purpose of electrical transmission.

V. V definitions.

W. W definitions.

“Wireless” means communications using radio frequency or optical emissions to complete one or more communications paths in whole or in part among originating and receiving points without other tangible physical connection, including without limitation, radio and unguided optical waves, and the apparatus used for such transmission.

“Wireless support structure” means a freestanding structure that is designed to support or is capable of supporting wireless facilities. The term does not include a utility pole, monopole, or tower.

“Wireless telecommunications service” or “wireless service” means the transmission of information by wire, radio, optic cable, electromagnetic, or 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, wireless telecommunications service excludes the over-the-air transmission of broadcast television or broadcast radio signals and excludes “cable services,” “cable communications systems” and “CATV systems” as defined in Chapter 5.44.

19.68.040 Permit required.

A. New Facilities. A wireless service facility (WSF) permit or wireless conditional use permit (WCUP) is required prior to the site preparation, construction, or installation of any new wireless service facility. The permit required in each zone is specified in AMC 19.68.190.

B. Colocating Facilities. A wireless service facility (WSF) permit or wireless conditional use permit (WCUP) is required in every zone prior to the colocation of any wireless service facility and is required for modifications that qualify as a Substantial Change. Colocations involving modifications under subsection (C) below are exempt from this requirement.

C. Non-Substantial Change. A modification to an existing facility that involves the addition, removal, and/or replacement of transmission equipment that meets the criteria for a Non-Substantial Change as set forth in 19.68.060 must submit an Eligible Facility Request application. A WSF or WCUP will not be required for these types of modifications.

D. Substantial Change. A modification to an existing facility that involves the addition, removal, and/or replacement of transmission equipment that is a Substantial Change as defined in 19.68.050 is subject to the requirements for new facilities or colocations as applicable.

E. No wireless service facility permit may be issued under this chapter unless the applicant demonstrates compliance with the terms, conditions and performance standards set forth in this chapter. Any WCUP must also meet the criteria for said use permits set forth in Section 19.68.130.

F. A building permit is also required for any new wireless facility or collocating facility.

19.68.050 Substantial Change.

A. “Substantial Change” for purposes of this Chapter means a modification to an existing facility that meets any of the following criteria.

Criteria 1:

(1) For towers outside of public rights-of-way, if the modification increases the height of the tower by the greater of: (a) more than 10%, or (b) by the height of one additional antenna array, with separation from the nearest existing antenna not to exceed 20 feet; or

(2) For those towers in the rights-of-way and for all base stations, if the modification increases the height of the tower or base station by the greater of: (a) 10% or (b) 10 feet.

Criteria 2:

(1) For towers outside of public rights-of-way, if the modification involves adding an appurtenance to the body of the tower that protrudes from the edge of the tower the greater of: (a) 20 feet, or (b) the width of the tower structure at the level of the appurtenance; or

(2) For other eligible support structures, if the modification protrudes from the edge of the structure more than 6 feet;

Criteria 3:

(1) For any eligible wireless support structure, if the installation includes more than the standard number of new equipment cabinets, not to exceed 4; or

(2) For towers in the public rights-of-way and base stations, if the modification 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.

Criterion 4:

For any eligible support structure, if the modification entails any excavation or deployment outside the current site;

Criterion 5:

For any eligible support structure, if the modification defeats the existing concealment elements of the tower, base station, or any other wireless support structure.

Criterion 6:

For any eligible support structure, if the modification violates any of the conditions of approval (besides modification allowed under criteria #1-5 associated with prior approval(s)).

19.68.060 Non-Substantial Change.

A. “Non-substantial Change” means a modification that meets all of the following criteria:

Criteria 1:

(1) For towers outside of public rights-of-way, if the modification does not increase the height of the tower by the greater of: (i) more than 10%, or (ii) by the height of one additional antenna array, with separation from the nearest existing antenna not to exceed 20 feet; or

(2) For those towers in the rights-of-way and for all base stations, if the modification does not increase the height of the tower or base station by the lesser of: (i) 10% or (ii) 10 feet.

Criteria 2:

(1) For towers outside of public rights-of-way, if the modification does not protrude from the edge of the tower by the greater of: (i) 20 feet, or (ii) the width of the tower structure at the level of the appurtenance; or

(2) For those towers in the rights-of-way and for all base stations, if the modification does not protrude from the edge of the structure more than 6 feet;

Criteria 3:

(1) For any eligible support structure, if the installation includes new equipment cabinets, the modification does not include the installation of more than 4 equipment cabinets; or

(2) For towers in the public rights-of-way and base stations, if the modification does not involve the installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the tower, and does not involve the installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the tower.

Criterion 4:

For any eligible support structure, if the modification does not entail any excavation or deployment outside the current site.

Criterion 5:

For any eligible support structure, if the modification does not defeat the existing concealment elements of the tower or base station or other wireless support structure.

Criterion 6:

For any eligible support structure, if the modification does not violate any of the conditions of approval (besides modification allowed under criteria #1-5 associated with prior approval(s).

19.68.070 Optional Pre-application.

A. An optional pre-application may be submitted up to 30 days prior to the submission of an Eligible Facilities Request application, or a permit application associated with a Small Wireless Facility or other wireless facility. The information submitted along with a pre-application may include the following information:

1. The name and address of the applicant;
2. Identification of all carriers using the facility;
3. The type of facility proposed;
4. If the applicant is not the owner or person in control of the eligible support structure or site, an attestation that the owner or person in control of the eligible support structure and/or site has consented to the proposed facility modification. If the eligible support structure is to be located

within a public right-of-way, the applicant must also attest that the applicant has authorization to install, maintain, and operate transmission equipment in, under and above the public right-of-way.

5. A stamped report by a state of Washington registered professional engineer demonstrating compliance with existing structural, electrical, and safety codes, and describing the general structural capacity of the eligible facility, small wireless facility, or other wireless facility.
6. Detailed site plan and drawings.
7. Dimensioned elevation drawings of the existing tower or structure showing the existing and proposed antennas, and equipment structures (at 1/8" = 1' or comparable scale).
8. Copies of the land use or building permit approval that authorized the original installation of the tower or wireless facilities on the structure;
9. If new equipment cabinets, generators, or any other ground equipment components are being proposed, an assessment of noise that shows compliance with City and/or Federal noise standards.
10. A description of compliance with the applicable visibility and performance standards set forth in section 19.68.200.
11. A stamped report by a state of Washington registered professional engineer demonstrating compliance with radio-frequency emissions standards.

19.68.080 Eligible Facilities Request applications.

A. For the purposes of this section, a complete application includes:

1. The name and address of the applicant;
2. Identification of all carriers using the facility;
3. An assertion that the proposed facilities modification is subject to review under Section 6409 of the Spectrum Act.
4. If the applicant is not the owner or person in control of the eligible support structure or site, an attestation that the owner or person in control of the eligible support structure and/or site has consented to the proposed facility modification. If the eligible support structure is to be located within a public right-of-way, the applicant must also attest that the applicant has authorization to install, maintain, and operate transmission equipment in, under and above the public right-of-way.
5. If the proposed modification will alter the exterior dimensions or appearance of the eligible support structure, the applicant shall include a detailed visual simulation depicting how the eligible support structure will appear after the proposed modification is complete, and particularly, how concealment or stealth will be extended with the modification. The visual

simulation shall depict to scale the eligible support structure in relation to the trees, landscaping and other structures adjacent to, or in the immediate vicinity of, the eligible support structure.

6. If the applicant proposes a modification to a tower, an attestation that the proposed modifications will comply with existing structural, electrical, and safety codes, and a description of the general structural capacity of the tower with the proposed modification.

7. If the applicant proposes a modification to a base station, an attestation that the proposed modifications will comply with existing structural, electrical, and safety codes.

8. If the applicant proposes a modification requiring alteration to the eligible support structure, excavation, installation of new equipment cabinets, or other activities impacting or altering the land, existing structures, fencing or landscaping, the applicant must submit a detailed site plan and drawings, showing the point of true north, and an appropriate scale depicting:

- a. the location, elevation, and dimensions of the existing eligible support structure;
 - b. the location, elevation, and dimensions of the existing transmission equipment;
 - c. the location, elevation and dimensions of the transmission equipment, if any, proposed to be collocated or that will replace existing transmission equipment;
 - d. the location, elevation and dimensions of any proposed new equipment cabinets and the intended use of each;
 - e. any proposed modification to the eligible support structure;
 - f. the location of existing structures on the site, including fencing, screening, trees, and other significant site features; and
 - g. the location of any areas where excavation is proposed showing the elevations, depths, and width of the proposed excavation and materials and dimensions of the equipment to be placed in the area excavated.
9. If excavation or deployment is proposed outside the current site of the tower or base station, a description of the boundaries of the site together with a scale drawing based on an accurate traverse, with angular and lineal dimensions showing the tower or base station with respect to the site. The city may require a survey by a land surveyor licensed in the state of Washington when, in the judgment of the approval authority, a survey is reasonably necessary to verify the boundaries of the site.
10. If the applicant proposes a modification that will protrude from the edge of a non-tower eligible support structure, record drawings, as-built plans, or the equivalent, showing at a minimum the edge of the eligible support structure at the location of the proposed modification.
11. Copies of the land use or building permit approval that authorized the original installation of the tower or wireless facilities on the structure, or any subsequent approval(s) granting modification to the tower or wireless facilities on the structure, if available;

12. If new equipment cabinets, generators, or any other ground equipment components are being proposed, an assessment of noise that shows compliance with City and/or Federal noise standards.

13. A stamped report by a state of Washington registered professional engineer demonstrating compliance with Federal radio-frequency emissions standards for wireless facilities.

B. Waiver of Submittal Requirement. The approval authority may waive any submittal requirement upon determination that the required submittal, or part thereof, is not reasonably related to the non-substantial change criteria. A waiver, to be effective, must be in writing and signed by the approval authority.

C. Eligible facilities for review under this section include Non-Substantial Changes to the physical dimensions of the base structure or tower, involving (i) colocation of new transmission equipment; (ii) removal of transmission equipment; or (iii) replacement of transmission structure.

D. Within the applicable timeframe for review set forth in Section 19.68.150, the City must approve the application unless it determines that the application involves a Substantial Change. If the City determines that the application involves a Substantial Change, the applicant must submit the appropriate Permit application required, if any, under the requirements in Section 19.68.100.

19.68.090 Permit application – Small Wireless Facility.

A. Application. A complete application for a wireless service facility permit or wireless conditional use permit must include the following information and materials on a form provided by the Director. Applications for Small Wireless Facilities may be submitted in batches of applications, which may encompass up to five separate applications filed at the same time, each for one or more sites, *or* a single application covering up to five sites, unless the City agrees to a larger number based upon its capacity to review additional applications. For the purposes of this section, a complete application includes:

1. The name and address of the applicant;
2. Identification of all carriers using the facility;
3. If the applicant is not the owner or person in control of the eligible support structure or site, an attestation that the owner or person in control of the eligible support structure and/or site has consented to the proposed facility modification. If the eligible support structure is to be located within a public right-of-way, the applicant must also attest that the applicant has authorization to install, maintain, and operate transmission equipment in, under and above the public right-of-way.
4. An attestation that the Permittee will comply with existing structural, electrical, and safety codes, and a description of the general structural capacity of the new small wireless facility or the facility upon which the small wireless facility is to be colocated.
5. A description of compliance with: the applicable visibility and performance standards set forth in section 19.68.200. This includes, but is not limited to:

a. A scaled Site plan clearly indicating the location, type and height of the proposed facility, or colocation, on-site land uses and zoning, adjacent land uses and zoning, comprehensive plan classification of the Site, proposed means of access, setbacks from property lines, spacing between tower(s) and other wireless facilities, elevation drawings of the proposed tower and any other structures, topography of the site, and proposed parking;

b. If the proposed Small Wireless Facility siting involves a colocation that will alter the exterior dimensions or appearance of an existing facility, applicant shall include a detailed visual simulation depicting how the existing facility will appear after the proposed modification is complete, and particularly, how concealment or stealth will be extended, if applicable. The visual simulation shall depict to scale the existing facility with any colocation in relation to the trees, landscaping and other structures adjacent to, or in the immediate vicinity of, the eligible support structure.

c. Legal description of the parent tract and leased parcel (if applicable);

d. If new equipment cabinets, generators, or any other ground equipment components are being proposed:

i. an assessment of noise that shows compliance with City and/or Federal noise standards;

ii. a description of the method of concealment of equipment components, such as: whether such components will be located within an existing building, within an architecturally compatible addition to an existing building, or within a new building which is architecturally compatible with other buildings on the site and adjoining properties; located underground; or within an equipment cabinet or shelter;

iii. if equipment is proposed to be concealed within an equipment cabinet or shelter that will be located above ground, a description of the landscaping and screening, if technically feasible.

e. Any engineering report(s) required to show feasibility of meeting the applicable criteria in this section as applicable;

(6) A stamped report by a state of Washington registered professional engineer or an assessment demonstrating compliance with Federal radio-frequency emissions standards applicable to wireless facilities.

B. Waiver of Submittal Requirement. The approval authority may waive any submittal requirement upon determination that the required submittal, or part thereof, would materially inhibit wireless service. A waiver, to be effective, must be in writing and signed by the approval authority.

C. Fee. Every application for a small wireless service facility permit or wireless conditional use permit must be accompanied by an application fee which will be set by the City Council in its unified fee schedule, to reimburse the City for the costs of reviewing the application, including any third-party review required by the City, and fees equal to the a reasonable approximation of the objectively reasonable costs for the attachment to or use of property owned or controlled by the City.

19.68.100 Permit application – all other Wireless Facilities.

A. Application. A complete application for a wireless service facility permit or wireless conditional use permit for wireless facilities other than Small Wireless Facilities and Eligible Support Structures or EFRs must include the following information and materials on a form provided by the Director. For the purposes of this section, a complete application includes:

1. The name and address of the applicant;
 2. Identification of all carriers using the facility;
 3. If the applicant is not the owner or person in control of the eligible support structure or site, an attestation that the owner or person in control of the eligible support structure and/or site has consented to the proposed facility modification. If the eligible support structure is to be located within a public right-of-way, the applicant must also attest that the applicant has authorization to install, maintain, and operate transmission equipment in, under and above the public right-of-way.
 4. A description of compliance with: the applicable visibility and performance standards set forth in section 19.68.200. This includes, but is not limited to:
 - a. A scaled Site plan clearly indicating the location, type and height of the proposed facility, or colocation, on-site land uses and zoning, adjacent land uses and zoning, comprehensive plan classification of the Site, proposed means of access, setbacks from property lines, spacing between tower(s) and other structures, elevation drawings of the proposed tower and any other structures, topography of the site, and proposed parking;
 - b. Legal description of the parent tract and leased parcel;
 - c. A landscape plan showing specific landscape materials;
 - d. Method of fencing, the finished color and/or the method of camouflage and illumination.
 5. A description of compliance with the additional requirements in this Chapter for collocating and/or for conditional uses, if applicable.
 6. If new equipment cabinets, generators, or any other ground equipment components are being proposed:(i) an assessment of noise that shows compliance with City and/or Federal noise standards.
 7. A stamped report by a state of Washington registered professional engineer demonstrating compliance with radio-frequency emissions standards as set forth in Section 19.68.240.
- B. New facilities. In addition to the application materials delineated in subsection (A) above, an application for a new wireless facility must provide:
1. A notarized statement by the applicant as to whether construction of a new facility will accommodate collocating of additional antennas for future users.

2. An explanation of how the proposed new facility at the proposed location is necessary to do one of the following: fill a significant gap in service, to introduce new services, to densify a network, or to otherwise improve service capabilities.
 3. A description of the suitability of the use of existing facilities, including towers or other structures to provide the services to be provided through the use of the proposed new facility.
 4. Any other engineering report(s) required to show feasibility of meeting the applicable criteria in subsections (A) and/or (B) as applicable;
- C. Third Party Review. The City may require the applicant to submit its materials to a third-party for review, as may be reasonably necessary to determine compliance with this Chapter, such as an engineer or architect, by way of example only.
- D. Fee. Every application for a wireless service facility permit or wireless conditional use permit must be accompanied by an application fee which will be set by the City Council in its unified fee schedule, to reimburse the City for the costs of reviewing the application, including any third-party review required by the City, and fees equal to the a reasonable approximation of the objectively reasonable costs for the attachment to or use of property owned or controlled by the City.

19.68.110 Permit approval process.

- A. Wireless service facility permit (WSF). The review process for wireless service facility permit applications is that for a Type 1 (Administrative Ministerial Action) as delineated in Table 19.20.030-1 AMC.
- B. Wireless conditional use permit (WCUP). The review process for wireless conditional use permit applications is that for a Type 3-HE review, delineated in Table 19.20.030-1 AMC. The criteria for a conditional use permit as set forth in Chapter 19.36 of the City's code does not apply.
- C. The only applicable sections of Chapter 19.20 for the purposes of this Chapter are sections 19.20.140 (Application – Notice), 19.20.150 (Application – Department Review), 19.20.160 (Public hearings and meetings), 19.20.170 (Public hearing – notice), and 19.20.190 (Decision – Notice). The appeal section in this chapter supersedes the appeal sections in Chapter 19.20.
- C. This permit approval process does not apply to Eligible Facility Requests.

19.68.120 Permit review – general criteria.

- A. In evaluating a permit application under this Chapter, the decision-maker must examine the following criteria:
1. Whether all requisite licenses, certificates, and authorizations from applicable Federal, State, and local agencies have been obtained by the applicant;

2. Whether the applicant has shown that its proposed facility or colocation meets the standards and criteria set forth in this Chapter, including the visibility and performance criteria set forth in Section 19.68.200;

3. Whether the applicant has shown that its proposed facility meets any additional requirements in this Chapter for colocating and/or wireless conditional uses, if applicable.

B. For a new wireless facility or a new Small Wireless Facility, whether it is necessary to introduce new services, to densify a network, or to otherwise improve service capabilities.

C. Decision. After considering all information submitted, and the record on file and from any hearing, the decision-maker will decide whether to grant, deny, or grant the permit with conditions, and must issue a written decision containing findings of fact supported by substantial evidence, based on the criteria above.

D. Issued permit. Any wireless service facility permit that is issued under this Chapter must contain the location, nature, and extent of approved use, together with all conditions that are imposed. A copy of the permit will be kept on file and reviewed annually by the administering City official. If, at any time, the use no longer complies with the stated conditions, the owner will be declared in violation of this chapter.

19.68.130 Permit review – supplemental criteria for conditional uses.

A. In addition to the general criteria for approval uses set forth in this Chapter, the following criteria apply to all permits denominated as conditional uses:

1. The applicant must demonstrate that visual, noise, and other impacts associated with the proposed facility have been minimized to the maximum extent possible using existing concealment technology, site design, noise abatement techniques, concealment, disguise, camouflage, and/or the use of architecturally compatible improvements to existing structures where permitted, and/or underground placement of ancillary equipment. In evaluating the site design, consideration will be given to whether the facility will blend into the surrounding topography, tree coverage, foliage, and other natural features and whether locating the facility in alternative locations upon the subject property, or reasonably available properties, would better conceal the facility through use of existing natural and built features;

2. The applicant must demonstrate compatibility of the proposed structure with the height and mass of existing buildings and structures in the area.

3. The applicant must demonstrate that the design of the proposed facility complies with the purpose and intent of this chapter, including, but not limited to, the visibility and performance standards set forth in AMC 19.68.200 which most closely match the proposed facility;

4. The applicant must demonstrate that alternative locations, including other colocations and alternative support structures, are not available for the proposed facility;

5. The applicant must demonstrate that the proposed facility is not in conflict with the health and safety of the community;

6. The applicant must demonstrate that the proposed facility will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts on such facilities.

B. In evaluating any proposed wireless service facility denominated as a conditional use, the Director may, at the expense of the applicant, retain an outside consultant to review the technical, design and other materials submitted by the applicant in conjunction with the proposal.

19.68.140 Completeness review.

A. Completeness Review. Applications must be reviewed for completeness within thirty days of receipt, except for applications to site Small Wireless Facilities, which must be reviewed for completeness within ten days of receipt. If the application is not reviewed for completeness within the applicable timeframe, it will be deemed complete.

B. Tolling. For applications to site Small Wireless Facilities, the review period resets once an applicant submits its additional materials. For all other applications deemed incomplete, the review period is tolled for up to sixty days. Once an applicant submits additional materials, the review timeframe begins to run again. If the applicant does not submit the required materials, the City may deny the application.

C. Submittal of Additional Materials. If an applicant submits additional materials, the Director must provide notice within 10 days as to any additional materials identified in the original notice that were not provided with the supplemental materials. Second or subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness. For second or subsequent notices of incompleteness, the review timeframe will be tolled for all applications including for siting Small Wireless Facilities. If the applicant does not submit the required materials, the City may deny the application.

D. Failure to act. If the decision-maker fails to approve or deny a request seeking approval for either a wireless service facility permit or wireless conditional use permit within the applicable timeframe for review, accounting for any tolling, the request is deemed granted. The deemed grant does not become effective until the applicant notifies the applicable reviewing authority in writing after the review period has expired that the application has been deemed granted.

19.68.150 Timeframe for review.

The timeframe for review of an application for a wireless facility permit or wireless conditional use permit begins to run when an application is submitted, not when the application is deemed complete.

	Modifications that are not Substantial.	Colocating Wireless Facilities	New Wireless Facility	Colocating Small Wireless Facilities	New Small Wireless Facility
Timeframe	Approval required within sixty (60) days from receipt of submission of	Written decision due within ninety (90) days from submission of	Written decision due within one hundred and fifty (150) days from submission of	Written decision due within sixty (60) days from submission of	Written decision due within ninety (90) days from submission of

	application	application	application.	application	application.
Notes	If the City finds that the application involves a Substantial Change, the City may process the application as one for a new facility or deny the application.	This provision does not apply to Small Wireless Facilities.	This provision does not apply to Small Wireless Facilities.		

19.68.160 Construction.

A. Construction within two years. Construction or substantial progress toward construction of a facility for which a permit has been issued pursuant to this chapter must be undertaken within two years after approval of the permit. Substantial progress toward construction includes, but is not limited to: the letting of bids, making of contracts, and purchase of materials involved in development.

B. Tolling. In determining whether the two-year period has run, time during which litigation has been pending related to the construction of the facility must not be included.

C. Extension and termination. The city may, at its discretion, extend the two-year period for a reasonable time, based on factors including the inability to expeditiously obtain other required governmental permits prior to the commencement of construction. If a facility for which a permit has been granted has not been completed within three years after the approval of a permit the City must review the permit upon the expiration of three years, and upon a showing of good cause for the delay, either (a) extend the permit for one year; or (b) terminate the permit.

19.68.170 Appeals.

Appeals may be commenced on an action by the decision-maker on a permit application, within thirty (30) days of such act or failure to act, in any court of competent jurisdiction. This section supersedes the City's administrative appeal process set forth in Section 19.20.210.

19.68.180 Prohibited Locations.

A. Lattice and guyed wire towers are not permitted in any zoning district.

B. Commercial advertising including billboards and business identification signs may not be used as alternative antenna support structures.

19.68.190 Permitted locations.

New wireless service facilities, which includes new Small Wireless Facilities are permitted as follows, with the type of permit indicated. For those facilities located within a "right-of-way", a

master permit and construction permit for such use is required under the provisions of Chapter 5.38. The zones referred to below are defined in the City's general zoning code.

Type of Facility	Residential Zones (R1, R2, R2A, R3, R3A, R4, R4A, OT)	Mixed Use Zones (CBD, C, MMU, CM, CM2, P)	Industrial Zones (LM, LM1, MS, HM, I, AZ)
Monopole	Permitted with WCUP	Permitted with WSF, except permitted with WCUP in P and except not permitted in CBD	Permitted with WSF
Utility Poles	Permitted with WCUP	Permitted with WSF, except permitted with WCUP in P, and except not permitted in CBD	Permitted with WSF
Electric Transmission Towers	Permitted with WSF, except permitted with WCUP in OT.	Permitted with WSF, except permitted with WCUP in P and except not permitted in CBD	Permitted with WSF
Water Tank Mounted	Permitted with WSF, except permitted with WCUP in OT	Permitted with WSF	Permitted with WSF
Playfield, Ballfield and Stadium Light Mounted Facilities	Permitted with WCUP	Permitted with WSF	Permitted with WSF
Building Attached	Permitted with WSF, only on buildings with nonresidential uses, and except permitted with WCUP in OT	Permitted with WSF	Permitted with WSF
Stealth Support Structure	Permitted with WSF, except permitted with WCUP in OT	Permitted with WSF, except permitted with WCUP in P	Permitted with WSF
Small Wireless Facility on an existing or replacement structure	Permitted with WSF	Permitted with WSF	Permitted with WSF
Other Types Not Listed	Permitted with WCUP	Permitted with WCUP	Permitted with WCUP

19.68.200 Visibility and performance standards.

All wireless service facilities locating within Anacortes must comply with the following standards:

A. Standards for all types of facilities:

General	1. All portions of the facility must be the minimum size necessary to support operation of the facility, as certified by the provider's licensed engineer. Where multiple facilities are proposed to be located in close proximity, they may be required to be consolidated in one equipment housing structure. 2. Owners and operators must provide information regarding the opportunity for the co-location
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	of facilities. Provision for future co-location may be required if technically feasible and where opportunities for smaller facilities with fewer impacts are limited due to topography, lack of existing above ground structures or other circumstances.
Antennas (including Small Wireless Facilities)	1. In general, an antenna array must either be flush mounted within 12 inches of the support structure, or within 12 inches of the face of the building it is attached to; or be contained in a canister that is a continuation of the support structure and is centered on top of the support structure; or be placed pursuant to the City's adopted design standards, subject to the concealment requirements below. 2. All antennas or arrays must be a color and material that matches the support structure. 3. Roof-mounted installation is permitted when the City's adopted design and the Appearance and Screening requirements below have been met. The antennas, mounting brackets and any concealment structures are exempt from the height limit of the underlying zone to the extent that the total height of such facilities does not increase the overall building height by 18 feet, or 50 percent of the original building height, whichever is less.
Equipment Cabinets, Shelters, and Undergrounding	1. All equipment necessary for the operation of the facility must be concealed, either within an existing building, within an architecturally compatible addition to an existing building, or within a new building which is architecturally compatible with other buildings on the site and adjoining properties; or located underground with exceptions as stated in Chapter AMC 15.32, and excepting equipment cabinets and shelters, which may be located above ground, and landscaped and screened pursuant to the City's typical landscaping requirements. 2. This section does not apply to antennas or other facilities that are required to remain above-ground in order to be functional, or if it would otherwise materially inhibit wireless service. 3. Underground shelters are not allowed where such shelters would interfere with existing uses of public land including, but not limited to, public rights-of-way. Equipment enclosures less than or equal to five cubic feet, with no single dimension over three feet, may be mounted directly on a monopole or utility pole. These dimension limitations do not apply to Small Wireless Facilities. 4. Equipment cabinets and shelters are permitted upon abutting private property and may be located within public rights-of-way, pursuant to the applicable requirements and obtaining the appropriate permits specified in Chapter AMC XX.XX. 5. The size of equipment cabinets and shelters must be minimized to the greatest extent possible. 6. Prefabricated concrete and metal structures for equipment enclosures are not permitted unless treated with a facade giving the appearance of masonry or wood siding and are compatible with the existing neighborhood and surrounding setting.
Appearance and Screening	The following standards must be met to ensure the facility minimizes its visual impact: 1. Design and configurations must be compatible with the existing neighborhood, blend in with the surrounding setting, and/or are screened from surrounding uses and properties. 2. Design and configurations must minimize visual intrusion of the facility on surrounding uses and properties. Such techniques may include, for example: containing transmission and power cables and other conduit within any support structure, locating facilities underground, or otherwise screening the facility; minimizing the lateral projection of antenna arrays to the greatest extent technically feasible; and integrating antenna arrays into the design of any structure to which they are attached. 3. Facilities on private property must be screened through the use of mature trees that are a minimum of 20 feet tall and planted to screen at least 80 percent of the area around the facility, if technically feasible. 4. For stealth supported structures, the structure must be designed to resemble an object that would be commonly found in the area, including, but not limited to, a flagpole, a clock or bell tower, a tree that is a native conifer species, or a silo. Antennas, to the maximum extent feasible, must be concealed by the stealth support structure, or must not be easily recognized. To determine feasibility, the applicant must submit an engineer's report regarding the feasibility of concealing the antennas.
Noise	Noise reduction measures must comply with the City and/or Federal noise regulations, whichever demonstrates the least amount of noise impact for the nearest residential dwelling(s) at any time

	of day or night, as measured from the closest point from the exterior of the dwelling to the wireless facility. Such requirements are exempt during testing of alternative power sources (i.e., power generators or similar emergency power sources).
Landscaping	1. Facilities and/or equipment cabinets must be surrounded with a minimum of four feet wide landscaping, in the applicable zones set forth in the City's general zoning provisions, if technically feasible. 2. Towers must be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from properties used for residences, if technically feasible. In some cases, natural growth around the property perimeter may provide a sufficient buffer. 3. Existing mature tree growth and natural land forms on the site must be preserved to the maximum extent possible.
Setbacks	1. In residential zones, towers, antennas, monopoles, and other wireless facilities and equipment pertaining thereto must not be closer than the greater of 20' or 100% of the tower height from the adjoining lot line. 2. In non-residential zones, facilities must comply with the setback requirements set forth in the applicable zoning code, Chapter 17 AMC, and meet or exceed the City or Federal noise regulations, whichever demonstrates the least amount of noise impact for the nearest residential dwelling(s), as measured from the closest point from the exterior of the dwelling to the facility. 3. The setback may be reduced if the applicant uses noise abatement techniques, such as decorative noise walls, to achieve equivalent or greater reduction of visual and noise impacts from the facility. 4. For co-locations, new equipment associated with the facility must be placed no closer to existing residential uses than any existing equipment enclosure on the subject property. 5. These setback requirements do not apply to SWF's in the ROW.
Spacing	1. In residential zones, towers and their antennas must not be closer than 200' or 100% of the tower height from the nearest residential dwelling(s), as measured from the closest point from the exterior of the dwelling to the facility. 2. In non-residential zones, there are no spacing requirements. 3. The minimum spacing requirements herein will not apply if they have the effect of materially inhibiting wireless service.

B. Standards for specific types of facilities:

New Monopoles (including Small Wireless Facilities) and Stealth Wireless Support Structures	Any wireless service provider which proposes to construct a new monopole or stealth supported facility must provide, as part of its permit application, written findings from a qualified engineer which demonstrate that: 1. Either there are no other facilities reasonably available for colocation; or 2. Any existing facilities reasonably available are not technologically suitable for use by the applicant; and 3. The proposed monopole has been designed in a manner that will allow for the colocation of at least one additional antenna array on the structure, if technically feasible. 4. The height of the monopole may not exceed 120 feet or the height of similar structures permitted in the zone within which it is located, whichever is greater.
Colocating Monopoles or Utility Poles Within Public Rights-of-Way	1. More than one facility may be colocated on any monopole, subject to the permits and technical feasibility. 2. Monopoles located within public rights-of-way must be located a minimum of 500 feet apart; a shorter distance may be approved if the applicant submits an engineering analysis and equipment specifications that demonstrate the reduced distance is necessary to provide adequate coverage and/or capacity. 3. Where a utility located upon a monopole requires vertical separation between its facilities and the antenna(s), the structure/pole and antenna may be raised or replaced with a taller structure to accommodate the minimum separation requirement, not to exceed 20 feet in the public right-of-

	way. Any additions must be constructed of similar materials, and have surface treatments which match the color and texture of the original facility.
Electric Transmission Towers or Utility Poles Outside Public Rights-of-Way	Where a utility located upon the support structure (such as electric transmission tower) requires vertical separation between its facilities and the antenna(s), the structure/pole and antenna may be raised by a mount or replaced with a taller structure to accommodate the minimum separation requirement, not to exceed 30 feet. Any additions must be constructed of similar materials, and have surface treatments which match the color and texture of the original facility.
Playfield, Ballfield and Stadium Light Mounted Facilities	Only one facility is permitted on any playfield, ballfield, or stadium light. Where lighted signs and illuminated areas are permitted, such illuminating devices must be shaded and directed so as not to be visible from any residentially zoned property.
Building Attached	The equipment for roof-mounted antennas within the OT zone must be located within the same building on which the antennas are located. This provision will not apply to Small Wireless Facilities if it has the effect of materially inhibiting the provision of service.

19.68.210 Requirements for colocations.

A. All wireless facilities colocating within the City of Anacortes must meet the following standards. This section does not apply to Eligible Facilities Requests.

B. Colocations (as defined in Section 19.68.030(5)) are permitted on existing monopoles and stealth support structure facilities, so long as the colocation maintains the appearance of the existing structure, and do not interfere with the City's placement of cameras or other public safety uses.

C. The height of the existing facility may be increased by the minimum vertical separation necessary between the facilities, not to exceed 20 feet; except for towers and utility poles outside public rights-of-way, the height of which may be increased by up to 30 feet to accommodate the minimum separation requirement. The height of the existing facility with all increases in height due to colocations may not exceed the general height limitation for similar structures or buildings within the zone in which it is permitted or 120 feet, whichever is greater.

D. Existing monopoles and antenna support structures may be replaced to accommodate colocation. Monopoles and stealth support structures must, to the maximum extent feasible, be located within 20 feet of the existing structure within the public right-of-way, or within 30 feet of the existing structure outside of the public right-of-way, and maintain the design of the original structure, including any stealth or camouflage components. To determine feasibility, the applicant must submit an engineer's report regarding the feasibility of a proposed replacement.

E. All antenna support structures permitted pursuant to the terms of this chapter or otherwise located within the City of Anacortes must be made available for use by the owner or initial user thereof, together with as many other wireless service providers as can be technically colocated thereon. The owner of an antenna support structure may charge a reasonable fee for the colocation of additional facilities upon said structure which does not exceed the fair market value for the space occupied by said colocated facilities. If the City is the owner, it may not charge a

fee that exceeds a reasonable approximation of the objectively reasonable costs associated with siting a Small Wireless Facility on the antenna support structure.

F. Colocating facilities must meet all other visibility and performance standards in Section 19.68.200.

19.68.220 Requirements for Non-Substantial Changes.

All modifications to wireless service facilities to the existing facility, including Small Wireless Facilities, that are Non-Substantial, must comply with the following standards:

- A. No modification may violate the City or Federal noise regulations.
- B. No modification may violate the Federal radio-frequency emission standards.
- C. No modification may violate setback or other lot coverage or height requirements in this Chapter.

19.68.230 Maintenance of facilities.

The owner and/or operator of all wireless service facilities must maintain their facilities in a good and safe condition and in a manner which complies with all applicable Federal, State, and local requirements.

19.68.240 Testing of facilities required – Radio-frequency (RF) emissions.

- A. All wireless service facilities must comply with applicable Federal Communications Commission (FCC) regulations regarding radio-frequency emissions. All tests must be performed by or under the supervision of a professional engineer competent to perform such testing and interpret the data gathered.
- B. Reports or similar support documents must be submitted for all facilities confirming compliance with all applicable FCC regulations. Compliance reports are required when requested by the Director.
- C. If at any time radio-frequency emission tests show that a facility exceeds any of the standards established by the FCC, the owner or operator thereof must immediately discontinue use of the facility and notify the Director. Use of such facilities may not resume until the owner or operator demonstrates that corrections have been completed which reduce the radio-frequency emissions to levels permitted by the FCC.

19.68.250 Testing of facilities required – Noise emissions.

- A. The owner or operator of a wireless service facility must conduct tests necessary to demonstrate compliance with all applicable local regulations regarding the noise emissions of the facility when notified in writing by the Director that a noise complaint has been received regarding the facility. All such tests must be performed by or under the supervision of a licensed environmental noise consultant competent to perform such tests and interpret the data gathered.

B. When such a report is required, a report, certified by a licensed environmental noise consultant, setting forth the observed noise levels at the property line of the property upon which the facility is located must be submitted. The report must account for background noise and other noise sources and demonstrate the noise levels emitted by the facility, including any air conditioning or ventilation equipment contained therein. Such report must address standards set forth within noise reduction measures within noise provisions in Section 17.54.010 AMC or the standards set forth with the Federal Interagency Committee on Urban Noise, whichever demonstrates the least amount of noise impact for the nearest residential dwelling(s), at any time of day or night, as measured from the closest point from the exterior of the dwelling to the wireless facility.

C. The Director may retain a technical expert in environmental noise measurement to verify the noise measurements and certification. The cost of such a technical expert must be borne by the owner or operator of the facility, if said facility fails to comply with applicable State or local noise standards.

(D) This section does not apply during the testing of alternative power sources (i.e., power generators).

19.68.260 Security fencing.

All wireless service facilities must be protected from unauthorized entry. The perimeter of all wireless service facilities, other than small wireless facilities in the ROW, which include an antenna support structure must be secured with security fencing which does not exceed seven feet in height. Wireless service facilities that do not include an antenna support structure must be protected from unauthorized entry through appropriate means approved by the Director or his or her designee on a case-by-case basis consistent with the purpose of protecting the public health, safety, and welfare.

19.68.270 Abandonment of facilities.

Any antenna support structure that has had no antennas mounted upon it for a period of six months, or if the antennas mounted thereon are not operated for a period of six months, will be considered abandoned, and the owner thereof must remove such structure and any accompanying equipment and enclosure within 90 days after receipt of a notice from the Director to do so. The Director may extend this time period to a maximum of six additional months. The owner or operator of all wireless service facilities must, when requested by the Director, submit a written report, signed under penalty of perjury, which demonstrates whether or not there has been a cessation in use of the facility for a period of six months during the prior year. If a facility and associated equipment are not removed within 90 days after receipt of a notice from the Hearing Examiner requiring said removal, the Hearing Examiner may seek and obtain a court order directing such removal and imposing a lien upon the real property upon which such wireless service facility is situated in an amount equal to the cost of removal. In the event that more than one wireless service provider is using the antenna support structure, the antenna support structure will not be considered abandoned until all such users cease using the structure as provided in this section.

19.68.280 Signs.

A. Except as approved as part of a plan to conceal, disguise, or camouflage a wireless service facility, no signs, symbols, flags, banners, or similar devices must be placed on, attached to, painted, or inscribed upon any antenna support structure or alternative antenna support structure. Notwithstanding the foregoing, an applicant and/or land owner may place not more than four signs measuring 12 by 18 inches upon or near a wireless service facility which:

1. state that trespassers will be prosecuted;
2. list the names and telephone numbers of persons to be contacted in the event of an emergency;
3. identify the applicant and/or land owner or person responsible for operating the wireless facility; and/or
4. contain information necessary and convenient for the person operating the wireless service facility to identify the wireless service facility.

B. Nothing in this section may be construed to prohibit the placement of safety or warning signs upon any portion of the wireless service facility which are required by law or which are designed to apprise emergency response personnel and the employees and agents of wireless service providers of particular hazards associated with equipment located upon the wireless service facility.

19.68.290 Lighting standards.

Except as specifically required by Federal Aviation Administration (FAA) or FCC regulations, antenna support structures cannot be illuminated. However, equipment enclosures may be illuminated for security reasons when compatible with the surrounding neighborhood.

19.68.300 SEPA.

Integration of environmental review. An application for a wireless service facility permit or wireless conditional use permit that is subject to the State Environmental Policy Act (SEPA) must be reviewed per AMC Chapter 18.04 concurrently with the review of the permit reviewed under this Chapter, except where exempted by that chapter. If there is a conflict between this Chapter and development regulations in other Chapters, the provisions of this Chapter will apply.

Section 4. Severability.

The provisions of this ordinance are separate and severable. If a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having run, holds any provision of this ordinance invalid or unenforceable as to any person or circumstance, the offending provision, if feasible, is modified to be within the limits of enforceability or validity. If the offending provision cannot be modified, it is null and void with respect to the particular person or circumstance. All other provisions of this ordinance in all other respects, and the offending provision with respect to all other persons and all other circumstances, remain valid and enforceable.

Section 5. Corrections.

Upon approval of the Mayor and the City Attorney, the Clerk is authorized to make necessary corrections to this ordinance, including the correction of (1) clerical errors, (2) references to other local, state or federal laws, codes, rules or regulations, and (3) ordinance numbering and section and subsection numbering.

Section 6. Ratification.

All actions taken prior to the effective date of this ordinance in furtherance of and not inconsistent with the provisions of this ordinance are ratified and confirmed in all respects.

Section 7. Effective Date.

This ordinance will take effect five days after its passage, approval, and publication.

Passed by the City Council of the City of Anacortes, Washington at a regular meeting thereof, this 11th day of February, 2019.

Mayor

Approved as to form:

City Attorney

Attest:

Clerk

CITY OF ANACORTES

ORDINANCE NO. 3039

AN ORDINANCE OF THE CITY OF ANACORTES, WASHINGTON, ADOPTING A NEW CHAPTER OF CODE, 5.38, ENTITLED “PUBLIC UTILITY AND WIRELESS TELECOMMUNICATIONS RIGHT-OF-WAY USE” RELATING TO THE REGULATION OF WIRELESS TELECOMMUNICATION FACILITIES AND PUBLIC UTILITIES LOCATING IN THE PUBLIC RIGHT-OF-WAY

THE CITY COUNCIL OF THE CITY OF ANACORTES, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Preamble.

1. WHEREAS, under state law, the City may require a master permit for telecommunications service providers RCW 35.99.030(1) (“Cities and towns may require a service provider to obtain a master permit.”); RCW 35.99.010(6) (defining service provider as “every corporation, company, association, joint stock association, firm, partnership, person, city, or town owning, operating, or managing any facilities used to provide and providing telecommunications or cable television service for hire, sale, or resale to the general public.”); RCW 35.99.010(3) (defining master permit as including franchises).
2. WHEREAS, The City code does not currently provide for permitting telecommunications service providers in the right-of-way other than cable communications systems, Chapter 5.44 RCW.
3. WHEREAS, the City code does not currently provide for a master permit to recover reasonable costs associated with small cell deployments in the right-of-way, to comply with shot clocks associated with such deployments, and to set other terms for such deployments under Federal Communications Commission Order No. FCC-18-133.
4. WHEREAS, RCW 35.99.030(5)(b) authorizes the City “to require that facilities are installed and maintained within the right-of-way in such a manner and at such points so as not to inconvenience the public use of the right-of-way or to adversely affect the public health, safety, and welfare.”
5. WHEREAS, this Ordinance is adopted consistent with federal and state laws and the City's police power to regulate for the benefit of the public safety, health and welfare.
6. WHEREAS, the City has received proposed changes to the new code section from citizens and agencies (including the City);
7. WHEREAS, the proposed new code section has been the subject of public hearings before the Planning Commission and subject to SEPA review;

8. WHEREAS, notice of the possible adoption of these changes has been provided to the State;
9. WHEREAS, the City Council has determined that it is in the best interest of the City to adopt a new code section that pertains to regulating wireless service facilities and public utilities locating in the public right-of-way.

Section 2. New Section of AMC, 5.38.

A new section, 5.38, of the AMC is adopted to read as follows:

**PUBLIC UTILITY AND TELECOMMUNICATIONS
RIGHT-OF-WAY USE**

Sections:

- | | |
|----------|---|
| 5.38.010 | Purpose. |
| 5.38.020 | Applicability. |
| 5.38.030 | Definitions. |
| 5.38.040 | Master permit and construction permit required. |
| 5.38.050 | Optional pre-application. |
| 5.38.060 | Construction permit application. |
| 5.38.070 | Master permit application. |
| 5.38.080 | Completeness review. |
| 5.38.090 | Timeframe for review. |
| 5.38.100 | Construction permit approval. |
| 5.38.110 | Master permit approval. |
| 5.38.120 | Compensation to the City. |
| 5.38.130 | Nondiscrimination. |
| 5.38.140 | Amendment of Permit. |
| 5.38.150 | Renewal application – Master Permit. |
| 5.38.160 | Renewal approval. |
| 5.38.170 | Terms of use and occupancy. |
| 5.38.180 | Specifications. |
| 5.38.190 | Exceptions. |
| 5.38.200 | Security fund. |
| 5.38.210 | Performance bond. |
| 5.38.220 | Insurance. |
| 5.38.230 | Hold harmless/indemnity. |
| 5.38.240 | Inspections. |
| 5.38.250 | Revocation of master permits and construction permits. |
| 5.38.260 | Correction and discontinuance of a Master Permit. |
| 5.38.270 | Correction and discontinuance of a Construction Permit. |
| 5.38.280 | Removal. |
| 5.38.290 | Displacement for public use. |
| 5.38.300 | Additional ducts or conduits. |
| 5.38.310 | Joint use of poles. |
| 5.38.320 | City use for noncommercial government communication. |

5.38.330	Appearance.
5.38.340	Moving of building(s) and/or equipment.
5.38.350	Billings and collections.
5.38.360	Liability.
5.38.370	Tree trimming.
5.38.380	Underground facilities.
5.38.390	Joint trenching.
5.38.400	Notice of tariff changes.
5.38.410	One-call locator.
5.38.420	Violation – Penalties.

5.38.010 Purpose.

The purpose of this chapter is to provide for the regulation of the use of public right-of-way by any business, service, or person which is engaged in supplying the public with some commodity or service which is of public consequence and need, such as public and private utilities, wireless telecommunications or transportation service.

5.38.020 Applicability.

The provisions of this chapter apply to all public utility and wireless carriers which occupy, use, construct, or maintain utility or telecommunications facilities within public right-of-way of the City.

To the extent the provision of any current franchise or other written agreement with a public utility or wireless carrier conflicts with any provision of this chapter, the applicable provision of the franchise or other written agreement prevails.

5.38.030 Definitions.

For the purposes of this chapter, the following terms, phrases, and words have the meanings set forth below unless the context clearly indicates otherwise. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

A. A definitions.

“Act” means a decision to grant, condition, or deny the use condition, or deny a permit, which may be subject to administrative appeal, or a notification to the applicant in writing of the amount of time that will be required to make the decision and the reasons for this time period.

B. B definitions.

“Base station” means: a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a “Tower” or any equipment associated with a Tower.

- The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
- The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks).
- The term includes any structure other than a tower that supports or houses equipment 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 such support.
- The term does not include any structure that does not support or house equipment for wireless telecommunications services.

C. C definitions.

“City Engineer” means the City Engineer of the City of Anacortes, Washington acting in his or her official capacity, and his or her designee(s).

“Complex project” means a construction project involving, by way of example only: adding, installing, or relocating numerous conduits, wires, lines, poles, pipes, cables, communication and signal lines, braces, guys, anchors, vaults, pedestals, antennas, and/or other structures, equipment and appurtenances to a public utility or wireless facility; navigating intricate or complicated facility or land ownership issues; determining whether significant environmental impact(s) exist; and/or the analysis of highly technical structural or engineering information or reports.

D. D definitions.

E. E definitions.

“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 or property from natural consequences, such as storms, earthquakes, riots or wars.

F. F definitions.

“Facilities” means all of the towers, equipment, fixtures, antennas, equipment cabinets, equipment shelters, and other appurtenances necessary to furnish and deliver wireless services, including but not limited to utility, monopoles, and street poles with cross arms or without cross arms, wires, lines, conduits, cables, communication and signal lines and equipment, braces, guys, anchors, vaults, and all attachments, appurtenances, and appliances necessary or incidental to the distribution and use of wireless services. Facilities include “Small Wireless Facilities” as defined below.

G. G definitions.

H. H definitions.

I. I definitions.

J. J definitions.

K. K definitions

L. L definitions.

M. M definitions.

“Master permit” means the agreement whereby the City of Anacortes may grant general permission to a service provider to enter, use, and occupy the right-of-way for the purpose of locating facilities. This definition is not intended to limit, alter, or change the extent of the existing authority of the City of Anacortes to require a franchise, nor does it change the status of a service provider asserting an existing statewide grant based on a predecessor telephone or telegraph company’s existence at the time of the adoption of the Washington State Constitution to occupy the right-of-way. A master permit does not include cable television franchises or permits.

N. N definitions.

O. O definitions.

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

P. P definitions.

“Permittee” means the public utility, service provider, or other person authorized under a master permit or construction permit under the provisions of this Chapter.

“Person” means and includes corporations, companies, associations, joint stock companies or associations, firms, partnerships, limited liability companies and individuals and includes their lessors, trustees and receivers.

“Public improvement” as used herein, means all work, construction, alterations, repair or improvements within public right-of-way, executed at the cost or under contract of the City, or caused to be performed by any person or entity as a condition or requirement of an approval or permit for zoning, land use, construction, or development if dedicated or required to be dedicated to the public use, benefit or enjoyment.

“Public right-of-way” means any highway, street, alley, other public right-of-way, or easement for motor vehicle under the jurisdiction and control of the City which has been acquired, established, dedicated or devoted to such purposes, but only to the extent of the City’s right, title, interest or authority to grant a permit to occupy and use such streets and easements for wireless and utility facilities.

“Public utility” as used herein, means a company or entity engaged in any business or service regularly supplying the public with some commodity or service which is a public need and consequence, such as natural gas, electricity, water or sanitary sewer, including any business subject to regulation as to rates and service by the Utilities and Transportation Commission under the provisions of RCW Title 81.

Q. Q definitions.

R. R definitions.

S. S definitions.

“Service provider” means every corporation, company, association, joint stock association, firm, partnership, person, city, or town owning, operating, or managing any facilities used to provide and providing wireless service for hire, sale, or resale to the general public. Service provider includes the legal successor to any such corporation, company, association, joint stock association, firm, partnership, person, city, or town.

“Small Wireless Facility” encompasses facilities that meet the following conditions:

- The facilities—
 - are mounted on structures 50 feet or less in height including their antennas as defined in section 1.1320(d), or
 - are mounted on structures no more than 10 percent taller than other adjacent structures, or
 - 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;
- 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;
- 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;
- The facilities do not require antenna structure registration under Federal regulations;
- The facilities are not located on Tribal lands, which means all lands within the exterior boundaries of any Indian reservation and all dependent Indian communities; and
- The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in section 1.1307(b).

“Surplus space” means that portion of the usable space on a utility pole which has the necessary clearance from other pole users, as required by Federal or State orders and regulations, to allow its use by a public utility or wireless carrier for a pole attachment. “Surplus space” also includes usable space within underground conduits and ducts when the necessary clearance from other users, as required by Federal or State orders and regulations, can be achieved;

T. T definitions.

U. U definitions.

“Underground facilities” means utility and wireless telecommunications facilities located under the surface of the ground, excluding the underground foundations or supports for overhead facilities;

“Usable space” means the total distance between the top of a utility pole and the lowest possible attachment point that provides the minimum allowable vertical clearance as specified in any Federal or State orders and regulations;

“Utility easement” means any easement owned by the City and acquired, established, dedicated or devoted for public utility purposes; and

“Utility facilities” as used herein means all conduit, wires, lines, poles, pipes, cables, communication and signal lines, braces, guys, anchors, vaults, pedestals, antennas, and all other structures, equipment and appurtenances thereto owned, operated or maintained by a public utility and used to furnish utility services.

V. V definitions.

W. W definitions.

“Wireless support structure” or “support structure” means a freestanding structure that is designed to support or is capable of supporting wireless facilities. The term does not include a utility pole, monopole, street pole, or tower.

“Wireless telecommunications carrier” or “wireless carrier” means and includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town owning, operating, or managing any facilities used to provide wireless telecommunications for hire, resale to the general public within this State;

“Wireless telecommunications” or “wireless” means the transmission of information by wire, radio, optic cable, electromagnetic, or 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, wireless telecommunications service excludes the over-the-air transmission of broadcast television or broadcast radio signals and excludes “cable services,” “cable communications systems” and “CATV systems” as defined in Chapter 5.44.

X. X definitions.

Y. Y definitions.

Z. Z definitions.

5.38.040 Master permit and construction permit required.

A. It is unlawful to construct, place, maintain, or operate any pipes, ducts, utility tunnels, vaults, maintenance holes, poles, fixtures, wires, utility facilities, wireless facilities, or any other appurtenances necessary for the purpose of providing wireless service, or to conduct any public utility business, on, over, or under the public right-of-way, without obtaining a master permit from the Council.

B. It is unlawful to construct, repair, or maintain any pipes, ducts, utility tunnels, vaults, maintenance holes, poles, fixtures, wires, utility facilities, wireless facilities, or any other appurtenances, necessary for the purpose of providing wireless service, or to conduct any public utility business or to go upon any such public right-of-way to perform any work therein on, under, or over public right-of-way, without obtaining a construction permit from the City Engineer. The City Engineer may exempt certain activities from the requirements of this section that do not materially affect the public right-of-way; provided, however, that if the City Engineer denies an applicant's request for such an exemption, no appeal is permitted.

5.38.050 Optional pre-application.

A. An applicant may submit materials up to thirty (30) days in advance of an application for a construction permit or master permit. The information submitted along with a pre-application may include the following information:

1. The name and address of the applicant;
2. Identification of all carriers using the facility;
3. The type of facility proposed;
4. Preliminary engineering plans, specifications, and maps of the facilities to be located within the public right-of-way;
5. Detailed construction plans demonstrating compliance with all applicable City codes and construction specifications, including the City's Engineering Standards;
6. A brief description of non-confidential, nonproprietary utility or wireless telecommunications services that are or will be offered or provided by the applicant over its facilities;
7. A brief description of non-confidential, nonproprietary transmission medium that will be used to offer or provide such services;
8. An accurate map showing the location of any existing utilities and/or wireless telecommunications facilities in the City that the applicant intends to use or lease;

9. If installation of overhead facilities is proposed, evidence that Surplus Space is available for locating the facilities on existing utility poles along the proposed route;
10. The area or areas of the City the applicant desires to serve and a schedule for building out (offering service to) the entire area covered by the master permit;
11. Proof of compliance with the other provisions of this Chapter, including but not limited to the indemnity, insurance, and bond requirements; and/or
12. Information to establish that the applicant has obtained all other governmental approvals and permits to construct and operate the facilities, and to offer or provide the services, including, but not limited to, evidence that the applicant has registered with the Washington Utilities and Transportation Commission.

5.38.060 Construction permit application.

A. To obtain a construction permit, the applicant must file an application with the City Engineer.

B. A complete application must include the following information and materials:

1. The names, residences, and business addresses of all officers and directors of the applicant.
2. Detailed construction plans demonstrating compliance with all applicable City codes and construction specifications, including the City's Engineering Standards.
3. If the applicant is constructing wireless facilities on another service provider's facilities, a notarized statement that the applicant has permission to use a third party's facility(ies), or a signed agreement with the service provider to that effect.
4. The location of the applicant's overhead and underground facilities in the public right-of-way along the proposed route and the area proposed to be served by cable.
5. Preliminary engineering plans, specifications, and maps of the facilities to be located within the public right-of-way, in sufficient detail to identify the location and route of the proposed facilities within the public right-of-way, the location of the applicant's existing facilities within the right-of-way, if any, and the specific trees, structures, facilities, and/or obstructions, if any, that the applicant proposes to temporarily or permanently remove or relocate.
6. If underground installation in existing ducts or conduits within the public right-of-way is proposed, information in sufficient detail to identify: the excess capacity currently available in such ducts or conduits before installation of the facilities; and the excess capacity, if any, that will exist in such ducts or conduits after installation of the facilities.
7. If underground installation within new ducts or conduits to be constructed within the public right-of-way is proposed: the location proposed for the new ducts or conduits; and the excess capacity that will exist in such ducts or conduits after installation of the facilities.
8. A preliminary construction schedule and completion date.

9. A detailed statement describing the actual equipment and operational standards proposed by the applicant.

10. A statement or schedule setting forth all proposed classifications of rates and charges to be set, including installation and service charges, which must remain in effect for at least twelve months after the City grants a master permit.

11. Proof of compliance with the other provisions of this Chapter, including but not limited to the indemnity, insurance, and bond requirements.

12. Any other reasonable information requested by the City Engineer or its designee, or required by any other provision of any other ordinance of the City.

13. An application fee to be set by the City Council in its unified fee schedule to allow the City to recover the costs of reviewing the application, including the costs of any third-party review.

C. Applications for Small Wireless Facilities may be submitted in batches, which may encompass up to five separate applications filed at the same time, each for one or more sites, or a single application covering up to five sites, unless the City agrees to a larger number based upon its capacity to review additional applications.

D. Third Party Review. The City may require the applicant to submit its materials to a third-party for review, as may be reasonably necessary to determine compliance with this Chapter, such as an engineer or architect, by way of example only.

5.38.070 Master permit application.

A. To obtain a master permit, the applicant must file an application with the City clerk.

B. The Council must examine each complete application submitted for review and approval to determine if it complies with the applicable provisions of this chapter. Other departments that have authority over the proposed use or activity may be required to review and approve or disapprove the application based on site-specific criteria, such as that in 19.68 AMC. The Council may inspect the public right(s)-of-way proposed for use to determine any facts which may aid in determining whether a master permit should be approved.

C. A complete application must include the following information and materials:

1. The identity of the applicant, including all affiliates of the applicant who will be authorized to work in the right-of-way under the agreement;

2. If the applicant is constructing wireless facilities on another service provider's facilities, a notarized statement that the applicant has permission to use such facilities, or a signed agreement with the service provider to that effect.

3. If the application involves a Small Wireless Facility, preliminary engineering plans showing all dimensions of the wireless facility.

4. A brief description of non-confidential, nonproprietary utility or wireless telecommunications services that are or will be offered or provided by the applicant over its facilities;
 5. A brief description of non-confidential, nonproprietary transmission medium that will be used to offer or provide such services;
 6. An accurate map showing the location of any existing utilities and/or wireless telecommunications facilities in the City that the applicant intends to use or lease;
 7. If installation of overhead facilities is proposed, evidence that Surplus Space is available for locating the facilities on existing utility poles along the proposed route;
 8. Preliminary engineering plans, specifications, and maps of the facilities to be located within the public right-of-way, in sufficient detail to identify the location and route of the proposed facilities within the public right-of-way, the location of the applicant's existing facilities within the right-of-way, if any, and the specific trees, structures, facilities, and/or obstructions, if any, that the applicant proposes to temporarily or permanently remove or relocate.
 9. The area or areas of the City the applicant desires to serve and a schedule for building out (offering service to) the entire area encompassed by the master permit;
 10. Information to establish that the applicant has obtained all other governmental approvals and permits to construct and operate the facilities, and to offer or provide the services, including, but not limited to, evidence that the applicant has registered with the Washington Utilities and Transportation Commission;
 11. Proof of compliance with the other provisions of this Chapter, including but not limited to the indemnity, insurance, and bond requirements.
 12. An application fee to be set by the Council in its unified fee schedule which allows the City to recover its actual administrative expenses that are directly related to receiving and approving a permit and license, to inspecting plans and construction, or to the preparation of a detailed statement.
- D. Applications for Small Wireless Facilities may be submitted in batches, which may encompass up to five separate applications filed at the same time, each for one or more sites, or a single application covering up to five sites, unless the City agrees to a larger number based upon its capacity to review additional applications.
- E. Third Party Review. The City may require the applicant to submit its materials to a third-party for review, as may be reasonably necessary to determine compliance with this Chapter, such as an engineer or architect, by way of example only.

5.38.080 Completeness review.

A. Completeness Review. Applications for a master permit or construction permit must be reviewed for completeness within thirty days of receipt, except for applications associated with Small Wireless Facilities, which must be reviewed for completeness within ten days of receipt.

If the application is not reviewed for completeness within the applicable timeframe, it will be deemed complete.

B. Tolling.

1. For applications for a master permit or construction permit for a Small Wireless Facilities, the review period resets once an applicant submits its additional materials.
2. For all other applications deemed incomplete, the review period is tolled for up to sixty days. Once an applicant submits additional materials, the review timeframe begins to run again.
3. If the applicant does not submit the required materials within the required timeframe, the City may deny the application.

C. Submittal of Additional Materials.

1. If an applicant submits additional materials, the Director must provide notice within ten (10) days as to any additional materials identified in the original notice that were not provided with the supplemental materials.
2. Second or subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness. For second or subsequent notices of incompleteness, the review timeframe will be tolled for all applications including those pertaining to Small Wireless Facilities.
3. If the applicant does not submit the required materials, the City may deny the application.

D. Failure to act. If the Director fails to approve or deny a request seeking approval for either a wireless service facility permit or conditional use permit within the applicable timeframe for review, accounting for any tolling, the request is deemed granted. The deemed grant does not become effective until the applicant notifies the applicable reviewing authority in writing after the review period has expired that the application has been deemed granted.

5.38.090 Timeframe for review.

The timeframe for review of an application for a master permit or a construction permit begins to run when an application is submitted, not when the application is deemed complete. The timeframe for submitting and reviewing master permits and construction permits is the same, unless otherwise specified.

	Colocating Wireless Facilities	Colocating Small Wireless Facility	New Small Wireless Facility	New Wireless Facilities	Construction Permit – All Wireless Facilities	Master Permit Renewal – All Wireless Facilities
Application Submission	Master use and construction permit applications should each be submitted 90 days prior to	Master use and construction permit applications should each be submitted 60 days prior to	Master use and construction permit applications should each be submitted 90 days prior to	Master use and construction permit applications should each be submitted at least 120 days	Applications for complex projects should be submitted at least 60 days prior to the planned use,	A Permittee may submit an application for renewal no more than 180 days and no less than 120

	Colocating Wireless Facilities	Colocating Small Wireless Facility	New Small Wireless Facility	New Wireless Facilities	Construction Permit – All Wireless Facilities	Master Permit Renewal – All Wireless Facilities
	planned use.	planned use.	planned use.	prior to planned use.	and in no case less than 30 days prior to the planned use.	days before expiration of the current master permit.
Timeframe for decision (from receipt of complete application)	Written decision due within 90 days.	Written decision due within 60 days.	Written decision due within 90 days.	Written decision due within 120 days.	City Engineer must Act within a reasonable time, generally not to exceed 30 days, and in no case can he or she exceed the timeframes for review set forth in this table.	Written Decision due within 90 days.

5.38.100 Construction permit approval.

A. The City Engineer shall review construction permits as follows:

Optional Pre-Application Meeting	Yes
Notice of Application	No
Comment Period	None
Recommendation By	None
Pre-Decision Open-Record Hearing	No
Closed-Record Decision Hearing	No
Decision By	City Engineer
Notice of Decision	No

B. In the event that the City Engineer finds that the construction permit application conforms to the requirements of this chapter and applicable construction standards adopted by the City, the City Engineer must approve the construction permit, and may impose such conditions thereon as are reasonably necessary to protect the public health, welfare and safety, to mitigate any impacts resulting from the use, and to facilitate the orderly management of other utility and wireless facilities within the public right-of-way.

C. In the event that the City Engineer denies an application for a construction permit, the decision must be in writing and set forth the reasons for said denial, and must be based on substantial evidence in the written record. The City may not deny a construction permit on the basis of a failure to obtain a master permit. Following approval by the City Engineer, construction permits will be issued by the City clerk.

D. The City Engineer has the discretion to approve a blanket construction permit for a period of up to one year, when the applicant seeks approval to perform construction or maintenance that is of a repetitive or similar nature.

E. In evaluating a construction permit application under this chapter, the City Engineer must, in addition to the criteria set forth in AMC XX.XX.050(2), determine whether the proposed construction is consistent with all construction standards adopted by the City.

F. The duration of a construction permit will be for one year unless revoked or modified under the provisions of this chapter. The City Engineer must approve a construction schedule specifying the dates, times, and duration during which construction activity is permitted within the public right-of-way.

G. The construction permit incorporates the relevant terms and conditions of this chapter by reference.

H. The City Engineer has the power to regulate the construction and enforce construction permit conditions and the requirements of this chapter. The City Engineer must keep a record of the construction permit and the work done thereunder.

I. A service provider adversely affected by a final action denying a construction permit may commence an action within thirty (30) days to seek relief, in any competent court of jurisdiction.

5.38.110 Master permit approval.

A. The City Council shall review the master permit application as follows:

Optional Pre-Application Meeting	Yes
Notice of Application	Yes
Comment Period	14 days
Recommendation By	None
Pre-Decision Open-Record Hearing	Yes, before City Council
Closed-Record Decision Hearing	No

Decision By	City Council
Notice of Decision	Yes

B. In the event the Council finds that master permit application conforms to the requirements of this chapter and the criteria for approval set forth in subsection (2) of this section, the Council must approve the master permit, and may impose conditions that are reasonably necessary to protect the public health, welfare, and safety and to mitigate any impacts resulting from the use. The Council will provide the reasons for a denial in writing, supported by substantial evidence contained in the written record based on the criteria set forth below. Following approval, the applicant and the Council must enter into a written agreement setting forth the particular terms under which the applicant has been granted the right to occupy and use the public ways of the City.

C. In evaluating a master permit application under this chapter, the Council will, consistent with Federal and State law, examine the following criteria:

1. Whether all requisite licenses, certificates, and authorizations from applicable Federal, State, and local agencies have been obtained by the applicant;
2. The capacity of the public right-of-way to accommodate additional utility and wireless telecommunications facilities if the master permit is granted;
3. The effect, if any, on public health, safety and welfare if the master permit is granted;
4. The availability of reasonable alternate routes and/or locations in the right-of-way for the proposed facilities;
5. Whether denial of the use of the right-of-way would materially inhibit or limit the ability of the service provider to compete in a fair and balanced regulatory environment.
6. Applicable Federal, State, and local statutes, regulations, ordinances, and policies related to utility, wireless telecommunications, and other facilities, including City construction standards;
7. Such other factors as may demonstrate that the grant to use the public right-of-way will serve the community interest.
8. The duration of a master permit is five years unless revoked or modified under the provisions of this chapter.
9. No master permit granted under this chapter confers any exclusive right, privilege, license, or franchise to occupy or use the public right-of-way of the City for delivery of wireless services or any other purposes. Further, no master permit may be construed as a right, title or interest in the public ways, but is the right solely to use and occupy the public right-of-ways for the limited purposes and terms stated within the grant. No master permit may be construed as a warranty of title.

5.38.120 Compensation to the City.

The City may fix a fair and reasonable compensation to be paid annually for the use of the right-of-way granted to the applicant under a master permit that is a reasonable approximation of the City's costs, including the costs of third-party review, if any; provided, that the City and an applicant may agree to the compensation to be paid; and provided that the compensation fixed or agreed upon is consistent with RCW 35.21.860.

5.38.130 Nondiscrimination.

A Permittee which purports to serve the general public must make its wireless telecommunication services available to any customer within its permitted area who requests such service, without discrimination as to the terms, conditions, rates or charges for the permittee's services; provided, however, that nothing in this title prohibits a Permittee from making reasonable classifications among differently situated customers.

5.38.140 Amendment of Permit.

Except as otherwise provided within a master permit agreement, a new master permit agreement and grant is required for any wireless carrier or service provider that seeks to extend the area covered by the master permit or to locate its wireless facilities in public rights-of-way in the City which are not included in a master permit previously granted under this chapter. If ordered by the city to locate or relocate its wireless telecommunications facilities in public rights-of-way not included in a previously granted master permit, the City must grant a master permit amendment without further application.

5.38.150 Renewal application – Master Permit.

A. A Permittee may activate a formal process for renewal, by submitting an application for renewal, a completed master permit renewal application with the city clerk. The application must include the following:

1. The information required under AMC 5.38.070;
2. Any information required under the master permit agreement between the City and the applicant;
3. All deposits or charges required under this Chapter; and
4. An application fee to be set by Council.

5.38.160 Renewal approval.

A. The City must issue a written determination granting or denying the renewal application in whole or in part. If the renewal request is denied, the written determination must include substantial evidence of the reason(s) for denial, based on the standards set forth below. Prior to granting or denying renewal of a master permit under this Chapter, the Council must conduct a public hearing and make a decision based on the following criteria:

1. The continuing capacity of the public right-of-way to accommodate the applicant's existing facilities;
2. The applicant's compliance with the requirements of this title and the master permit agreement;
3. Applicable federal, state, and local wireless telecommunications laws, rules and policies; and
4. Such other factors that may demonstrate that the continued grant to use the public right-of-way will serve the community interest.

B. The Council may not deny a renewal application based on violations of the master permit unless the applicant has been given notice and an opportunity to cure.

C. Any service provider whose proposal for renewal has been denied by the City, or has been otherwise adversely affected by a failure of the City to act, may appeal such final decision or failure to act within 120 days in any Court of competent jurisdiction.

5.38.170 Terms of use and occupancy.

A. The use and occupancy of public right-of-way in the City by any person constructing, maintaining or operating wireless, utility, or other facilities must conform to the terms and conditions of this chapter.

B. Existing facilities installed or maintained by a telecommunications carrier, public utility or other entity over, under or across public right-of-way within the City in accordance with an expired franchise agreement or other City-issued permit may be operated by the wireless carrier or public utility at the locations at which such facilities exist; provided, however, that maintenance, repair, relocation, and/or expansion of such facilities are not permitted unless and until the public utility or telecommunications carrier, or other entity obtains all permits and approvals required by this chapter.

C. All work by a wireless carrier, public utility, or other entity in the public right-of-way must comply with all construction standards and specifications adopted by the City as now exist or are hereafter amended, including but not limited to those set forth in Chapters 15.32 and 19.68 AMC.

5.38.180 Specifications.

A. All work to be performed under a construction permit issued under this chapter must conform to all applicable City codes, ordinances, and standards adopted by the City. In case of any conflict, the most stringent provision applies.

B. No wireless, utility, other facilities, or work related thereto may protrude into or over any portion of a public right-of-way opened to vehicle or pedestrian travel in such a manner as to create a risk of endangering the use of such place by vehicles or pedestrian travel. In addition, in the event the requested construction permit involves encroachment or partial obstruction of a

sidewalk or other walkway open to the public, a minimum of five feet of unobstructed sidewalk or other walkway must be maintained at all times.

C. During any period of any relocation, construction or maintenance of its facilities within the public right-of-way, a wireless telecommunications carrier, public utility or other person must conduct their activities so as not to unreasonably interfere with the free passage of traffic or the use of adjoining property. Such person must, at all times, post and maintain proper barricades and comply with all applicable safety regulations during such period of construction as required by the ordinances of the City and the laws of the State of Washington, including RCW 39.04.180, for the construction of trench safety systems.

D. An applicant must, within 10 business days of completion of work, submit at no cost to the City, current and accurate as-built drawings showing the location of any facilities installed or constructed within the public right-of-way under a permit issued pursuant to this chapter or otherwise. As-builts must show all of the applicant's facilities in the right-of-way including but not limited to wireless telecommunications facilities, utility facilities, power poles, guy poles and anchors, overhead transformers, pad-mounted transformers, submersible transformers, conduit, substation (with its name) pedestals, pad-mounted junction boxes, vaults, switch cabinets, and meter boxes.

5.38.190 Exceptions.

A. A construction permit is not required when public utilities, wireless carriers, or City contractors are responding to emergencies that require work in the public right-of-way, such as water or sewer main breaks, gas leaks, downed power lines, or similar emergencies; provided, however, that the Council must be notified by the responding utility, carrier, or contractor verbally or in writing, on the next business day following onset of the emergency. Nothing in this section relieves a responding public utility, carrier, or contractor from the requirement of obtaining a construction permit after beginning emergency work in a public right-of-way.

B. A construction permit fee is not required for City-sponsored capital improvement projects for water, sewer, drainage, or road construction maintenance, including associated work required by a public utility.

5.38.200 Security fund.

A. Prior to commencement of any activities approved under a master permit, the Permittee must establish a permanent security fund with the City by depositing the amount of \$50,000, or such greater amount as deemed necessary by the Council, with the City in cash, an unconditional letter of credit, or other instrument acceptable to the City, which fund must be maintained at the sole expense of the Permittee so long as any of the Permittee's utility or wireless facilities are located within the public right-of-way of the City.

B. The fund must serve as security for the full and complete performance of the terms and conditions of this chapter and master permit, including any costs, expenses, damages, or loss the City pays or incurs, including civil penalties, because of any failure attributable to the Permittee to comply with the codes, ordinances, rules, regulations, or permits of the City.

C. The fund may be used to repair the public right-of-way, return it to its original condition, or to complete a project within the right-of-way if the Permittee ceases work mid-way through construction, or abandons its facility(ies) and appurtenances thereto.

D. Before any sums are withdrawn from the security fund, the City must give written notice to the Permittee:

1. Describing the act, default or failure to be remedied, or the damages, costs or expenses which the City has incurred by reason of the Permittee's act or default;
2. Providing a reasonable opportunity for the Permittee to first remedy the existing or ongoing default or failure, if applicable;
3. Providing a reasonable opportunity for the Permittee to pay any monies due the City before the City withdraws the amount thereof from the security fund, if applicable; and
4. That the Permittee will be given an opportunity to review the act, default or failure described in the notice with the City or his or her designee.

E. Permittees are required to replenish the security fund within 14 days after written notice from the City that there is a deficiency in the amount of the fund.

F. Upon Permittee's removal of all facilities from the right of way and expiration of the agreement, permits and/or licenses, the city must refund the balance remaining in this fund, including any accrued interest within 14 days.

5.38.210 Performance bond.

A performance bond written by a corporate surety acceptable to the City Engineer equal to at least 150 percent of the estimated cost of removing the Permittee's facilities and restoring the public right-of-way to their pre-construction condition must be deposited before the construction permit is issued. Said bond is required to remain in full force until 60 days after completion of the construction and/or improvements within the public right-of-way, and must warrant all such restoration work for a period of two years following completion and/or termination of the construction. Those Permittees performing annual work within the rights-of-way may provide an annual performance bond, in an amount approved by the City Engineer, at the beginning of each year to cover all excavations. The purpose of this bond is to guarantee the removal of partially completed and/or nonconforming facilities and to fully restore the public right-of-way to the pre-construction condition. The City Engineer may use the funds from the performance bond to complete removal and fully restore the public right-of-way to its pre-construction condition if the Permittee fails to do so.

5.38.220 Insurance.

Unless otherwise provided in a master permit or construction permit, each Permittee must, as a condition of the master permit and construction permit, secure and maintain the following liability insurance policies insuring both the Permittee, its agents, representatives, employees, contractors or subcontractors, and the City and its elected and appointed officers, officials,

agents, employees, representatives, engineers, consultants, and volunteers as co-insureds against any claims which may arise from or in connection with the exercise of the rights, privileges, and authority granted to the Permittee under the permit(s):

A. Comprehensive Commercial General Liability Insurance. Commercial General Liability Insurance on an “occurrence” basis including coverage for Premises and Operations Liability, Products and Completed Operations, Contractual Liability, Independent Contractors, Stop Gap/Employer’s Liability, Broad Form Property Damage, Explosion, Collapse and Underground Hazards, and Personal Injury Liability. Such insurance will provide limits of not less than two million dollars (\$2,000,000) per occurrence and ten million dollars (\$10,000,000) in the aggregate. Coverage limits can be achieved with a combination of the primary and umbrella/excess policies. Products/Completed Operations Liability Insurance will be provided for a period of at least six years after completion and/or termination of construction. Any deductible or self-insured retention must be disclosed and is subject to approval of the City. The policy for the Permittee must include without limitation coverage for hazards commonly referred to as “XCU” and contain a severability of interests provision.

B. Automobile Liability Insurance. A policy of Automobile Liability, including coverage for Permittee’s owned, non-owned, leased or hired vehicles providing a minimum limit for Bodily Injury and Property Damage of five million dollars (\$5,000,000) per combined single limit each accident. The limit can be achieved with a combination of the primary and umbrella/excess policies.

C. Workers Compensation Insurance. Statutory Worker’s Compensation and Employers Liability insurance as prescribed by applicable law.

D. City as an Additional Insured on Policies. The Commercial General Liability and Automobile Liability and Umbrella/Excess Liability insurance policies required must name the City of Anacortes as an additional insured on a primary and non-contributory basis on Forms CG 20 26 and CG 20 37 or their equivalents for a public body. Carriers furnishing insurance are required to waive all rights of subrogation against the City. The Permittee must obtain the written agreement on the part of each insurance company to notify the City at least forty-five (45) days prior to cancellation or non-renewal of any such insurance, except ten (10) days’ notice of cancellation due to non-payment of premium.

E. Evidence of Insurance. With respect to each policy, Permittee must provide the City prior to commencement of the Work, proof that it has procured the requisite insurance, including copies of any applicable policies, declaration pages, and/or endorsements. PERMITTEE IS NOT ENTITLED TO COMMENCE WORK AUTHORIZED UNDER ITS PERMIT(S) UNTIL THE CITY HAS RECEIVED AND APPROVED THE CERTIFICATE OF INSURANCE.

F. Errors and Omissions. Permittee must maintain throughout the period of the applicable permit and for a period of six (6) years thereafter, a standard professional errors and omissions insurance policy of a form and with an insurance company satisfactory to the City. Permittee’s insurance policies must incorporate a provision requiring giving written notice to the City at least sixty (60) days prior to any cancellation, non-renewal or material modification of the policies. Permittee’s professional errors and omissions insurance will be in the minimum amount of

\$1,000,000 including contractual liability, with all coverage retroactive to the earlier of the date of the applicable permit or the commencement of design services in relation to the permit(s).

G. Compliance by contractors and subcontractors. Permittee is required to ensure that each of its contractors and subcontractors complies with all requirements in this Section; provided that Permittee must require its contractors and subcontractors to maintain commercially reasonable limits of insurance, given the contractor's and subcontractor's scope of work. Permittee must provide evidence of insurance of contractors and subcontractors upon request by the City.

H. In addition, each such insurance policy must contain an endorsement which provides that the policy may not be cancelled, reduced in coverage, nor the intention not to renew be stated until 60 days after receipt by the City of a written notice to that effect. Within 30 days after receipt of such notice by the City, and in no event later than 15 days prior to the cancellation or nonrenewal, the Permittee must obtain and furnish to the City replacement insurance policies meeting the requirements of this section.

5.38.230 Hold harmless/indemnity.

A. The Permittee must, to the fullest extent permitted by law, indemnify, defend and hold harmless the City, and its elected and appointed officers, officials, agents, employees, representatives, engineers, consultants, and volunteers as co-insureds (collectively the "Indemnified Parties" or individually, each an "Indemnified Party"), from and against any and all claims, liability, penalties, fines, costs, damages, losses and causes of action, arising out of or resulting from, or alleged to arise out of, relate to, or to result from the performance or non-performance of any construction performed at the instance of Permittee, or performance or non-performance of any services performed at the instance of Permittee (hereinafter singularly and collectively referred to as "Indemnity Claims"), but only to the extent directly or indirectly caused by the negligence or willful misconduct of Permittee, its contractors, subcontractors or supplier of any tier, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable. Permittee, at its sole expense, must promptly dispose of Indemnity Claims, defend all lawsuits and similar proceedings filed against an Indemnified Party on the account of Indemnity Claims, pay all awards and judgments rendered against an Indemnified Party in connection therewith, and reimburse each Indemnified Party for all reasonable expenses incurred by such Indemnified Party in connection with Indemnity Claims and lawsuits and arbitrations and similar proceedings including, but not limited to, attorneys' fees, expert witness fees, court costs, arbitration costs and all other reasonable costs (not limited to statutory costs).

B. If Indemnity Claims are caused or alleged to be caused in part by any joint or concurrent negligent act (either active or passive) or omission by an Indemnified Party, Permittee will indemnify, defend and hold harmless such Indemnified Party, as provided above, from such Indemnity Claims to the extent such Indemnity Claims arise out of or result from the negligence or willful misconduct of Permittee or its contractors, subcontractors or suppliers of any tier, or anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, or anyone whose acts Permittee may be responsible or liable. In no event will Permittee be obligated to indemnify an Indemnified Party for Indemnity Claims which arise out of or result from the sole negligence of such Indemnified Party or its agents, servants or independent contractors who are directly responsible to such Indemnified Party, excluding Permittee.

C. In addition, the City may require that any person, public utility, or wireless carrier accepting such a master permit or construction permit provide the City with additional indemnification, such as an indemnification from a parent company.

D. The indemnification provided for herein does not apply to injuries to persons or damage to property caused by or resulting from the sole negligence of the City, its agents or employees.

E. For the sole purpose of effecting the indemnification obligations herein, the Permittee, by accepting a master permit, specifically and expressly waives any immunity that may be granted it under any applicable Workers' Compensation Act, disability benefit acts or other employee benefit acts.

5.38.240 Inspections.

All work performed within public right-of-way is subject to periodic inspection by the Council to assure compliance with any conditions attached to the permit, the requirements of this chapter, and the requirements of any applicable City code or standard.

5.38.250 Revocation of master permits and construction permits.

A. Following a notice of violation and opportunity to cure, the Council may revoke or suspend any approval issued under this chapter for cause, in accordance with existing tariff or applicable State law whenever:

1. The work does not proceed in accordance with the plans as approved or the conditions of approval, is not in compliance with the requirements of this chapter, other City ordinances, resolutions, or State law;
2. The service provider fails to provide adequate service or otherwise fails to comply with the terms of its master permit or construction permit;
3. The service provider has made a misrepresentation of material fact in applying for such approval;
4. The Council determines that inadequate measures are being taken to protect the public, adjoining property, public right-of-way, or wireless telecommunications, utility or other facilities in such public right-of-way, or that any excavation or fill endangers or will endanger the public, adjoining property, public right-of-way, or wireless telecommunications or utility facilities in such public right-of-way.

B. Upon suspension or revocation of an approval under this chapter, all permit-related activities of the public right-of-way must cease, except as authorized or directed by the Council.

5.38.260 Correction and discontinuance of a Master Permit.

A. Whenever the Council determines that any condition on any public right-of-way is in violation of a master permit or any other provision of this chapter related thereto, or exists without a master permit, the Council may order the correction or discontinuance of such condition or any activity causing such condition.

B. The Council also has all powers and remedies available under State law and this chapter, to secure the correction or discontinuance of any condition specified in this section.

C. The Council is authorized to use any or all of the following methods in ordering correction or discontinuance of any such conditions or activities as it determines appropriate:

1. Serving of oral or written directives to Permittee or other responsible person requesting immediate correction or discontinuance of the specified condition;
2. Service of a written notice of violation, ordering correction or discontinuance of a specific condition or activity within thirty (30) days
3. Service of a written notice to remove an object or facility within twenty-four (24) hours and summary removal if the object or thing is a hazard to public safety, with notice of such removal to the owner, if known;
4. Revocation of previously granted master permit(s) where Permittee or other responsible person has failed or refused to comply with requirements imposed by the City related to such permits; or
5. Issuance of an order to immediately stop work until authorization is received from the City to proceed.

D. Any utility or wireless facility, or any other object or thing which occupies any public right-of-way without a master permit or in violation of the master permit conditions is a nuisance both public and private.

E. All expenses incurred by the Council, including attorney's fees and legal expenses, in abating the condition or any portion thereof constitutes a civil debt owing to the Council jointly and severally by such persons who have been given notice or who own the object or thing or placed it in the public right-of-way, which debt is collectible in the same manner as any other civil debt.

5.38.270 Correction and discontinuance of a Construction Permit.

A. Whenever the City Engineer determines that any condition on any public right-of-way is in violation of a construction permit or any other provision of this chapter related thereto, or exists without a construction permit, the City Engineer may order the correction or discontinuance of such condition or any activity causing such condition.

B. The City Engineer also has all powers and remedies available under State law and this chapter, to secure the correction or discontinuance of any condition specified in this section.

C. The City Engineer is authorized to use any or all of the following methods in ordering correction or discontinuance of any such conditions or activities as it determines appropriate:

1. Serving of oral or written directives to Permittee or other responsible person requesting immediate correction or discontinuance of the specified condition;
2. Service of a written notice of violation, ordering correction or discontinuance of a specific condition or activity within thirty (30) days;

3. Service of a written notice to remove an object or facility within twenty-four (24) hours and summary removal if the object or thing is a hazard to public safety, with notice of such removal to the owner, if known;

4. Revocation of previously granted construction permit(s) where Permittee or other responsible person has failed or refused to comply with requirements imposed related to such permits; or

5. Issuance of an order to immediately stop work until authorization is received from the City to proceed.

D. Any utility or wireless facility, or any other object or thing which occupies any public right-of-way without a construction permit or in violation of construction permit conditions is a nuisance both public and private.

E. All expenses incurred by the City Engineer, including attorney's fees and legal expenses, in abating the condition or any portion thereof constitutes a civil debt owing to the City Engineer jointly and severally by such persons who have been given notice or who own the object or thing or placed it in the public right-of-way, which debt is collectible in the same manner as any other civil debt.

5.38.280 Removal.

Any person accepting a master permit or construction permit pursuant to this chapter for the installation of any utility or wireless carriers must remove such facilities when they are no longer required, or if the master or construction permit has been revoked as provided in this chapter. Such removal must occur within 90 days of receiving notice from the Council ordering such removal. Unless otherwise approved by the City in writing, no person is permitted to abandon utility or wireless facilities within a public right-of-way, and then only under such conditions as may be prescribed by the Council.

5.38.290 Displacement for public use.

A. A wireless carrier, public utility, or other person under order of the Council must, upon a minimum 60 days' written notice, move or adjust its underground or overhead facilities located within the public right-of-way which interfere with any public improvement authorized or ordered by the City. The relocation must be done at the expense of the telecommunications carrier, public utility, or other person, subject to the exceptions in RCW 35.99.060(d) and existing tariffs, which may require the City to pay for displacement in certain circumstances. The actual number of days must be specified by the Council in the Council's order.

B. When a public improvement is required to accommodate or allow development or other activity by a party other than the City, then a wireless telecommunications carrier, public utility or other person which moves or adjusts its facilities is entitled to recover its associated costs and expenses from such other party.

C. Such persons must indemnify, hold harmless, and pay the costs of defending the City against claims or liabilities for delays on public improvement projects caused by their failure to relocate their facilities in a timely manner unless caused by circumstances beyond their control.

5.38.300 Additional ducts or conduits.

Any person constructing underground ducts or conduits pursuant to this chapter must, upon request, provide the City with additional ducts for its use. Such additional ducts or conduits must be of a size and configuration specified by the City and be dedicated to the City. The City has the right to use the ducts and conduits for any purpose, including but not limited to leasing them to other entities, subject to the following provisions.

A. The City must enter into a contract with the service provider consistent with RCW 80.36.150, and the incremental costs of adding the ducts and conduits under this section will be borne by the City. If the City makes the additional duct or conduit and related access structures available to any other entity for the purposes of providing wireless services for hire, sale, or resale to the general public, the rates to be charged, as set forth in the contract with the entity that constructed the conduit or duct, must recover at least the fully allocated costs of the service provider. The service provider must state both contract rates in the contract.

B. Except as otherwise agreed by the City and the service provider, the City agrees that he requested additional duct or conduit space and related access structures will not be used by the City to provide wireless service for hire, sale, or resale to the general public.

C. The City will not require that the additional duct or conduit space be connected to the access structures and vaults of the service provider.

D. The value of the additional duct or conduit requested by the City will not be considered a public works construction contract.

E. This section does not apply to the provision of an institutional network by a cable television provider under federal law.

5.38.310 Joint use of poles.

A. All wireless facilities permitted pursuant to the terms of this chapter or otherwise located within the City of Anacortes must be made available for use by the owner or initial user thereof, together with as many other wireless service providers as can be technically collocated thereon.

B. Nothing contained within this chapter prevents the owner of such poles from charging a reasonable pole attachment fee that does not exceed the fair market value for the space occupied by said collocated facilities; except that if the owner is the City, it may not charge more than the reasonable approximation of its reasonable costs.

5.38.320 City use for noncommercial government communication.

Any person erecting or maintaining poles within public right-of-way allows the City the right, free of charge, to attach, maintain and operate traffic and traffic safety signals, as noncommercial governmental communication and signals, wires and/or fixtures within available surplus space on the poles erected and so maintained.

5.38.330 Appearance.

Any person erecting or maintaining poles under authority of this chapter must ensure that its poles are maintained in a manner that does not significantly distract from the visual appearance of the pole. Such maintenance may include cleaning, replacement, painting or repainting of the pole. Wooden utility poles are not required to be painted.

5.38.340 Moving of building(s) and/or equipment.

Any person maintaining overhead wireless or utility facilities in public right-of-way must, upon seven days' notice from the Council, disconnect or move said facilities to allow for the moving of building(s) and/or equipment across or along any such public right-of-way; provided, however, that the advance notice may be reduced to 24 hours if the facilities are below the minimum clearance set by law or regulation or in the case of an emergency. The cost of moving such facilities must be in accordance with existing tariffs or applicable State law, and borne as follows: (1) by the owner of the facilities if: (a) the wires, cables or appurtenances are below the minimum vertical clearance required by State law, City ordinance, or rules of the Council, (b) above the surface of the public right-of-way, or (c) no adjustment would be necessary if the minimum clearance had been maintained; or (2) by the person desiring to move the building(s) and/or equipment under all other circumstances.

5.38.350 Billings and collections.

The Council, jointly with the Finance Director, may establish procedures pertaining to the billing and collection of fees and charges adopted pursuant to this chapter.

5.38.360 Liability.

The Council and other employees charged with the enforcement and administration of this chapter, acting for the City in good faith and without malice in the discharge of their duties, do not thereby render themselves liable personally for damages that may accrue to persons or property as a result of an act required or by reason of an act or omission in the discharge of such duties.

5.28.370 Tree trimming.

Any wireless carrier or public utility required by State statute or regulation to trim or remove trees which may interfere with their facilities must ensure that their tree trimming activities protect the appearance, integrity and health of the trees to the extent reasonably possible. The wireless carrier or public utility must prepare and maintain a tree trimming schedule to ensure compliance with this provision and to avoid exigent circumstances where tree cutting, trimming or removal is necessary to protect the public safety or continuity of service without the regard for the appearance, integrity or health of the trees that planned maintenance would otherwise allow. The wireless carrier or public utility must submit the schedule to the City Engineer. Except where exigent circumstances do not permit, the wireless carrier or public utility must give the owner the property on which the trees are located at least five days' advance written notice of the tree trimming. Tree trimming on any City streets must comply with the standards developed by the City's street tree advisory committee.

5.38.380 Underground facilities.

A. The undergrounding requirements of this section apply where the wireless telecommunications carrier, public utility, or other person's facilities consist of cable or any other facilities which are capable of being placed underground. This section does not apply to antennas or other facilities, which are required to remain above-ground, in order to be functional.

B. In any area of the City in which there are no aerial facilities other than antennas or other facilities required to remain above-ground in order to be functional or otherwise for the provision of wireless services, or in any public right-of-way in which all wireless telecommunications wires and cables, and electric power wires, cables, 15,000 volts and lower, and other aerial facilities capable of undergrounding have been placed underground, no person is permitted to erect poles or to run or suspend wires, cables or other facilities thereon, but must lay such wires, cables or other facilities underground in the manner required by the City pursuant to this section, and Chapters 15.32 and 19.68 AMC, if applicable.

C. If utility or street improvement projects are anticipated within the same public right-of-way within 12 months of a Permittee's proposed construction, the City may permit interim installation of above-ground facilities. In the event that the City does not require the undergrounding of such facilities at the time of initial installation, the City may, at any time in the future, require the conversion of such above-ground and/or aerial facilities to underground installation at the carrier, utility, or other person's expense, with exceptions as set forth in RCW 35.99.060(d).

D. The City must allow new electric power lines and cables operating above 15,000 volts to be constructed above-ground when location within the City right-of-way is approved by the City Engineer.

E. Whenever a service provider or public utility undertakes an undergrounding project in any area of the City, it must underground their above-ground facilities in the manner specified by the City, concurrently and together with the other affected carriers, utilities, and other persons in the affected area. The location of any such relocated and underground facilities must be approved by the Council. Such service provider must underground their facilities at no cost to the City, except as provided in RCW 35.99.060(d).

F. In the event that the City undertakes any public improvement which would otherwise require, in the discretion of the Council, the relocation of carrier, utility, or other person's above-ground facilities, the Council may, by written notice to such persons, direct that any such facilities be converted to underground facilities. Any such conversion must be done subject to and in accordance with applicable schedules and tariffs on file with the WUTC or such other regulatory agency having jurisdiction.

5.38.390 Joint trenching.

Recognizing that trenching and excavation within public right-of-way can significantly degrade the quality and longevity of street surfacing and seriously inconvenience the public, all Permittees must afford other wireless carriers, public utilities, and the City an opportunity to share in the use of their excavations and trenches within public right-of-way. In the event that

the City, a wireless carrier, or a public utility desires to share in a Permittee's excavation, it must provide a written request to do so. Joint use of excavations are subject to the following conditions:

- A. Such joint use may not unreasonably delay the work of the party causing the excavation to be made;
- B. Any party desiring to share in an excavation may be required to pay the fair and reasonable pro rata cost of said excavation. Such joint use must be arranged and accomplished on terms and conditions satisfactory to both parties; and
- C. Either party may deny such request for safety reasons.

5.38.400 Notice of tariff changes.

A Permittee must, when making application for any changes in tariffs affecting the provisions of this chapter or any approval issued hereunder, notify the City in writing of the application and provide the Council with a copy of the submitted application. The Permittees must further provide the Council with a copy of any actual approved tariff change affecting any approval issued pursuant to this chapter.

5.38.410 One-call locator.

All carriers, utilities, Permittees, and other persons must, before commencing any construction within a public right-of-way, comply with all of the requirements set forth in Chapter 19.122 RCW, the one-call locator service.

5.38.420 Violation – Penalties.

- A. No person may violate or fail to comply with this chapter.
- B. A violation of or failure to comply with any provision of this chapter is a civil infraction subject to the enforcement provisions of Chapter 1.24 AMC.
- C. A violation or failure to comply with any provision of this chapter, including any order of the Council authorized by this chapter, is, in addition to any other remedies, grounds for the Council to revoke the underlying permit issued to the Permittee, if any, and grounds for the denial of any additional permits under this chapter until the Permittee is in full compliance with the provisions of this chapter.
- D. Violation of a stop-work order issued pursuant to AMC XX.XX.250 or 260 constitutes a gross misdemeanor, punishable by not more than 90 days in jail and a fine not exceeding \$1,000, or both.

Section 3. Severability.

The provisions of this ordinance are separate and severable. If a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having run, holds any provision of this ordinance invalid or unenforceable as to any person or circumstance, the

offending provision, if feasible, is modified to be within the limits of enforceability or validity. If the offending provision cannot be modified, it is null and void with respect to the particular person or circumstance. All other provisions of this ordinance in all other respects, and the offending provision with respect to all other persons and all other circumstances, remain valid and enforceable.

Section 4. Corrections.

Upon approval of the Mayor and the City Attorney, the Clerk is authorized to make necessary corrections to this ordinance, including the correction of (1) clerical errors, (2) references to other local, state or federal laws, codes, rules or regulations, and (3) ordinance numbering and section and subsection numbering.

Section 5. Ratification.

All actions taken prior to the effective date of this ordinance in furtherance of and not inconsistent with the provisions of this ordinance are ratified and confirmed in all respects.

Section 6. Effective Date.

This ordinance will take effect five days after its passage, approval, and publication.

Passed by the City Council of the City of Anacortes, Washington at a regular meeting thereof, this 11th day of February, 2019.

Mayor

Approved as to form:

City Attorney

Attest:

Clerk



Anacortes Planning Commission Recorded Motion Regarding Amendments to the Wireless Service Facilities and Public Utility & Telecommunications Right-Of-Way Use Regulations

Proposal name:	Amendments to regulations governing Wireless Service Facilities and Public Utility & Telecommunications Right Of Way Use
File Number:	PLN-2018-0004
Documents available at:	https://www.anacorteswa.gov/1022/Wireless-Code-Update
Public hearing body:	Anacortes Planning Commission
Public hearing date:	January 16, 2019 & January 30, 2019
PC deliberations:	January 30, 2019

After considering the written and spoken comments and considering the record before it, the Planning Commission enters the following findings of fact, reasons for action, and recommendations to the Anacortes City Council.

Findings of Fact and Reasons for Action

1. There have been recent changes to the mandates of the Telecommunications Act of 1996, the Middle Class Tax Relief and Job Creation Act of 2012, and other applicable federal and state laws and rules promulgated by the Federal Communication Commission that require the City of Anacortes to update its wireless service facilities regulations.
2. Specifically, the Federal Communications Commission (FCC) issued its *Declaratory Ruling and Third Report and Order*, FCC 18-133 ("Order FCC 18-133"), with the intent to streamline the deployment of Fourth Generation (4G) and Fifth Generation (5G) mobile communication system infrastructure, including small cell facilities, across the country.
3. The City's existing regulations governing "wireless telecommunications towers and antennas" in Chapter 17.63 Anacortes Municipal Code (AMC) and those governing franchise agreements for use of public rights-of-way are out of date as they relate to "small cell" technology and federal regulations.
4. The Anacortes City Council adopted Ordinance 3010 on August 28, 2017 establishing a moratorium on the receipt and processing of applications to site wireless

communications towers and antennas pursuant to AMC Ch. 17.63, and on the receipt and processing of applications for telecommunications franchises or master permits pursuant to AMC Ch. 5.36. The moratorium was extended by Ordinance 3020, adopted on February 20, 2018, and Ordinance 3027, adopted on August 27, 2018.

5. It is necessary and beneficial for the health, safety and welfare of the community to update the regulations for siting of wireless services facilities, including requirements for siting in the public right-of-way.
6. It is important to accommodate the growing need and demand for wireless services while protecting the character of the City of Anacortes and its neighborhoods.
7. On February 1, 2018, City staff hosted a meeting with wireless industry stakeholders and members of the public to obtain input on potential updates to the wireless service facilities regulations.
8. On December 19, 2018, a notice of public meeting and public hearing was printed in the Anacortes American.
9. On January 3, 2019, Planning Commission hosted a special meeting with wireless industry stakeholders and members of the public to obtain feedback on proposed draft amendments to the wireless service facilities regulations, establishing AMC Chapter 19.68 Wireless Service Facilities and AMC Chapter 5.38 Public Utility and Telecommunications Right-Of-Way Use.
10. SEPA environmental review of the draft amendments was completed and a Determination of Nonsignificance (DNS) issued on January 9, 2019. The comment period for the threshold determination ended on January 23, 2019.
11. The City notified the State of Washington of its intent to adopt amendments to its development regulations on January 9, 2019. The expedited review was complete on January 24, 2019, and no comments from state agencies were received.
12. The Planning Commission held a public hearing to take oral and/or written comments on the proposed amendments on January 16, 2019.
13. The Planning Commission considered public testimony and written comments received during the comment period. Concerns were expressed regarding the definition "colocation" in the context of Small Wireless facilities. The definitions were revised to include a definition consistent with Order FCC 18-133. Concerns were also expressed regarding the ability of the City to meet the shot-clock requirements given the permit process for Small Wireless Facilities both in the Telecommunications and Right-of-Way code sections. In response to these concerns, the Planning Commission amended its code provisions to ensure a more streamlined review in both sections for Small Wireless Facilities. Concerns were also expressed regarding the applicability of certain aesthetic requirements to Small Wireless Facilities. The Planning Commission addressed such concerns by applying only those aesthetic criteria that are technically feasible to Small Wireless Facilities. The Planning Commission disagreed based on a legal analysis of Order FCC 18-133 that no aesthetic criteria should apply to Small Wireless Facilities. The

Planning Commission also addressed concerns regarding the requirement of an engineering report to show the capacity of a Small Wireless Facility. The Planning Commission changed this provision to require instead a description of the capacity..

14. The Planning Commission held a second public hearing on January 30, 2019 and recommended changes to the draft regulations based on additional public comments received. One such recommended change was to remove the requirement that a service provider prove that a new facility would fill a significant gap in service. Other recommended changes were made to address concerns regarding the applicability of certain provisions to small wireless facilities.

15. The Planning Commission considered all other relevant matters including staff recommendations and analysis, legal advice, and consistency with the Anacortes Comprehensive Plan, including the following applicable policies:

Policy U-1.1. *Work with utility providers to ensure that reliable, quality services are provided at reasonable, equitable rates in all areas of the city.*

Policy U-1.2. *Support the timely expansion and maintenance of utility infrastructure in order to meet the evolving needs of the community.*

Policy U-1.3. *Encourage the use of new technologies that will enhance the quality of services and that are financially feasible.*

Policy U-2.6. *Encourage the joint use of utility corridors and facilities, provided that such use is consistent with limitations as may be prescribed by applicable law and prudent utility practice, in order to pool utilities to ensure utility needs are appropriately considered and to facilitate coordination of trenching activities.*

Policy U-3.1. *Minimize impacts to the community associated with construction, operation and maintenance activities of utility providers, such as loud noises, service outages, transportation disruptions and public safety hazards.*

Policy U-3.3. *Minimize visual impacts to the community associated with the siting and design of utility infrastructure, for instance by regulating light and glare, screening and landscaping, and location of above-ground facilities.*

In addition, in its siting provisions, the City took into account the land use designations specified in Table LU-1.

Conclusion

Based upon a review of the public testimony, input from wireless industry stakeholders, the staff recommendations and analysis, and legal advice, the Planning Commission finds that the proposed amendments establishing AMC Chapter 19.68 Wireless Service Facilities and AMC Chapter 5.38 Public Utility and Telecommunications Right-Of-Way Use comply with the federal and state regulations pertaining to wireless facilities and small cell facilities. In addition, upon review of the Anacortes Comprehensive Plan, including the above listed policies, the Planning Commission finds that the amendments are in compliance with the City of Anacortes' local regulations and policies.

Recommendation

The Planning Commission recommends that the City Council adopt the proposed amendments establishing AMC Chapter 19.68 Wireless Service Facilities (Attachment A) and AMC Chapter 5.38 Public Utility and Telecommunications Right-Of-Way Use (Attachment B).

This recorded motion approved January 30, 2019:

Commission Vote	Support	Oppose	Absent	Abstain
Jeremy McNett, Chair	X			
Amber Moffitt	X			
Christine Cleland-McGrath, Vice Chair	X			
Jeff Mount	X			
Andrea Doll	X			
Jeff Graf		X		
Ward MacKenzie			X	
Total	5	1	1	0

ANACORTES PLANNING COMMISSION
ANACORTES, WASHINGTON



Jeremy McNett, Planning Commission Chair

2/6/2019

Date

Chapter 19.68**WIRELESS SERVICE FACILITIES**

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19.68.010 Purpose.

The purposes of this chapter are as follows:

- A. Establish development regulations consistent with the City's Comprehensive Plan;
- B. Protect property values and promote tourism through protection of scenic vistas of the mountains, tree-covered hillsides, the waterfront, and tourist-related zones and areas;
- C. Facilitate the use of public property and structures for wireless service facilities to reduce the impact of such facilities upon residential and other property;
- D. Maintain the quality of life associated with the aesthetic character of the City's surroundings;
- E. Provide adequate sites for locating wireless service facilities in areas where the adverse impact on the community is minimal;
- F. Provide facilities and infrastructure to provide wireless communications service to City residents, businesses, and others when in Anacortes;
- G. Encourage optimal colocation and sharing of new and existing facilities, and minimize the total number of towers throughout the community;
- H. Encourage use of most appropriate technology and prompt removal of outdated or abandoned wireless service facilities;
- I. Encourage the location of wireless service facilities upon alternative support structures;
- J. Require that the design of wireless service facilities incorporate camouflage, disguise, screening and concealment technology so that such facilities blend into their surroundings;
- K. Avoid the potential damage to adjacent properties from tower failure by engineering and careful siting of tower structure;
- L. Enhance the ability of the providers of wireless services to provide such services to the community quickly, effectively, and efficiently; and
- M. Provide a level, nondiscriminatory competitive environment and thereby encouraging increased competition among providers of functionally equivalent wireless services.

19.68.020 Applicability.

- A. Except as otherwise provided herein, the placement of any wireless service facility at any location within the City is subject to the provisions of this chapter.
- B. The standards and process requirements of this chapter supersede all other review process and approval criteria, setback, height or landscaping requirements of this title.
- C. Except as provided herein, all wireless telecommunication service facilities must comply with the provisions of this chapter.

19.68.030 Definitions.

A. A definitions.

“Antenna” means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

B. B definitions.

“Base station” means a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a “Tower” or any equipment associated with a Tower.

- The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
- The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks).
- The term includes any structure other than a tower that supports or houses equipment 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 such support.
- The term does not include any structure that does not support or house equipment for wireless telecommunications services.

C. C definitions.

“Camouflage” means a palette of techniques used to disguise, hide and conceal a wireless service facility from public view by blending its appearance into elements of the visual background. The term connotes the use of paint, landscaping, building materials and artificial screens in patterns that merge with the elements in the background environment.

“Colocation” for the purposes of Eligible Facilities Requests means the placement or installation of wireless facilities on existing structures that include a wireless facility or a wireless support structure, including water towers and other buildings or structures. The term includes the placement, replacement, or modification of wireless facilities within an approved equipment compound.

“Colocation” for the purpose of applications to site Small Wireless Facilities and other wireless facilities, excluding Eligible Facilities Requests, means:

- Mounting or installing an antenna facility on a pre-existing structure, and/or
- Modifying a structure for the purpose of mounting or installing an antenna facility on that structure.

D. D definitions.

“Director” means the Director of Planning, Community, and Economic Development.

“Electrical transmission tower” means a structure that physically supports high voltage overhead power lines. The term does not include a utility pole.

E. E definitions.

“Eligible Facilities Request” or “EFR”. Any request for modification of an existing tower or base station that does not substantially change the physical dimension of such tower or base station, involving:

- Colocation of new transmission equipment;

- Removal of transmission equipment; or
- Replacement of transmission equipment.

“Eligible Support Structure.” Any tower or base station, provided that it exists at the time the relevant EFR application is filed with the state or local government.

“Equipment Cabinet” means an enclosure that is mounted above base flood elevation or placed on a concrete slab that contains improvements, personal property, and facilities to operate its wireless services including: radio receivers, transmitters, related facilities, and/or related cables and utility lines, location-based power sources, the electrical meter and any other necessary equipment.

“Equipment Shelter” means an enclosed structure, shed or box at the base of a mount to store improvements, personal property, and facilities to operate its wireless services including: radio receivers, transmitters, related facilities, and/or cabinets, related cables and utility lines, location-based power sources, the electrical meter and any other necessary equipment.

“Existing.” Any tower or base station is existing for purposes of this chapter if it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not permitted when it was built, but was lawfully constructed, is existing for purposes of this chapter.

F. F definitions.

“Facilities” means all of the towers, equipment, fixtures, antennas, equipment cabinets, equipment shelters, and other appurtenances necessary to furnish and deliver wireless services, including but not limited to utility poles and monopoles with cross arms or without cross arms, wires, lines, conduits, cables, communication and signal lines and equipment, braces, guys, anchors, vaults, and all attachments, appurtenances, and appliances necessary or incidental to the distribution and use of wireless services. Facilities include “Small Wireless Facilities” as defined below.

“FCC” or “Federal Communications Commission” means the federal agency, or its lawful successor, authorized to regulate and oversee wireless telecommunications carriers, services and providers.

G. G definitions.

H. H definitions.

I. I definitions.

J. J definitions.

K. K definitions.

L. L definitions.

“Lattice tower” means a type of mount that is self-supporting with multiple legs and cross bracing of structural steel.

M. M definitions.

“Monopole” means a type of mount that is self-supporting with a single shaft of wood, steel or concrete and a platform or racks for panel antennas arrayed at the top. A monopole includes self-supporting mounts that provide light (or light poles).

N. N definitions.

O. O definitions.

P. P definitions.

“Public street” means any highway, street, road, alley or other public way for motor vehicle travel within the city and under the jurisdiction and control of the city which has been acquired, established, dedicated or devoted to street purposes.

Q. Q definitions.

R. R definitions.

“Right(s)-of-way” means all public streets and associated 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, sidewalks, bikeways and horse trails, whether improved or unimproved, including any air rights, subsurface rights or easements related thereto.

S. S definitions.

“Service provider” means every corporation, company, association, joint stock association, firm, partnership, person, city, town, or other legal entity owning, operating, or managing any facilities used to provide and providing wireless telecommunications services for hire, sale, or resale to the general public. Service provider includes the legal successor to any such corporation, company, association, joint stock association, firm, partnership, person, city, town, or other legal entity.

“Site” means the current boundaries of the leased or owned property surrounding the facility and any access or utility easements currently related to the site, and for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.

“Small Wireless Facility” encompasses facilities that meet the following conditions:

The facilities—

- are mounted on structures 50 feet or less in height including their antennas,
- are mounted on structures no more than 10 percent taller than other adjacent structures, or
- 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;

Each antenna associated with the deployment, excluding associated antenna equipment, is no more than three cubic feet in volume;

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;

The facilities do not require antenna structure registration under Federal law;

The facilities are not located on Tribal lands, where Tribal lands means all lands within the exterior boundaries of any Indian reservation and all dependent Indian communities; and

The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified under Federal law pertaining to wireless facilities.

“Stealththing” means designing facilities to be architecturally incorporated into the surrounding community’s environs while minimizing aesthetic impacts. Examples of stealththing include, but are not limited to, steeples, windmills, water towers, flag poles, light poles, or chimneys.

T. T definitions.

“Telecommunications” means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

“Tower” means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio, and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

“Transmission equipment” means equipment that disseminates information by wire, radio, optic cable, electromagnetic, or similar means for any FCC-licensed or authorized wireless telecommunication 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 telecommunications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

U. U definitions.

“Utility pole” means a pole privately owned or installed by a utility company for the purpose of electrical transmission.

V. V definitions.

W. W definitions.

“Wireless” means communications using radio frequency or optical emissions to complete one or more communications paths in whole or in part among originating and receiving points without other tangible physical connection, including without limitation, radio and unguided optical waves, and the apparatus used for such transmission.

“Wireless support structure” means a freestanding structure that is designed to support or is capable of supporting wireless facilities. The term does not include a utility pole, monopole, or tower.

“Wireless telecommunications service” or “wireless service” means the transmission of information by wire, radio, optic cable, electromagnetic, or 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, wireless telecommunications service excludes the over-the-air transmission of broadcast television or broadcast radio signals and excludes “cable services,” “cable communications systems” and “CATV systems” as defined in Chapter 5.44.

19.68.040 Permit required.

A. New Facilities. A wireless service facility (WSF) permit or wireless conditional use permit (WCUP) is required prior to the site preparation, construction, or installation of any new wireless service facility. The permit required in each zone is specified in AMC 19.68.190.

B. Colocating Facilities. A wireless service facility (WSF) permit or wireless conditional use permit (WCUP) is required in every zone prior to the colocation of any wireless service facility and is required for modifications that qualify as a Substantial Change. Colocations involving modifications under subsection (C) below are exempt from this requirement.

C. Non-Substantial Change. A modification to an existing facility that involves the addition, removal, and/or replacement of transmission equipment that meets the criteria for a Non-Substantial Change as set forth in 19.68.060 must submit an Eligible Facility Request application. A WSF or WCUP will not be required for these types of modifications.

D. Substantial Change. A modification to an existing facility that involves the addition, removal, and/or replacement of transmission equipment that is a Substantial Change as defined in 19.68.050 is subject to the requirements for new facilities or colocations as applicable.

E. No wireless service facility permit may be issued under this chapter unless the applicant demonstrates compliance with the terms, conditions and performance standards set forth in this chapter. Any WCUP must also meet the criteria for said use permits set forth in Section 19.68.130.

F. A building permit is also required for any new wireless facility or collocating facility.

19.68.050 Substantial Change.

A. “Substantial Change” for purposes of this Chapter means a modification to an existing facility that meets any of the following criteria.

Criteria 1:

(1) For towers outside of public rights-of-way, if the modification increases the height of the tower by the greater of: (a) more than 10%, or (b) by the height of one additional antenna array, with separation from the nearest existing antenna not to exceed 20 feet; or

(2) For those towers in the rights-of-way and for all base stations, if the modification increases the height of the tower or base station by the greater of: (a) 10% or (b) 10 feet.

Criteria 2:

(1) For towers outside of public rights-of-way, if the modification involves adding an appurtenance to the body of the tower that protrudes from the edge of the tower the greater of: (a) 20 feet, or (b) the width of the tower structure at the level of the appurtenance; or

(2) For other eligible support structures, if the modification protrudes from the edge of the structure more than 6 feet;

Criteria 3:

(1) For any eligible wireless support structure, if the installation includes more than the standard number of new equipment cabinets, not to exceed 4; or

(2) For towers in the public rights-of-way and base stations, if the modification 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.

Criterion 4:

For any eligible support structure, if the modification entails any excavation or deployment outside the current site;

Criterion 5:

For any eligible support structure, if the modification defeats the existing concealment elements of the tower, base station, or any other wireless support structure.

Criterion 6:

For any eligible support structure, if the modification violates any of the conditions of approval (besides modification allowed under criteria #1-5 associated with prior approval(s).

19.68.060 Non-Substantial Change.

A. “Non-substantial Change” means a modification that meets all of the following criteria:

Criteria 1:

(1) For towers outside of public rights-of-way, if the modification does not increase the height of the tower by the greater of: (i) more than 10%, or (ii) by the height of one additional antenna array, with separation from the nearest existing antenna not to exceed 20 feet; or

(2) For those towers in the rights-of-way and for all base stations, if the modification does not increase the height of the tower or base station by the lesser of: (i) 10% or (ii) 10 feet.

Criteria 2:

(1) For towers outside of public rights-of-way, if the modification does not protrude from the edge of the tower by the greater of: (i) 20 feet, or (ii) the width of the tower structure at the level of the appurtenance; or

(2) For those towers in the rights-of-way and for all base stations, if the modification does not protrude from the edge of the structure more than 6 feet;

Criteria 3:

(1) For any eligible support structure, if the installation includes new equipment cabinets, the modification does not include the installation of more than 4 equipment cabinets; or

(2) For towers in the public rights-of-way and base stations, if the modification does not involve the installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the tower, and does not involve the installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the tower.

Criterion 4:

For any eligible support structure, if the modification does not entail any excavation or deployment outside the current site.

Criterion 5:

For any eligible support structure, if the modification does not defeat the existing concealment elements of the tower or base station or other wireless support structure.

Criterion 6:

For any eligible support structure, if the modification does not violate any of the conditions of approval (besides modification allowed under criteria #1-5 associated with prior approval(s).

19.68.070 Optional Pre-application.

A. An optional pre-application may be submitted up to 30 days prior to the submission of an Eligible Facilities Request application, or a permit application associated with a Small Wireless Facility or other wireless facility. The information submitted along with a pre-application may include the following information:

1. The name and address of the applicant;
2. Identification of all carriers using the facility;
3. The type of facility proposed;
4. If the applicant is not the owner or person in control of the eligible support structure or site, an attestation that the owner or person in control of the eligible support structure and/or site has consented to the proposed facility modification. If the eligible support structure is to be located within a public right-of-way, the applicant must also

attest that the applicant has authorization to install, maintain, and operate transmission equipment in, under and above the public right-of-way.

5. A stamped report by a state of Washington registered professional engineer demonstrating compliance with existing structural, electrical, and safety codes, and describing the general structural capacity of the eligible facility, small wireless facility, or other wireless facility.
6. Detailed site plan and drawings.
7. Dimensioned elevation drawings of the existing tower or structure showing the existing and proposed antennas, and equipment structures (at 1/8" = 1' or comparable scale).
8. Copies of the land use or building permit approval that authorized the original installation of the tower or wireless facilities on the structure;
9. If new equipment cabinets, generators, or any other ground equipment components are being proposed, an assessment of noise that shows compliance with City and/or Federal noise standards.
10. A description of compliance with the applicable visibility and performance standards set forth in section 19.68.200.
11. A stamped report by a state of Washington registered professional engineer demonstrating compliance with radio-frequency emissions standards.

19.68.080 Eligible Facilities Request applications.

A. For the purposes of this section, a complete application includes:

1. The name and address of the applicant;
2. Identification of all carriers using the facility;
3. An assertion that the proposed facilities modification is subject to review under Section 6409 of the Spectrum Act.
4. If the applicant is not the owner or person in control of the eligible support structure or site, an attestation that the owner or person in control of the eligible support structure and/or site has consented to the proposed facility modification. If the eligible support structure is to be located within a public right-of-way, the applicant must also attest that the applicant has authorization to install, maintain, and operate transmission equipment in, under and above the public right-of-way.
5. If the proposed modification will alter the exterior dimensions or appearance of the eligible support structure, the applicant shall include a detailed visual simulation depicting how the eligible support structure will appear after the proposed modification is complete, and particularly, how concealment or stealth will be extended with the modification. The visual simulation shall depict to scale the eligible support structure in relation to the trees, landscaping and other structures adjacent to, or in the immediate vicinity of, the eligible support structure.
6. If the applicant proposes a modification to a tower, an attestation that the proposed modifications will comply with existing structural, electrical, and safety codes, and a description of the general structural capacity of the tower with the proposed modification.
7. If the applicant proposes a modification to a base station, an attestation that the proposed modifications will comply with existing structural, electrical, and safety codes.
8. If the applicant proposes a modification requiring alteration to the eligible support structure, excavation, installation of new equipment cabinets, or other activities impacting or altering the land, existing structures, fencing

or landscaping, the applicant must submit a detailed site plan and drawings, showing the point of true north, and an appropriate scale depicting:

- a. the location, elevation, and dimensions of the existing eligible support structure;
 - b. the location, elevation, and dimensions of the existing transmission equipment;
 - c. the location, elevation and dimensions of the transmission equipment, if any, proposed to be collocated or that will replace existing transmission equipment;
 - d. the location, elevation and dimensions of any proposed new equipment cabinets and the intended use of each;
 - e. any proposed modification to the eligible support structure;
 - f. the location of existing structures on the site, including fencing, screening, trees, and other significant site features; and
 - g. the location of any areas where excavation is proposed showing the elevations, depths, and width of the proposed excavation and materials and dimensions of the equipment to be placed in the area excavated.
9. If excavation or deployment is proposed outside the current site of the tower or base station, a description of the boundaries of the site together with a scale drawing based on an accurate traverse, with angular and lineal dimensions showing the tower or base station with respect to the site. The city may require a survey by a land surveyor licensed in the state of Washington when, in the judgment of the approval authority, a survey is reasonably necessary to verify the boundaries of the site.
10. If the applicant proposes a modification that will protrude from the edge of a non-tower eligible support structure, record drawings, as-built plans, or the equivalent, showing at a minimum the edge of the eligible support structure at the location of the proposed modification.
11. Copies of the land use or building permit approval that authorized the original installation of the tower or wireless facilities on the structure, or any subsequent approval(s) granting modification to the tower or wireless facilities on the structure, if available;
12. If new equipment cabinets, generators, or any other ground equipment components are being proposed, an assessment of noise that shows compliance with City and/or Federal noise standards.
13. A stamped report by a state of Washington registered professional engineer demonstrating compliance with Federal radio-frequency emissions standards for wireless facilities.

B. Waiver of Submittal Requirement. The approval authority may waive any submittal requirement upon determination that the required submittal, or part thereof, is not reasonably related to the non-substantial change criteria. A waiver, to be effective, must be in writing and signed by the approval authority.

C. Eligible facilities for review under this section include Non-Substantial Changes to the physical dimensions of the base structure or tower, involving (i) collocation of new transmission equipment; (ii) removal of transmission equipment; or (iii) replacement of transmission structure.

D. Within the applicable timeframe for review set forth in Section 19.68.150, the City must approve the application unless it determines that the application involves a Substantial Change. If the City determines that the application involves a Substantial Change, the applicant must submit the appropriate Permit application required, if any, under the requirements in Section 19.68.100.

19.68.090 Permit application – Small Wireless Facility.

A. Application. A complete application for a wireless service facility permit or wireless conditional use permit must include the following information and materials on a form provided by the Director. Applications for Small Wireless

Facilities may be submitted in batches of applications, which may encompass up to five separate applications filed at the same time, each for one or more sites, or a single application covering up to five sites, unless the City agrees to a larger number based upon its capacity to review additional applications. For the purposes of this section, a complete application includes:

1. The name and address of the applicant;
2. Identification of all carriers using the facility;
3. If the applicant is not the owner or person in control of the eligible support structure or site, an attestation that the owner or person in control of the eligible support structure and/or site has consented to the proposed facility modification. If the eligible support structure is to be located within a public right-of-way, the applicant must also attest that the applicant has authorization to install, maintain, and operate transmission equipment in, under and above the public right-of-way.
4. An attestation that the Permittee will comply with existing structural, electrical, and safety codes, and a description of the general structural capacity of the new small wireless facility or the facility upon which the small wireless facility is to be colocated.
5. A description of compliance with: the applicable visibility and performance standards set forth in section 19.68.200. This includes, but is not limited to:
 - a. A scaled Site plan clearly indicating the location, type and height of the proposed facility, or colocation, on-site land uses and zoning, adjacent land uses and zoning, comprehensive plan classification of the Site, proposed means of access, setbacks from property lines, spacing between tower(s) and other wireless facilities, elevation drawings of the proposed tower and any other structures, topography of the site, and proposed parking;
 - b. If the proposed Small Wireless Facility siting involves a colocation that will alter the exterior dimensions or appearance of an existing facility, applicant shall include a detailed visual simulation depicting how the existing facility will appear after the proposed modification is complete, and particularly, how concealment or stealth will be extended, if applicable. The visual simulation shall depict to scale the existing facility with any colocation in relation to the trees, landscaping and other structures adjacent to, or in the immediate vicinity of, the eligible support structure.
 - c. Legal description of the parent tract and leased parcel (if applicable);
 - d. If new equipment cabinets, generators, or any other ground equipment components are being proposed:
 - i. an assessment of noise that shows compliance with City and/or Federal noise standards;
 - ii. a description of the method of concealment of equipment components, such as: whether such components will be located within an existing building, within an architecturally compatible addition to an existing building, or within a new building which is architecturally compatible with other buildings on the site and adjoining properties; located underground; or within an equipment cabinet or shelter;
 - iii. if equipment is proposed to be concealed within an equipment cabinet or shelter that will be located above ground, a description of the landscaping and screening, if technically feasible.
 - e. Any engineering report(s) required to show feasibility of meeting the applicable criteria in this section as applicable;
- (6) A stamped report by a state of Washington registered professional engineer or an assessment demonstrating compliance with Federal radio-frequency emissions standards applicable to wireless facilities.

B. Waiver of Submittal Requirement. The approval authority may waive any submittal requirement upon determination that the required submittal, or part thereof, would materially inhibit wireless service. A waiver, to be effective, must be in writing and signed by the approval authority.

C. Fee. Every application for a small wireless service facility permit or wireless conditional use permit must be accompanied by an application fee which will be set by the City Council in its unified fee schedule, to reimburse the City for the costs of reviewing the application, including any third-party review required by the City, and fees equal to the a reasonable approximation of the objectively reasonable costs for the attachment to or use of property owned or controlled by the City.

19.68.100 Permit application – all other Wireless Facilities.

A. Application. A complete application for a wireless service facility permit or wireless conditional use permit for wireless facilities other than Small Wireless Facilities and Eligible Support Structures or EFRs must include the following information and materials on a form provided by the Director. For the purposes of this section, a complete application includes:

1. The name and address of the applicant;
2. Identification of all carriers using the facility;
3. If the applicant is not the owner or person in control of the eligible support structure or site, an attestation that the owner or person in control of the eligible support structure and/or site has consented to the proposed facility modification. If the eligible support structure is to be located within a public right-of-way, the applicant must also attest that the applicant has authorization to install, maintain, and operate transmission equipment in, under and above the public right-of-way.
4. A description of compliance with: the applicable visibility and performance standards set forth in section 19.68.200. This includes, but is not limited to:
 - a. A scaled Site plan clearly indicating the location, type and height of the proposed facility, or colocation, on-site land uses and zoning, adjacent land uses and zoning, comprehensive plan classification of the Site, proposed means of access, setbacks from property lines, spacing between tower(s) and other structures, elevation drawings of the proposed tower and any other structures, topography of the site, and proposed parking;
 - b. Legal description of the parent tract and leased parcel;
 - c. A landscape plan showing specific landscape materials;
 - d. Method of fencing, the finished color and/or the method of camouflage and illumination.
5. A description of compliance with the additional requirements in this Chapter for collocating and/or for conditional uses, if applicable.
6. If new equipment cabinets, generators, or any other ground equipment components are being proposed:(i) an assessment of noise that shows compliance with City and/or Federal noise standards.
7. A stamped report by a state of Washington registered professional engineer demonstrating compliance with radio-frequency emissions standards as set forth in Section 19.68.240.

B. New facilities. In addition to the application materials delineated in subsection (A) above, an application for a new wireless facility must provide:

1. A notarized statement by the applicant as to whether construction of a new facility will accommodate collocating of additional antennas for future users.
2. An explanation of how the proposed new facility at the proposed location is necessary to do one of the following: fill a significant gap in service, to introduce new services, to densify a network, or to otherwise improve service capabilities.

3. A description of the suitability of the use of existing facilities, including towers or other structures to provide the services to be provided through the use of the proposed new facility.

4. Any other engineering report(s) required to show feasibility of meeting the applicable criteria in subsections (A) and/or (B) as applicable;

C. Third Party Review. The City may require the applicant to submit its materials to a third-party for review, as may be reasonably necessary to determine compliance with this Chapter, such as an engineer or architect, by way of example only.

D. Fee. Every application for a wireless service facility permit or wireless conditional use permit must be accompanied by an application fee which will be set by the City Council in its unified fee schedule, to reimburse the City for the costs of reviewing the application, including any third-party review required by the City, and fees equal to the a reasonable approximation of the objectively reasonable costs for the attachment to or use of property owned or controlled by the City.

19.68.110 Permit approval process.

A. Wireless service facility permit (WSF). The review process for wireless service facility permit applications is that for a Type 1 (Administrative Ministerial Action) as delineated in Table 19.20.030-1 AMC.

B. Wireless conditional use permit (WCUP). The review process for wireless conditional use permit applications is that for a Type 3-HE review, delineated in Table 19.20.030-1 AMC. The criteria for a conditional use permit as set forth in Chapter 19.36 of the City's code does not apply.

C. The only applicable sections of Chapter 19.20 for the purposes of this Chapter are sections 19.20.140 (Application – Notice), 19.20.150 (Application – Department Review), 19.20.160 (Public hearings and meetings), 19.20.170 (Public hearing – notice), and 19.20.190 (Decision – Notice). The appeal section in this chapter supersedes the appeal sections in Chapter 19.20.

C. This permit approval process does not apply to Eligible Facility Requests.

19.68.120 Permit review – general criteria.

A. In evaluating a permit application under this Chapter, the decision-maker must examine the following criteria:

1. Whether all requisite licenses, certificates, and authorizations from applicable Federal, State, and local agencies have been obtained by the applicant;

2. Whether the applicant has shown that its proposed facility or colocation meets the standards and criteria set forth in this Chapter, including the visibility and performance criteria set forth in Section 19.68.200;

3. Whether the applicant has shown that its proposed facility meets any additional requirements in this Chapter for collocating and/or wireless conditional uses, if applicable.

B. For a new wireless facility or a new Small Wireless Facility, whether it is necessary to introduce new services, to densify a network, or to otherwise improve service capabilities.

C. Decision. After considering all information submitted, and the record on file and from any hearing, the decision-maker will decide whether to grant, deny, or grant the permit with conditions, and must issue a written decision containing findings of fact supported by substantial evidence, based on the criteria above.

D. Issued permit. Any wireless service facility permit that is issued under this Chapter must contain the location, nature, and extent of approved use, together with all conditions that are imposed. A copy of the permit will be kept on file and reviewed annually by the administering City official. If, at any time, the use no longer complies with the stated conditions, the owner will be declared in violation of this chapter.

19.68.130 Permit review – supplemental criteria for conditional uses.

A. In addition to the general criteria for approval uses set forth in this Chapter, the following criteria apply to all permits denominated as conditional uses:

1. The applicant must demonstrate that visual, noise, and other impacts associated with the proposed facility have been minimized to the maximum extent possible using existing concealment technology, site design, noise abatement techniques, concealment, disguise, camouflage, and/or the use of architecturally compatible improvements to existing structures where permitted, and/or underground placement of ancillary equipment. In evaluating the site design, consideration will be given to whether the facility will blend into the surrounding topography, tree coverage, foliage, and other natural features and whether locating the facility in alternative locations upon the subject property, or reasonably available properties, would better conceal the facility through use of existing natural and built features;
2. The applicant must demonstrate compatibility of the proposed structure with the height and mass of existing buildings and structures in the area.
3. The applicant must demonstrate that the design of the proposed facility complies with the purpose and intent of this chapter, including, but not limited to, the visibility and performance standards set forth in AMC 19.68.200 which most closely match the proposed facility;
4. The applicant must demonstrate that alternative locations, including other colocations and alternative support structures, are not available for the proposed facility;
5. The applicant must demonstrate that the proposed facility is not in conflict with the health and safety of the community;
6. The applicant must demonstrate that the proposed facility will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts on such facilities.

B. In evaluating any proposed wireless service facility denominated as a conditional use, the Director may, at the expense of the applicant, retain an outside consultant to review the technical, design and other materials submitted by the applicant in conjunction with the proposal.

19.68.140 Completeness review.

A. Completeness Review. Applications must be reviewed for completeness within thirty days of receipt, except for applications to site Small Wireless Facilities, which must be reviewed for completeness within ten days of receipt. If the application is not reviewed for completeness within the applicable timeframe, it will be deemed complete.

B. Tolling. For applications to site Small Wireless Facilities, the review period resets once an applicant submits its additional materials. For all other applications deemed incomplete, the review period is tolled for up to sixty days. Once an applicant submits additional materials, the review timeframe begins to run again. If the applicant does not submit the required materials, the City may deny the application.

C. Submittal of Additional Materials. If an applicant submits additional materials, the Director must provide notice within 10 days as to any additional materials identified in the original notice that were not provided with the supplemental materials. Second or subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness. For second or subsequent notices of incompleteness, the review timeframe will be tolled for all applications including for siting Small Wireless Facilities. If the applicant does not submit the required materials, the City may deny the application.

D. Failure to act. If the decision-maker fails to approve or deny a request seeking approval for either a wireless service facility permit or wireless conditional use permit within the applicable timeframe for review, accounting for any tolling, the request is deemed granted. The deemed grant does not become effective until the applicant notifies

the applicable reviewing authority in writing after the review period has expired that the application has been deemed granted.

19.68.150 Timeframe for review.

The timeframe for review of an application for a wireless facility permit or wireless conditional use permit begins to run when an application is submitted, not when the application is deemed complete.

	Modifications that are not Substantial.	Colocating Wireless Facilities	New Wireless Facility	Colocating Small Wireless Facilities	New Small Wireless Facility
Timeframe	Approval required within sixty (60) days from receipt of submission of application	Written decision due within ninety (90) days from submission of application	Written decision due within one hundred and fifty (150) days from submission of application.	Written decision due within sixty (60) days from submission of application	Written decision due within ninety (90) days from submission of application.
Notes	If the City finds that the application involves a Substantial Change, the City may process the application as one for a new facility or deny the application.	This provision does not apply to Small Wireless Facilities.	This provision does not apply to Small Wireless Facilities.		

19.68.160 Construction.

A. Construction within two years. Construction or substantial progress toward construction of a facility for which a permit has been issued pursuant to this chapter must be undertaken within two years after approval of the permit. Substantial progress toward construction includes, but is not limited to: the letting of bids, making of contracts, and purchase of materials involved in development.

B. Tolling. In determining whether the two-year period has run, time during which litigation has been pending related to the construction of the facility must not be included.

C. Extension and termination. The city may, at its discretion, extend the two-year period for a reasonable time, based on factors including the inability to expeditiously obtain other required governmental permits prior to the commencement of construction. If a facility for which a permit has been granted has not been completed within three years after the approval of a permit the City must review the permit upon the expiration of three years, and upon a showing of good cause for the delay, either (a) extend the permit for one year; or (b) terminate the permit.

19.68.170 Appeals.

Appeals may be commenced on an action by the decision-maker on a permit application, within thirty (30) days of such act or failure to act, in any court of competent jurisdiction. This section supersedes the City's administrative appeal process set forth in Section 19.20.210.

19.68.180 Prohibited Locations.

- A. Lattice and guyed wire towers are not permitted in any zoning district.
- B. Commercial advertising including billboards and business identification signs may not be used as alternative antenna support structures.

19.68.190 Permitted locations.

New wireless service facilities, which includes new Small Wireless Facilities are permitted as follows, with the type of permit indicated. For those facilities located within a “right-of-way”, a master permit and construction permit for such use is required under the provisions of Chapter 5.38. The zones referred to below are defined in the City’s general zoning code.

Type of Facility	Residential Zones (R1, R2, R2A, R3, R3A, R4, R4A, OT)	Mixed Use Zones (CBD, C, MMU, CM, CM2, P)	Industrial Zones (LM, LM1, MS, HM, I, AZ)
Monopole	Permitted with WCUP	Permitted with WSF, except permitted with WCUP in P and except not permitted in CBD	Permitted with WSF
Utility Poles	Permitted with WCUP	Permitted with WSF, except permitted with WCUP in P, and except not permitted in CBD	Permitted with WSF
Electric Transmission Towers	Permitted with WSF, except permitted with WCUP in OT.	Permitted with WSF, except permitted with WCUP in P and except not permitted in CBD	Permitted with WSF
Water Tank Mounted	Permitted with WSF, except permitted with WCUP in OT	Permitted with WSF	Permitted with WSF
Playfield, Ballfield and Stadium Light Mounted Facilities	Permitted with WCUP	Permitted with WSF	Permitted with WSF
Building Attached	Permitted with WSF, only on buildings with nonresidential uses, and except permitted with WCUP in OT	Permitted with WSF	Permitted with WSF
Stealth Support Structure	Permitted with WSF, except permitted with WCUP in OT	Permitted with WSF, except permitted with WCUP in P	Permitted with WSF
Small Wireless Facility on an existing or replacement structure	Permitted with WSF	Permitted with WSF	Permitted with WSF
Other Types Not Listed	Permitted with WCUP	Permitted with WCUP	Permitted with WCUP

19.68.200 Visibility and performance standards.

All wireless service facilities locating within Anacortes must comply with the following standards:

A. Standards for all types of facilities:

General	1. All portions of the facility must be the minimum size necessary to support operation of the facility, as certified by the provider's licensed engineer. Where multiple facilities are proposed to be located in close proximity, they may be required to be consolidated in one equipment housing structure. 2. Owners and operators must provide information regarding the opportunity for the co-location of facilities. Provision for future co-location may be required if technically feasible and where opportunities for smaller facilities with fewer impacts are limited due to topography, lack of existing above ground structures or other circumstances.
Antennas (including Small Wireless Facilities)	1. In general, an antenna array must either be flush mounted within 12 inches of the support structure, or within 12 inches of the face of the building it is attached to; or be contained in a canister that is a continuation of the support structure and is centered on top of the support structure; or be placed pursuant to the City's adopted design standards, subject to the concealment requirements below. 2. All antennas or arrays must be a color and material that matches the support structure. 3. Roof-mounted installation is permitted when the City's adopted design and the Appearance and Screening requirements below have been met. The antennas, mounting brackets and any concealment structures are exempt from the height limit of the underlying zone to the extent that the total height of such facilities does not increase the overall building height by 18 feet, or 50 percent of the original building height, whichever is less.
Equipment Cabinets, Shelters, and Undergrounding	1. All equipment necessary for the operation of the facility must be concealed, either within an existing building, within an architecturally compatible addition to an existing building, or within a new building which is architecturally compatible with other buildings on the site and adjoining properties; or located underground with exceptions as stated in Chapter AMC 15.32, and excepting equipment cabinets and shelters, which may be located above ground, and landscaped and screened pursuant to the City's typical landscaping requirements. 2. This section does not apply to antennas or other facilities that are required to remain above-ground in order to be functional, or if it would otherwise materially inhibit wireless service. 3. Underground shelters are not allowed where such shelters would interfere with existing uses of public land including, but not limited to, public rights-of-way. Equipment enclosures less than or equal to five cubic feet, with no single dimension over three feet, may be mounted directly on a monopole or utility pole. These dimension limitations do not apply to Small Wireless Facilities. 4. Equipment cabinets and shelters are permitted upon abutting private property and may be located within public rights-of-way, pursuant to the applicable requirements and obtaining the appropriate permits specified in Chapter AMC XX.XX. 5. The size of equipment cabinets and shelters must be minimized to the greatest extent possible. 6. Prefabricated concrete and metal structures for equipment enclosures are not permitted unless treated with a facade giving the appearance of masonry or wood siding and are compatible with the existing neighborhood and surrounding setting.
Appearance and Screening	The following standards must be met to ensure the facility minimizes its visual impact: 1. Design and configurations must be compatible with the existing neighborhood, blend in with the surrounding setting, and/or are screened from surrounding uses and properties. 2. Design and configurations must minimize visual intrusion of the facility on surrounding uses and properties. Such techniques may include, for example: containing transmission and power cables and other conduit within any support structure, locating facilities underground, or otherwise screening the facility; minimizing the lateral projection of antenna arrays to the

	greatest extent technically feasible; and integrating antenna arrays into the design of any structure to which they are attached. 3. Facilities on private property must be screened through the use of mature trees that are a minimum of 20 feet tall and planted to screen at least 80 percent of the area around the facility, if technically feasible. 4. For stealth supported structures, the structure must be designed to resemble an object that would be commonly found in the area, including, but not limited to, a flagpole, a clock or bell tower, a tree that is a native conifer species, or a silo. Antennas, to the maximum extent feasible, must be concealed by the stealth support structure, or must not be easily recognized. To determine feasibility, the applicant must submit an engineer's report regarding the feasibility of concealing the antennas.
Noise	Noise reduction measures must comply with the City and/or Federal noise regulations, whichever demonstrates the least amount of noise impact for the nearest residential dwelling(s) at any time of day or night, as measured from the closest point from the exterior of the dwelling to the wireless facility. Such requirements are exempt during testing of alternative power sources (i.e., power generators or similar emergency power sources).
Landscaping	1. Facilities and/or equipment cabinets must be surrounded with a minimum of four feet wide landscaping, in the applicable zones set forth in the City's general zoning provisions, if technically feasible. 2. Towers must be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from properties used for residences, if technically feasible. In some cases, natural growth around the property perimeter may provide a sufficient buffer. 3. Existing mature tree growth and natural land forms on the site must be preserved to the maximum extent possible.
Setbacks	1. In residential zones, towers, antennas, monopoles, and other wireless facilities and equipment pertaining thereto must not be closer than the greater of 20' or 100% of the tower height from the adjoining lot line. 2. In non-residential zones, facilities must comply with the setback requirements set forth in the applicable zoning code, Chapter 17 AMC, and meet or exceed the City or Federal noise regulations, whichever demonstrates the least amount of noise impact for the nearest residential dwelling(s), as measured from the closest point from the exterior of the dwelling to the facility. 3. The setback may be reduced if the applicant uses noise abatement techniques, such as decorative noise walls, to achieve equivalent or greater reduction of visual and noise impacts from the facility. 4. For co-locations, new equipment associated with the facility must be placed no closer to existing residential uses than any existing equipment enclosure on the subject property. 5. These setback requirements do not apply to SWF's in the ROW.
Spacing	1. In residential zones, towers and their antennas must not be closer than 200' or 100% of the tower height from the nearest residential dwelling(s), as measured from the closest point from the exterior of the dwelling to the facility. 2. In non-residential zones, there are no spacing requirements. 3. The minimum spacing requirements herein will not apply if they have the effect of materially inhibiting wireless service.

B. Standards for specific types of facilities:

New Monopoles (including Small Wireless Facilities) and Stealth Wireless	Any wireless service provider which proposes to construct a new monopole or stealth supported facility must provide, as part of its permit application, written findings from a qualified engineer which demonstrate that: 1. Either there are no other facilities reasonably available for colocation; or 2. Any existing facilities reasonably available are not technologically suitable for use by the applicant; and
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Support Structures	3. The proposed monopole has been designed in a manner that will allow for the colocation of at least one additional antenna array on the structure, if technically feasible. 4. The height of the monopole may not exceed 120 feet or the height of similar structures permitted in the zone within which it is located, whichever is greater.
Colocating Monopoles or Utility Poles Within Public Rights-of-Way	1. More than one facility may be colocated on any monopole, subject to the permits and technical feasibility. 2. Monopoles located within public rights-of-way must be located a minimum of 500 feet apart; a shorter distance may be approved if the applicant submits an engineering analysis and equipment specifications that demonstrate the reduced distance is necessary to provide adequate coverage and/or capacity. 3. Where a utility located upon a monopole requires vertical separation between its facilities and the antenna(s), the structure/pole and antenna may be raised or replaced with a taller structure to accommodate the minimum separation requirement, not to exceed 20 feet in the public right-of-way. Any additions must be constructed of similar materials, and have surface treatments which match the color and texture of the original facility.
Electric Transmission Towers or Utility Poles Outside Public Rights-of-Way	Where a utility located upon the support structure (such as electric transmission tower) requires vertical separation between its facilities and the antenna(s), the structure/pole and antenna may be raised by a mount or replaced with a taller structure to accommodate the minimum separation requirement, not to exceed 30 feet. Any additions must be constructed of similar materials, and have surface treatments which match the color and texture of the original facility.
Playfield, Ballfield and Stadium Light Mounted Facilities	Only one facility is permitted on any playfield, ballfield, or stadium light. Where lighted signs and illuminated areas are permitted, such illuminating devices must be shaded and directed so as not to be visible from any residentially zoned property.
Building Attached	The equipment for roof-mounted antennas within the OT zone must be located within the same building on which the antennas are located. This provision will not apply to Small Wireless Facilities if it has the effect of materially inhibiting the provision of service.

19.68.210 Requirements for colocations.

A. All wireless facilities colocating within the City of Anacortes must meet the following standards. This section does not apply to Eligible Facilities Requests.

B. Colocations (as defined in Section 19.68.030(5)) are permitted on existing monopoles and stealth support structure facilities, so long as the colocation maintains the appearance of the existing structure, and do not interfere with the City's placement of cameras or other public safety uses.

C. The height of the existing facility may be increased by the minimum vertical separation necessary between the facilities, not to exceed 20 feet; except for towers and utility poles outside public rights-of-way, the height of which may be increased by up to 30 feet to accommodate the minimum separation requirement. The height of the existing facility with all increases in height due to colocations may not exceed the general height limitation for similar structures or buildings within the zone in which it is permitted or 120 feet, whichever is greater.

D. Existing monopoles and antenna support structures may be replaced to accommodate colocation. Monopoles and stealth support structures must, to the maximum extent feasible, be located within 20 feet of the existing structure within the public right-of-way, or within 30 feet of the existing structure outside of the public right-of-way, and maintain the design of the original structure, including any stealth or camouflage components. To determine feasibility, the applicant must submit an engineer's report regarding the feasibility of a proposed replacement.

E. All antenna support structures permitted pursuant to the terms of this chapter or otherwise located within the City of Anacortes must be made available for use by the owner or initial user thereof, together with as many other

wireless service providers as can be technically colocated thereon. The owner of an antenna support structure may charge a reasonable fee for the colocation of additional facilities upon said structure which does not exceed the fair market value for the space occupied by said colocated facilities. If the City is the owner, it may not charge a fee that exceeds a reasonable approximation of the objectively reasonable costs associated with siting a Small Wireless Facility on the antenna support structure.

F. Colocating facilities must meet all other visibility and performance standards in Section 19.68.200.

19.68.220 Requirements for Non-Substantial Changes.

All modifications to wireless service facilities to the existing facility, including Small Wireless Facilities, that are Non-Substantial, must comply with the following standards:

- A. No modification may violate the City or Federal noise regulations.
- B. No modification may violate the Federal radio-frequency emission standards.
- C. No modification may violate setback or other lot coverage or height requirements in this Chapter.

19.68.230 Maintenance of facilities.

The owner and/or operator of all wireless service facilities must maintain their facilities in a good and safe condition and in a manner which complies with all applicable Federal, State, and local requirements.

19.68.240 Testing of facilities required – Radio-frequency (RF) emissions.

- A. All wireless service facilities must comply with applicable Federal Communications Commission (FCC) regulations regarding radio-frequency emissions. All tests must be performed by or under the supervision of a professional engineer competent to perform such testing and interpret the data gathered.
- B. Reports or similar support documents must be submitted for all facilities confirming compliance with all applicable FCC regulations. Compliance reports are required when requested by the Director.
- C. If at any time radio-frequency emission tests show that a facility exceeds any of the standards established by the FCC, the owner or operator thereof must immediately discontinue use of the facility and notify the Director. Use of such facilities may not resume until the owner or operator demonstrates that corrections have been completed which reduce the radio-frequency emissions to levels permitted by the FCC.

19.68.250 Testing of facilities required – Noise emissions.

- A. The owner or operator of a wireless service facility must conduct tests necessary to demonstrate compliance with all applicable local regulations regarding the noise emissions of the facility when notified in writing by the Director that a noise complaint has been received regarding the facility. All such tests must be performed by or under the supervision of a licensed environmental noise consultant competent to perform such tests and interpret the data gathered.
- B. When such a report is required, a report, certified by a licensed environmental noise consultant, setting forth the observed noise levels at the property line of the property upon which the facility is located must be submitted. The report must account for background noise and other noise sources and demonstrate the noise levels emitted by the facility, including any air conditioning or ventilation equipment contained therein. Such report must address standards set forth within noise reduction measures within noise provisions in Section 17.54.010 AMC or the standards set forth with the Federal Interagency Committee on Urban Noise, whichever demonstrates the least

amount of noise impact for the nearest residential dwelling(s), at any time of day or night, as measured from the closest point from the exterior of the dwelling to the wireless facility.

C. The Director may retain a technical expert in environmental noise measurement to verify the noise measurements and certification. The cost of such a technical expert must be borne by the owner or operator of the facility, if said facility fails to comply with applicable State or local noise standards.

(D) This section does not apply during the testing of alternative power sources (i.e., power generators).

19.68.260 Security fencing.

All wireless service facilities must be protected from unauthorized entry. The perimeter of all wireless service facilities, other than small wireless facilities in the ROW, which include an antenna support structure must be secured with security fencing which does not exceed seven feet in height. Wireless service facilities that do not include an antenna support structure must be protected from unauthorized entry through appropriate means approved by the Director or his or her designee on a case-by-case basis consistent with the purpose of protecting the public health, safety, and welfare.

19.68.270 Abandonment of facilities.

Any antenna support structure that has had no antennas mounted upon it for a period of six months, or if the antennas mounted thereon are not operated for a period of six months, will be considered abandoned, and the owner thereof must remove such structure and any accompanying equipment and enclosure within 90 days after receipt of a notice from the Director to do so. The Director may extend this time period to a maximum of six additional months. The owner or operator of all wireless service facilities must, when requested by the Director, submit a written report, signed under penalty of perjury, which demonstrates whether or not there has been a cessation in use of the facility for a period of six months during the prior year. If a facility and associated equipment are not removed within 90 days after receipt of a notice from the Hearing Examiner requiring said removal, the Hearing Examiner may seek and obtain a court order directing such removal and imposing a lien upon the real property upon which such wireless service facility is situated in an amount equal to the cost of removal. In the event that more than one wireless service provider is using the antenna support structure, the antenna support structure will not be considered abandoned until all such users cease using the structure as provided in this section.

19.68.280 Signs.

A. Except as approved as part of a plan to conceal, disguise, or camouflage a wireless service facility, no signs, symbols, flags, banners, or similar devices must be placed on, attached to, painted, or inscribed upon any antenna support structure or alternative antenna support structure. Notwithstanding the foregoing, an applicant and/or land owner may place not more than four signs measuring 12 by 18 inches upon or near a wireless service facility which:

1. state that trespassers will be prosecuted;
2. list the names and telephone numbers of persons to be contacted in the event of an emergency;
3. identify the applicant and/or land owner or person responsible for operating the wireless facility; and/or
4. contain information necessary and convenient for the person operating the wireless service facility to identify the wireless service facility.

B. Nothing in this section may be construed to prohibit the placement of safety or warning signs upon any portion of the wireless service facility which are required by law or which are designed to apprise emergency response personnel and the employees and agents of wireless service providers of particular hazards associated with equipment located upon the wireless service facility.

19.68.290 Lighting standards.

Except as specifically required by Federal Aviation Administration (FAA) or FCC regulations, antenna support structures cannot be illuminated. However, equipment enclosures may be illuminated for security reasons when compatible with the surrounding neighborhood.

19.68.300 SEPA.

Integration of environmental review. An application for a wireless service facility permit or wireless conditional use permit that is subject to the State Environmental Policy Act (SEPA) must be reviewed per AMC Chapter 18.04 concurrently with the review of the permit reviewed under this Chapter, except where exempted by that chapter. If there is a conflict between this Chapter and development regulations in other Chapters, the provisions of this Chapter will apply.

Chapter 5.38**PUBLIC UTILITY AND TELECOMMUNICATIONS****RIGHT-OF-WAY USE***

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5.38.010 Purpose.

The purpose of this chapter is to provide for the regulation of the use of public right-of-way by any business, service, or person which is engaged in supplying the public with some commodity or service which is of public consequence and need, such as public and private utilities, wireless telecommunications or transportation service.

5.38.020 Applicability.

The provisions of this chapter apply to all public utility and wireless carriers which occupy, use, construct, or maintain utility or telecommunications facilities within public right-of-way of the City.

To the extent the provision of any current franchise or other written agreement with a public utility or wireless carrier conflicts with any provision of this chapter, the applicable provision of the franchise or other written agreement prevails.

5.38.030 Definitions.

For the purposes of this chapter, the following terms, phrases, and words have the meanings set forth below unless the context clearly indicates otherwise. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

(1) “Act” means a decision to grant, condition, or deny the use condition, or deny a permit, which may be subject to administrative appeal, or a notification to the applicant in writing of the amount of time that will be required to make the decision and the reasons for this time period.

(2) “Base station” means: a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a “Tower” or any equipment associated with a Tower.

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

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

(C) The term includes any structure other than a tower that supports or houses equipment 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 such support.

(D) The term does not include any structure that does not support or house equipment for wireless telecommunications services.

(3) “City Engineer” means the City Engineer of the City of Anacortes, Washington acting in his or her official capacity, and his or her designee(s).

(4) “Complex project” means a construction project involving, by way of example only: adding, installing, or relocating numerous conduits, wires, lines, poles, pipes, cables, communication and signal lines, braces, guys, anchors, vaults, pedestals, antennas, and/or other structures, equipment and appurtenances to a public utility or wireless facility; navigating intricate or complicated facility or land ownership issues; determining whether significant environmental impact(s) exist; and/or the analysis of highly technical structural or engineering information or reports.

(5) “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 or property from natural consequences, such as storms, earthquakes, riots or wars.

(6) “Facilities” means all of the towers, equipment, fixtures, antennas, equipment cabinets, equipment shelters, and other appurtenances necessary to furnish and deliver wireless services, including but not limited to utility, monopoles, and street poles with cross arms or without cross arms, wires, lines, conduits, cables, communication and signal lines and equipment, braces, guys, anchors, vaults, and all attachments, appurtenances, and appliances necessary or incidental to the distribution and use of wireless services. Facilities include “Small Wireless Facilities” as defined below.

(7) “Master permit” means the agreement whereby the City of Anacortes may grant general permission to a service provider to enter, use, and occupy the right-of-way for the purpose of locating facilities. This definition is not intended to limit, alter, or change the extent of the existing authority of the City of Anacortes to require a franchise, nor does it change the status of a service provider asserting an existing statewide grant based on a predecessor telephone or telegraph company’s existence at the time of the adoption of the Washington State Constitution to occupy the right-of-way. A master permit does not include cable television franchises or permits.

(8) “Overhead facilities” means utility poles, utility facilities and wireless facilities located above the surface of the ground, including the underground supports and foundations for such facilities.

(9) “Permittee” means the public utility, service provider, or other person authorized under a master permit or construction permit under the provisions of this Chapter.

(10) “Person” means and includes corporations, companies, associations, joint stock companies or associations, firms, partnerships, limited liability companies and individuals and includes their lessors, trustees and receivers.

(11) “Public improvement” as used herein, means all work, construction, alterations, repair or improvements within public right-of-way, executed at the cost or under contract of the City, or caused to be performed by any person or entity as a condition or requirement of an approval or permit for zoning, land use, construction, or development if dedicated or required to be dedicated to the public use, benefit or enjoyment.

(12) “Public right-of-way” means any highway, street, alley, other public right-of-way, or easement for motor vehicle under the jurisdiction and control of the City which has been acquired, established, dedicated or devoted to such purposes, but only to the extent of the City’s right, title, interest or authority to grant a permit to occupy and use such streets and easements for wireless and utility facilities.

(13) “Public utility” as used herein, means a company or entity engaged in any business or service regularly supplying the public with some commodity or service which is a public need and consequence, such as natural gas, electricity, water or sanitary sewer, including any business subject to regulation as to rates and service by the Utilities and Transportation Commission under the provisions of RCW Title 81.

(14) “Service provider” means every corporation, company, association, joint stock association, firm, partnership, person, city, or town owning, operating, or managing any facilities used to provide and providing wireless service for hire, sale, or resale to the general public. Service provider includes the legal successor to any such corporation, company, association, joint stock association, firm, partnership, person, city, or town.

(15) “Small Wireless Facility” encompasses facilities that meet the following conditions:

(A) The facilities—

(1) are mounted on structures 50 feet or less in height including their antennas as defined in section 1.1320(d), or

(2) are mounted on structures no more than 10 percent taller than other adjacent structures, or

(3) 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;

(B) 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;

(C) 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;

(D) The facilities do not require antenna structure registration under Federal regulations;

(E) The facilities are not located on Tribal lands, which means all lands within the exterior boundaries of any Indian reservation and all dependent Indian communities; and

(F) The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in section 1.1307(b).

(16) “Surplus space” means that portion of the usable space on a utility pole which has the necessary clearance from other pole users, as required by Federal or State orders and regulations, to allow its use by a public utility or wireless carrier for a pole attachment. “Surplus space” also includes usable space within underground conduits and ducts when the necessary clearance from other users, as required by Federal or State orders and regulations, can be achieved;

(17) “Underground facilities” means utility and wireless telecommunications facilities located under the surface of the ground, excluding the underground foundations or supports for overhead facilities;

(18) “Usable space” means the total distance between the top of a utility pole and the lowest possible attachment point that provides the minimum allowable vertical clearance as specified in any Federal or State orders and regulations;

(19) “Utility easement” means any easement owned by the City and acquired, established, dedicated or devoted for public utility purposes; and

(20) “Utility facilities” as used herein means all conduit, wires, lines, poles, pipes, cables, communication and signal lines, braces, guys, anchors, vaults, pedestals, antennas, and all other structures, equipment and appurtenances thereto owned, operated or maintained by a public utility and used to furnish utility services.

(21) “Wireless support structure” or “support structure” means a freestanding structure that is designed to support or is capable of supporting wireless facilities. The term does not include a utility pole, monopole, street pole, or tower.

(22) “Wireless telecommunications carrier” or “wireless carrier” means and includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town owning, operating, or managing any facilities used to provide wireless telecommunications for hire, resale to the general public within this State;

(23) “Wireless telecommunications” or “wireless” means the transmission of information by wire, radio, optic cable, electromagnetic, or 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, wireless telecommunications service excludes the over-the-air transmission of broadcast television or broadcast radio signals and excludes “cable services,” “cable communications systems” and “CATV systems” as defined in Chapter 5.44.

5.38.040 Master permit and construction permit required.

(A) It is unlawful to construct, place, maintain, or operate any pipes, ducts, utility tunnels, vaults, maintenance holes, poles, fixtures, wires, utility facilities, wireless facilities, or any other appurtenances necessary for the purpose of providing wireless service, or to conduct any public utility business, on, over, or under the public right-of-way, without obtaining a master permit from the Council.

(B) It is unlawful to construct, repair, or maintain any pipes, ducts, utility tunnels, vaults, maintenance holes, poles, fixtures, wires, utility facilities, wireless facilities, or any other appurtenances, necessary for the purpose of providing wireless service, or to conduct any public utility business or to go upon any such public right-of-way to perform any work therein on, under, or over public right-of-way, without obtaining a construction permit from the City Engineer. The City Engineer may exempt certain activities from the requirements of this section that do not materially affect the public right-of-way; provided, however, that if the City Engineer denies an applicant's request for such an exemption, no appeal is permitted.

5.38.050 Optional pre-application.

An applicant may submit materials up to thirty (30) days in advance of an application for a construction permit or master permit. The information submitted along with a pre-application may include the following information:

- (1) The name and address of the applicant;
- (2) Identification of all carriers using the facility;
- (3) The type of facility proposed;
- (4) Preliminary engineering plans, specifications, and maps of the facilities to be located within the public right-of-way;
- (5) Detailed construction plans demonstrating compliance with all applicable City codes and construction specifications, including the City's Engineering Standards;
- (6) A brief description of non-confidential, nonproprietary utility or wireless telecommunications services that are or will be offered or provided by the applicant over its facilities;
- (7) A brief description of non-confidential, nonproprietary transmission medium that will be used to offer or provide such services;
- (8) An accurate map showing the location of any existing utilities and/or wireless telecommunications facilities in the City that the applicant intends to use or lease;
- (9) If installation of overhead facilities is proposed, evidence that Surplus Space is available for locating the facilities on existing utility poles along the proposed route;
- (10) The area or areas of the City the applicant desires to serve and a schedule for building out (offering service to) the entire area covered by the master permit;
- (11) Proof of compliance with the other provisions of this Chapter, including but not limited to the indemnity, insurance, and bond requirements; and/or
- (12) Information to establish that the applicant has obtained all other governmental approvals and permits to construct and operate the facilities, and to offer or provide the services, including, but not limited to, evidence that the applicant has registered with the Washington Utilities and Transportation Commission.

5.38.060 Construction permit application.

- (A) To obtain a construction permit, the applicant must file an application with the City Engineer.
- (B) A complete application must include the following information and materials:
- (1) The names, residences, and business addresses of all officers and directors of the applicant.

- (2) Detailed construction plans demonstrating compliance with all applicable City codes and construction specifications, including the City's Engineering Standards.
 - (3) If the applicant is constructing wireless facilities on another service provider's facilities, a notarized statement that the applicant has permission to use a third party's facility(ies), or a signed agreement with the service provider to that effect.
 - (4) The location of the applicant's overhead and underground facilities in the public right-of-way along the proposed route and the area proposed to be served by cable.
 - (5) Preliminary engineering plans, specifications, and maps of the facilities to be located within the public right-of-way, in sufficient detail to identify the location and route of the proposed facilities within the public right-of-way, the location of the applicant's existing facilities within the right-of-way, if any, and the specific trees, structures, facilities, and/or obstructions, if any, that the applicant proposes to temporarily or permanently remove or relocate.
 - (6) If underground installation in existing ducts or conduits within the public right-of-way is proposed, information in sufficient detail to identify: the excess capacity currently available in such ducts or conduits before installation of the facilities; and the excess capacity, if any, that will exist in such ducts or conduits after installation of the facilities.
 - (7) If underground installation within new ducts or conduits to be constructed within the public right-of-way is proposed: the location proposed for the new ducts or conduits; and the excess capacity that will exist in such ducts or conduits after installation of the facilities.
 - (8) A preliminary construction schedule and completion date.
 - (9) A detailed statement describing the actual equipment and operational standards proposed by the applicant.
 - (10) A statement or schedule setting forth all proposed classifications of rates and charges to be set, including installation and service charges, which must remain in effect for at least twelve months after the City grants a master permit.
 - (11) Proof of compliance with the other provisions of this Chapter, including but not limited to the indemnity, insurance, and bond requirements.
 - (12) Any other reasonable information requested by the City Engineer or its designee, or required by any other provision of any other ordinance of the City.
 - (13) An application fee to be set by the City Council in its unified fee schedule to allow the City to recover the costs of reviewing the application, including the costs of any third-party review.
- (C) Applications for Small Wireless Facilities may be submitted in batches, which may encompass up to five separate applications filed at the same time, each for one or more sites, or a single application covering up to five sites, unless the City agrees to a larger number based upon its capacity to review additional applications.
- (D) Third Party Review. The City may require the applicant to submit its materials to a third-party for review, as may be reasonably necessary to determine compliance with this Chapter, such as an engineer or architect, by way of example only.

5.38.070 Master permit application.

- (A) To obtain a master permit, the applicant must file an application with the City clerk.
- (B) The Council must examine each complete application submitted for review and approval to determine if it complies with the applicable provisions of this chapter. Other departments that have authority over the proposed use or activity may be required to review and approve or disapprove the application based on site-specific criteria, such

as that in 19.68 AMC. The Council may inspect the public right(s)-of-way proposed for use to determine any facts which may aid in determining whether a master permit should be approved.

(C) A complete application must include the following information and materials:

- (1) The identity of the applicant, including all affiliates of the applicant who will be authorized to work in the right-of-way under the agreement;
- (2) If the applicant is constructing wireless facilities on another service provider's facilities, a notarized statement that the applicant has permission to use such facilities, or a signed agreement with the service provider to that effect.
- (3) If the application involves a Small Wireless Facility, preliminary engineering plans showing all dimensions of the wireless facility.
- (4) A brief description of non-confidential, nonproprietary utility or wireless telecommunications services that are or will be offered or provided by the applicant over its facilities;
- (5) A brief description of non-confidential, nonproprietary transmission medium that will be used to offer or provide such services;
- (6) An accurate map showing the location of any existing utilities and/or wireless telecommunications facilities in the City that the applicant intends to use or lease;
- (7) If installation of overhead facilities is proposed, evidence that Surplus Space is available for locating the facilities on existing utility poles along the proposed route;
- (6) Preliminary engineering plans, specifications, and maps of the facilities to be located within the public right-of-way, in sufficient detail to identify the location and route of the proposed facilities within the public right-of-way, the location of the applicant's existing facilities within the right-of-way, if any, and the specific trees, structures, facilities, and/or obstructions, if any, that the applicant proposes to temporarily or permanently remove or relocate.
- (7) The area or areas of the City the applicant desires to serve and a schedule for building out (offering service to) the entire area encompassed by the master permit;
- (8) Information to establish that the applicant has obtained all other governmental approvals and permits to construct and operate the facilities, and to offer or provide the services, including, but not limited to, evidence that the applicant has registered with the Washington Utilities and Transportation Commission;
- (9) Proof of compliance with the other provisions of this Chapter, including but not limited to the indemnity, insurance, and bond requirements.
- (10) An application fee to be set by the Council in its unified fee schedule which allows the City to recover its actual administrative expenses that are directly related to receiving and approving a permit and license, to inspecting plans and construction, or to the preparation of a detailed statement.

(D) Applications for Small Wireless Facilities may be submitted in batches, which may encompass up to five separate applications filed at the same time, each for one or more sites, or a single application covering up to five sites, unless the City agrees to a larger number based upon its capacity to review additional applications.

(E) Third Party Review. The City may require the applicant to submit its materials to a third-party for review, as may be reasonably necessary to determine compliance with this Chapter, such as an engineer or architect, by way of example only.

5.38.080 Completeness review.

(A) Completeness Review. Applications for a master permit or construction permit must be reviewed for completeness within thirty days of receipt, except for applications associated with Small Wireless Facilities, which

must be reviewed for completeness within ten days of receipt. If the application is not reviewed for completeness within the applicable timeframe, it will be deemed complete.

(B) Tolling.

(1) For applications for a master permit or construction permit for a Small Wireless Facilities, the review period resets once an applicant submits its additional materials.

(2) For all other applications deemed incomplete, the review period is tolled for up to sixty days. Once an applicant submits additional materials, the review timeframe begins to run again.

(3) If the applicant does not submit the required materials within the required timeframe, the City may deny the application.

(C) Submittal of Additional Materials.

(1) If an applicant submits additional materials, the Director must provide notice within ten (10) days as to any additional materials identified in the original notice that were not provided with the supplemental materials.

(2) Second or subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness. For second or subsequent notices of incompleteness, the review timeframe will be tolled for all applications including those pertaining to Small Wireless Facilities.

(3) If the applicant does not submit the required materials, the City may deny the application.

(D) Failure to act. If the Director fails to approve or deny a request seeking approval for either a wireless service facility permit or conditional use permit within the applicable timeframe for review, accounting for any tolling, the request is deemed granted. The deemed grant does not become effective until the applicant notifies the applicable reviewing authority in writing after the review period has expired that the application has been deemed granted.

5.38.090 Timeframe for review.

The timeframe for review of an application for a master permit or a construction permit begins to run when an application is submitted, not when the application is deemed complete. The timeframe for submitting and reviewing master permits and construction permits is the same, unless otherwise specified.

	Colocating Wireless Facilities	Colocating Small Wireless Facility	New Small Wireless Facility	New Wireless Facilities	Construction Permit – All Wireless Facilities	Master Permit Renewal – All Wireless Facilities
Application Submission	Master use and construction permit applications should each be submitted 90 days prior to planned use.	Master use and construction permit applications should each be submitted 60 days prior to planned use.	Master use and construction permit applications should each be submitted 90 days prior to planned use.	Master use and construction permit applications should each be submitted at least 120 days prior to planned use.	Applications for complex projects should be submitted at least 60 days prior to the planned use, and in no case less than 30 days prior to the planned use.	A Permittee may submit an application for renewal no more than 180 days and no less than 120 days before expiration of the current master permit.
Timeframe for decision (from receipt of complete application)	Written decision due within 90 days.	Written decision due within 60 days.	Written decision due within 90 days.	Written decision due within 120 days.	City Engineer must Act within a reasonable time, generally not to exceed 30 days, and in no case can he or	Written Decision due within 90 days.

	Colocating Wireless Facilities	Colocating Small Wireless Facility	New Small Wireless Facility	New Wireless Facilities	Construction Permit – All Wireless Facilities	Master Permit Renewal – All Wireless Facilities
					she exceed the timeframes for review set forth in this table.	

5.38.100 Construction permit approval.

(1) The City Engineer shall review construction permits as follows:

Optional Pre-Application Meeting	Yes
Notice of Application	No
Comment Period	None
Recommendation By	None
Pre-Decision Open-Record Hearing	No
Closed-Record Decision Hearing	No
Decision By	City Engineer
Notice of Decision	No

(2) In the event that the City Engineer finds that the construction permit application conforms to the requirements of this chapter and applicable construction standards adopted by the City, the City Engineer must approve the construction permit, and may impose such conditions thereon as are reasonably necessary to protect the public health, welfare and safety, to mitigate any impacts resulting from the use, and to facilitate the orderly management of other utility and wireless facilities within the public right-of-way.

(3) In the event that the City Engineer denies an application for a construction permit, the decision must be in writing and set forth the reasons for said denial, and must be based on substantial evidence in the written record. The City may not deny a construction permit on the basis of a failure to obtain a master permit. Following approval by the City Engineer, construction permits will be issued by the City clerk.

(4) The City Engineer has the discretion to approve a blanket construction permit for a period of up to one year, when the applicant seeks approval to perform construction or maintenance that is of a repetitive or similar nature.

(5) In evaluating a construction permit application under this chapter, the City Engineer must, in addition to the criteria set forth in AMC XX.XX.050(2), determine whether the proposed construction is consistent with all construction standards adopted by the City.

(6) The duration of a construction permit will be for one year unless revoked or modified under the provisions of this chapter. The City Engineer must approve a construction schedule specifying the dates, times, and duration during which construction activity is permitted within the public right-of-way.

(7) The construction permit incorporates the relevant terms and conditions of this chapter by reference.

(8) The City Engineer has the power to regulate the construction and enforce construction permit conditions and the requirements of this chapter. The City Engineer must keep a record of the construction permit and the work done thereunder.

(9) A service provider adversely affected by a final action denying a construction permit may commence an action within thirty (30) days to seek relief, in any competent court of jurisdiction.

5.38.110 Master permit approval.

(1) The City Council shall review the master permit application as follows:

Optional Pre-Application Meeting	Yes
Notice of Application	Yes
Comment Period	14 days
Recommendation By	None
Pre-Decision Open-Record Hearing	Yes, before City Council
Closed-Record Decision Hearing	No
Decision By	City Council
Notice of Decision	Yes

(2) In the event the Council finds that master permit application conforms to the requirements of this chapter and the criteria for approval set forth in subsection (2) of this section, the Council must approve the master permit, and may impose conditions that are reasonably necessary to protect the public health, welfare, and safety and to mitigate any impacts resulting from the use. The Council will provide the reasons for a denial in writing, supported by substantial evidence contained in the written record based on the criteria set forth below. Following approval, the applicant and the Council must enter into a written agreement setting forth the particular terms under which the applicant has been granted the right to occupy and use the public ways of the City.

(3) In evaluating a master permit application under this chapter, the Council will, consistent with Federal and State law, examine the following criteria:

(a) Whether all requisite licenses, certificates, and authorizations from applicable Federal, State, and local agencies have been obtained by the applicant;

(b) The capacity of the public right-of-way to accommodate additional utility and wireless telecommunications facilities if the master permit is granted;

(c) The effect, if any, on public health, safety and welfare if the master permit is granted;

(d) The availability of reasonable alternate routes and/or locations in the right-of-way for the proposed facilities;

(e) Whether denial of the use of the right-of-way would materially inhibit or limit the ability of the service provider to compete in a fair and balanced regulatory environment.

(e) Applicable Federal, State, and local statutes, regulations, ordinances, and policies related to utility, wireless telecommunications, and other facilities, including City construction standards;

(f) Such other factors as may demonstrate that the grant to use the public right-of-way will serve the community interest.

(4) The duration of a master permit is five years unless revoked or modified under the provisions of this chapter.

(5) No master permit granted under this chapter confers any exclusive right, privilege, license, or franchise to occupy or use the public right-of-way of the City for delivery of wireless services or any other purposes. Further, no master permit may be construed as a right, title or interest in the public ways, but is the right solely to use and occupy the public right-of-ways for the limited purposes and terms stated within the grant. No master permit may be construed as a warranty of title.

5.38.120 Compensation to the City.

The City may fix a fair and reasonable compensation to be paid annually for the use of the right-of-way granted to the applicant under a master permit that is a reasonable approximation of the City's costs, including the costs of third-party review, if any; provided, that the City and an applicant may agree to the compensation to be paid; and provided that the compensation fixed or agreed upon is consistent with RCW 35.21.860.

5.38.130 Nondiscrimination.

A Permittee which purports to serve the general public must make its wireless telecommunication services available to any customer within its permitted area who requests such service, without discrimination as to the terms, conditions, rates or charges for the permittee's services; provided, however, that nothing in this title prohibits a Permittee from making reasonable classifications among differently situated customers.

5.38.140 Amendment of Permit.

Except as otherwise provided within a master permit agreement, a new master permit agreement and grant is required for any wireless carrier or service provider that seeks to extend the area covered by the master permit or to locate its wireless facilities in public rights-of-way in the City which are not included in a master permit previously granted under this chapter. If ordered by the city to locate or relocate its wireless telecommunications facilities in public rights-of-way not included in a previously granted master permit, the City must grant a master permit amendment without further application.

5.38.150 Renewal application – Master Permit.

(A) A Permittee may activate a formal process for renewal, by submitting an application for renewal, a completed master permit renewal application with the city clerk. The application must include the following:

- (1) The information required under AMC XX.XX.060;
- (2) Any information required under the master permit agreement between the City and the applicant;
- (3) All deposits or charges required under this Chapter; and
- (4) An application fee to be set by Council.

5.38.160 Renewal approval.

(A) The City must issue a written determination granting or denying the renewal application in whole or in part. If the renewal request is denied, the written determination must include substantial evidence of the reason(s) for denial, based on the standards set forth below. Prior to granting or denying renewal of a master permit under this Chapter, the Council must conduct a public hearing and make a decision based on the following criteria:

- (1) The continuing capacity of the public right-of-way to accommodate the applicant's existing facilities;
- (2) The applicant's compliance with the requirements of this title and the master permit agreement;
- (3) Applicable federal, state, and local wireless telecommunications laws, rules and policies; and
- (4) Such other factors that may demonstrate that the continued grant to use the public right-of-way will serve the community interest.

(B) The Council may not deny a renewal application based on violations of the master permit unless the applicant has been given notice and an opportunity to cure.

(C) Any service provider whose proposal for renewal has been denied by the City, or has been otherwise adversely affected by a failure of the City to act, may appeal such final decision or failure to act within 120 days in any Court of competent jurisdiction.

5.38.170 Terms of use and occupancy.

(A) The use and occupancy of public right-of-way in the City by any person constructing, maintaining or operating wireless, utility, or other facilities must conform to the terms and conditions of this chapter.

(B) Existing facilities installed or maintained by a telecommunications carrier, public utility or other entity over, under or across public right-of-way within the City in accordance with an expired franchise agreement or other City-issued permit may be operated by the wireless carrier or public utility at the locations at which such facilities exist; provided, however, that maintenance, repair, relocation, and/or expansion of such facilities are not permitted unless and until the public utility or telecommunications carrier, or other entity obtains all permits and approvals required by this chapter.

(C) All work by a wireless carrier, public utility, or other entity in the public right-of-way must comply with all construction standards and specifications adopted by the City as now exist or are hereafter amended, including but not limited to those set forth in Chapters 15.32 and 19.68 AMC.

5.38.180 Specifications.

(A) All work to be performed under a construction permit issued under this chapter must conform to all applicable City codes, ordinances, and standards adopted by the City. In case of any conflict, the most stringent provision applies.

(B) No wireless, utility, other facilities, or work related thereto may protrude into or over any portion of a public right-of-way opened to vehicle or pedestrian travel in such a manner as to create a risk of endangering the use of such place by vehicles or pedestrian travel. In addition, in the event the requested construction permit involves encroachment or partial obstruction of a sidewalk or other walkway open to the public, a minimum of five feet of unobstructed sidewalk or other walkway must be maintained at all times.

(C) During any period of any relocation, construction or maintenance of its facilities within the public right-of-way, a wireless telecommunications carrier, public utility or other person must conduct their activities so as not to unreasonably interfere with the free passage of traffic or the use of adjoining property. Such person must, at all times, post and maintain proper barricades and comply with all applicable safety regulations during such period of construction as required by the ordinances of the City and the laws of the State of Washington, including RCW 39.04.180, for the construction of trench safety systems.

(D) An applicant must, within 10 business days of completion of work, submit at no cost to the City, current and accurate as-built drawings showing the location of any facilities installed or constructed within the public right-of-way under a permit issued pursuant to this chapter or otherwise. As-builts must show all of the applicant's facilities in the right-of-way including but not limited to wireless telecommunications facilities, utility facilities, power poles,

guy poles and anchors, overhead transformers, pad-mounted transformers, submersible transformers, conduit, substation (with its name) pedestals, pad-mounted junction boxes, vaults, switch cabinets, and meter boxes.

5.38.190 Exceptions.

(A) A construction permit is not required when public utilities, wireless carriers, or City contractors are responding to emergencies that require work in the public right-of-way, such as water or sewer main breaks, gas leaks, downed power lines, or similar emergencies; provided, however, that the Council must be notified by the responding utility, carrier, or contractor verbally or in writing, on the next business day following onset of the emergency. Nothing in this section relieves a responding public utility, carrier, or contractor from the requirement of obtaining a construction permit after beginning emergency work in a public right-of-way.

(B) A construction permit fee is not required for City-sponsored capital improvement projects for water, sewer, drainage, or road construction maintenance, including associated work required by a public utility.

5.38.200 Security fund.

(A) Prior to commencement of any activities approved under a master permit, the Permittee must establish a permanent security fund with the City by depositing the amount of \$50,000, or such greater amount as deemed necessary by the Council, with the City in cash, an unconditional letter of credit, or other instrument acceptable to the City, which fund must be maintained at the sole expense of the Permittee so long as any of the Permittee's utility or wireless facilities are located within the public right-of-way of the City.

(B) The fund must serve as security for the full and complete performance of the terms and conditions of this chapter and master permit, including any costs, expenses, damages, or loss the City pays or incurs, including civil penalties, because of any failure attributable to the Permittee to comply with the codes, ordinances, rules, regulations, or permits of the City.

(C) The fund may be used to repair the public right-of-way, return it to its original condition, or to complete a project within the right-of-way if the Permittee ceases work mid-way through construction, or abandons its facility(ies) and appurtenances thereto.

(D) Before any sums are withdrawn from the security fund, the City must give written notice to the Permittee:

(1) Describing the act, default or failure to be remedied, or the damages, costs or expenses which the City has incurred by reason of the Permittee's act or default;

(2) Providing a reasonable opportunity for the Permittee to first remedy the existing or ongoing default or failure, if applicable;

(3) Providing a reasonable opportunity for the Permittee to pay any monies due the City before the City withdraws the amount thereof from the security fund, if applicable; and

(4) That the Permittee will be given an opportunity to review the act, default or failure described in the notice with the City or his or her designee.

(E) Permittees are required to replenish the security fund within 14 days after written notice from the City that there is a deficiency in the amount of the fund.

F. Upon Permittee's removal of all facilities from the right of way and expiration of the agreement, permits and/or licenses, the city must refund the balance remaining in this fund, including any accrued interest within 14 days.

5.38.210 Performance bond.

A performance bond written by a corporate surety acceptable to the City Engineer equal to at least 150 percent of the estimated cost of removing the Permittee's facilities and restoring the public right-of-way to their pre-construction condition must be deposited before the construction permit is issued. Said bond is required to remain in full force until 60 days after completion of the construction and/or improvements within the public right-of-way, and must warrant all such restoration work for a period of two years following completion and/or termination of the construction. Those Permittees performing annual work within the rights-of-way may provide an annual performance bond, in an amount approved by the City Engineer, at the beginning of each year to cover all excavations. The purpose of this bond is to guarantee the removal of partially completed and/or nonconforming facilities and to fully restore the public right-of-way to the pre-construction condition. The City Engineer may use the funds from the performance bond to complete removal and fully restore the public right-of-way to its pre-construction condition if the Permittee fails to do so.

5.38.220 Insurance.

Unless otherwise provided in a master permit or construction permit, each Permittee must, as a condition of the master permit and construction permit, secure and maintain the following liability insurance policies insuring both the Permittee, its agents, representatives, employees, contractors or subcontractors, and the City and its elected and appointed officers, officials, agents, employees, representatives, engineers, consultants, and volunteers as co-insureds against any claims which may arise from or in connection with the exercise of the rights, privileges, and authority granted to the Permittee under the permit(s):

(A) Comprehensive Commercial General Liability Insurance. Commercial General Liability Insurance on an "occurrence" basis including coverage for Premises and Operations Liability, Products and Completed Operations, Contractual Liability, Independent Contractors, Stop Gap/Employer's Liability, Broad Form Property Damage, Explosion, Collapse and Underground Hazards, and Personal Injury Liability. Such insurance will provide limits of not less than two million dollars (\$2,000,000) per occurrence and ten million dollars (\$10,000,000) in the aggregate. Coverage limits can be achieved with a combination of the primary and umbrella/excess policies.

Products/Completed Operations Liability Insurance will be provided for a period of at least six years after completion and/or termination of construction. Any deductible or self-insured retention must be disclosed and is subject to approval of the City. The policy for the Permittee must include without limitation coverage for hazards commonly referred to as "XCU" and contain a severability of interests provision.

(B) Automobile Liability Insurance. A policy of Automobile Liability, including coverage for Permittee's owned, non-owned, leased or hired vehicles providing a minimum limit for Bodily Injury and Property Damage of five million dollars (\$5,000,000) per combined single limit each accident. The limit can be achieved with a combination of the primary and umbrella/excess policies.

(C) Workers Compensation Insurance. Statutory Worker's Compensation and Employers Liability insurance as prescribed by applicable law.

(D) City as an Additional Insured on Policies. The Commercial General Liability and Automobile Liability and Umbrella/Excess Liability insurance policies required must name the City of Anacortes as an additional insured on a primary and non-contributory basis on Forms CG 20 26 and CG 20 37 or their equivalents for a public body. Carriers furnishing insurance are required to waive all rights of subrogation against the City. The Permittee must obtain the written agreement on the part of each insurance company to notify the City at least forty-five (45) days prior to cancellation or non-renewal of any such insurance, except ten (10) days' notice of cancellation due to non-payment of premium.

(E) Evidence of Insurance. With respect to each policy, Permittee must provide the City prior to commencement of the Work, proof that it has procured the requisite insurance, including copies of any applicable policies, declaration pages, and/or endorsements. PERMITTEE IS NOT ENTITLED TO COMMENCE WORK AUTHORIZED UNDER ITS PERMIT(S) UNTIL THE CITY HAS RECEIVED AND APPROVED THE CERTIFICATE OF INSURANCE.

(F) Errors and Omissions. Permittee must maintain throughout the period of the applicable permit and for a period of six (6) years thereafter, a standard professional errors and omissions insurance policy of a form and with an insurance company satisfactory to the City. Permittee's insurance policies must incorporate a provision requiring giving written notice to the City at least sixty (60) days prior to any cancellation, non-renewal or material modification of the policies. Permittee's professional errors and omissions insurance will be in the minimum amount of \$1,000,000 including contractual liability, with all coverage retroactive to the earlier of the date of the applicable permit or the commencement of design services in relation to the permit(s).

(G) Compliance by contractors and subcontractors. Permittee is required to ensure that each of its contractors and subcontractors complies with all requirements in this Section; provided that Permittee must require its contractors and subcontractors to maintain commercially reasonable limits of insurance, given the contractor's and subcontractor's scope of work. Permittee must provide evidence of insurance of contractors and subcontractors upon request by the City.

(H) In addition, each such insurance policy must contain an endorsement which provides that the policy may not be cancelled, reduced in coverage, nor the intention not to renew be stated until 60 days after receipt by the City of a written notice to that effect. Within 30 days after receipt of such notice by the City, and in no event later than 15 days prior to the cancellation or nonrenewal, the Permittee must obtain and furnish to the City replacement insurance policies meeting the requirements of this section.

5.38.230 Hold harmless/indemnity.

(A) The Permittee must, to the fullest extent permitted by law, indemnify, defend and hold harmless the City, and its elected and appointed officers, officials, agents, employees, representatives, engineers, consultants, and volunteers as co-insureds (collectively the "Indemnified Parties" or individually, each an "Indemnified Party"), from and against any and all claims, liability, penalties, fines, costs, damages, losses and causes of action, arising out of or resulting from, or alleged to arise out of, relate to, or to result from the performance or non-performance of any construction performed at the instance of Permittee, or performance or non-performance of any services performed at the instance of Permittee (hereinafter singularly and collectively referred to as "Indemnity Claims"), but only to the extent directly or indirectly caused by the negligence or willful misconduct of Permittee, its contractors, subcontractors or supplier of any tier, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable. Permittee, at its sole expense, must promptly dispose of Indemnity Claims, defend all lawsuits and similar proceedings filed against an Indemnified Party on the account of Indemnity Claims, pay all awards and judgments rendered against an Indemnified Party in connection therewith, and reimburse each Indemnified Party for all reasonable expenses incurred by such Indemnified Party in connection with Indemnity Claims and lawsuits and arbitrations and similar proceedings including, but not limited to, attorneys' fees, expert witness fees, court costs, arbitration costs and all other reasonable costs (not limited to statutory costs).

(B) If Indemnity Claims are caused or alleged to be caused in part by any joint or concurrent negligent act (either active or passive) or omission by an Indemnified Party, Permittee will indemnify, defend and hold harmless such Indemnified Party, as provided above, from such Indemnity Claims to the extent such Indemnity Claims arise out of or result from the negligence or willful misconduct of Permittee or its contractors, subcontractors or suppliers of any tier, or anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, or anyone whose acts Permittee may be responsible or liable. In no event will Permittee be obligated to indemnify an Indemnified Party for Indemnity Claims which arise out of or result from the sole negligence of such Indemnified Party or its agents, servants or independent contractors who are directly responsible to such Indemnified Party, excluding Permittee.

(C) In addition, the City may require that any person, public utility, or wireless carrier accepting such a master permit or construction permit provide the City with additional indemnification, such as an indemnification from a parent company.

(D) The indemnification provided for herein does not apply to injuries to persons or damage to property caused by or resulting from the sole negligence of the City, its agents or employees.

(E) For the sole purpose of effecting the indemnification obligations herein, the Permittee, by accepting a master permit, specifically and expressly waives any immunity that may be granted it under any applicable Workers' Compensation Act, disability benefit acts or other employee benefit acts.

5.38.240 Inspections.

All work performed within public right-of-way is subject to periodic inspection by the Council to assure compliance with any conditions attached to the permit, the requirements of this chapter, and the requirements of any applicable City code or standard.

5.38.250 Revocation of master permits and construction permits.

(A) Following a notice of violation and opportunity to cure, the Council may revoke or suspend any approval issued under this chapter for cause, in accordance with existing tariff or applicable State law whenever:

- (1) The work does not proceed in accordance with the plans as approved or the conditions of approval, is not in compliance with the requirements of this chapter, other City ordinances, resolutions, or State law;
- (2) The service provider fails to provide adequate service or otherwise fails to comply with the terms of its master permit or construction permit;
- (3) The service provider has made a misrepresentation of material fact in applying for such approval;
- (4) The Council determines that inadequate measures are being taken to protect the public, adjoining property, public right-of-way, or wireless telecommunications, utility or other facilities in such public right-of-way, or that any excavation or fill endangers or will endanger the public, adjoining property, public right-of-way, or wireless telecommunications or utility facilities in such public right-of-way.

(B) Upon suspension or revocation of an approval under this chapter, all permit-related activities of the public right-of-way must cease, except as authorized or directed by the Council.

5.38.260 Correction and discontinuance of a Master Permit.

(A) Whenever the Council determines that any condition on any public right-of-way is in violation of a master permit or any other provision of this chapter related thereto, or exists without a master permit, the Council may order the correction or discontinuance of such condition or any activity causing such condition.

(B) The Council also has all powers and remedies available under State law and this chapter, to secure the correction or discontinuance of any condition specified in this section.

(C) The Council is authorized to use any or all of the following methods in ordering correction or discontinuance of any such conditions or activities as it determines appropriate:

- (1) Serving of oral or written directives to Permittee or other responsible person requesting immediate correction or discontinuance of the specified condition;
- (2) Service of a written notice of violation, ordering correction or discontinuance of a specific condition or activity within thirty (30) days
- (3) Service of a written notice to remove an object or facility within twenty-four (24) hours and summary removal if the object or thing is a hazard to public safety, with notice of such removal to the owner, if known;
- (4) Revocation of previously granted master permit(s) where Permittee or other responsible person has failed or refused to comply with requirements imposed by the City related to such permits; or
- (5) Issuance of an order to immediately stop work until authorization is received from the City to proceed.

(D) Any utility or wireless facility, or any other object or thing which occupies any public right-of-way without a master permit or in violation of the master permit conditions is a nuisance both public and private.

(E) All expenses incurred by the Council, including attorney's fees and legal expenses, in abating the condition or any portion thereof constitutes a civil debt owing to the Council jointly and severally by such persons who have been given notice or who own the object or thing or placed it in the public right-of-way, which debt is collectible in the same manner as any other civil debt.

5.38.270 Correction and discontinuance of a Construction Permit.

(A) Whenever the City Engineer determines that any condition on any public right-of-way is in violation of a construction permit or any other provision of this chapter related thereto, or exists without a construction permit, the City Engineer may order the correction or discontinuance of such condition or any activity causing such condition.

(B) The City Engineer also has all powers and remedies available under State law and this chapter, to secure the correction or discontinuance of any condition specified in this section.

(C) The City Engineer is authorized to use any or all of the following methods in ordering correction or discontinuance of any such conditions or activities as it determines appropriate:

- (1) Serving of oral or written directives to Permittee or other responsible person requesting immediate correction or discontinuance of the specified condition;
- (2) Service of a written notice of violation, ordering correction or discontinuance of a specific condition or activity within thirty (30) days;
- (3) Service of a written notice to remove an object or facility within twenty-four (24) hours and summary removal if the object or thing is a hazard to public safety, with notice of such removal to the owner, if known;
- (4) Revocation of previously granted construction permit(s) where Permittee or other responsible person has failed or refused to comply with requirements imposed related to such permits; or
- (5) Issuance of an order to immediately stop work until authorization is received from the City to proceed.

(D) Any utility or wireless facility, or any other object or thing which occupies any public right-of-way without a construction permit or in violation of construction permit conditions is a nuisance both public and private.

(E) All expenses incurred by the City Engineer, including attorney's fees and legal expenses, in abating the condition or any portion thereof constitutes a civil debt owing to the City Engineer jointly and severally by such persons who have been given notice or who own the object or thing or placed it in the public right-of-way, which debt is collectible in the same manner as any other civil debt.

5.38.280 Removal.

Any person accepting a master permit or construction permit pursuant to this chapter for the installation of any utility or wireless carriers must remove such facilities when they are no longer required, or if the master or construction permit has been revoked as provided in this chapter. Such removal must occur within 90 days of receiving notice from the Council ordering such removal. Unless otherwise approved by the City in writing, no person is permitted to abandon utility or wireless facilities within a public right-of-way, and then only under such conditions as may be prescribed by the Council.

5.38.290 Displacement for public use.

(A) A wireless carrier, public utility, or other person under order of the Council must, upon a minimum 60 days' written notice, move or adjust its underground or overhead facilities located within the public right-of-way which interfere with any public improvement authorized or ordered by the City. The relocation must be done at the expense of the telecommunications carrier, public utility, or other person, subject to the exceptions in RCW 35.99.060(d) and existing tariffs, which may require the City to pay for displacement in certain circumstances. The actual number of days must be specified by the Council in the Council's order.

(B) When a public improvement is required to accommodate or allow development or other activity by a party other than the City, then a wireless telecommunications carrier, public utility or other person which moves or adjusts its facilities is entitled to recover its associated costs and expenses from such other party.

(C) Such persons must indemnify, hold harmless, and pay the costs of defending the City against claims or liabilities for delays on public improvement projects caused by their failure to relocate their facilities in a timely manner unless caused by circumstances beyond their control.

5.38.300 Additional ducts or conduits.

Any person constructing underground ducts or conduits pursuant to this chapter must, upon request, provide the City with additional ducts for its use. Such additional ducts or conduits must be of a size and configuration specified by the City and be dedicated to the City. The City has the right to use the ducts and conduits for any purpose, including but not limited to leasing them to other entities, subject to the following provisions.

(A) The City must enter into a contract with the service provider consistent with RCW 80.36.150, and the incremental costs of adding the ducts and conduits under this section will be borne by the City. If the City makes the additional duct or conduit and related access structures available to any other entity for the purposes of providing wireless services for hire, sale, or resale to the general public, the rates to be charged, as set forth in the contract with the entity that constructed the conduit or duct, must recover at least the fully allocated costs of the service provider. The service provider must state both contract rates in the contract.

(B) Except as otherwise agreed by the City and the service provider, the City agrees that he requested additional duct or conduit space and related access structures will not be used by the City to provide wireless service for hire, sale, or resale to the general public.

(C) The City will not require that the additional duct or conduit space be connected to the access structures and vaults of the service provider.

(D) The value of the additional duct or conduit requested by the City will not be considered a public works construction contract.

(E) This section does not apply to the provision of an institutional network by a cable television provider under federal law.

5.38.310 Joint use of poles.

(A) All wireless facilities permitted pursuant to the terms of this chapter or otherwise located within the City of Anacortes must be made available for use by the owner or initial user thereof, together with as many other wireless service providers as can be technically collocated thereon.

(B) Nothing contained within this chapter prevents the owner of such poles from charging a reasonable pole attachment fee that does not exceed the fair market value for the space occupied by said collocated facilities; except that if the owner is the City, it may not charge more than the reasonable approximation of its reasonable costs.

5.38.320 City use for noncommercial government communication.

Any person erecting or maintaining poles within public right-of-way allows the City the right, free of charge, to attach, maintain and operate traffic and traffic safety signals, as noncommercial governmental communication and signals, wires and/or fixtures within available surplus space on the poles erected and so maintained.

5.38.330 Appearance.

Any person erecting or maintaining poles under authority of this chapter must ensure that its poles are maintained in a manner that does not significantly distract from the visual appearance of the pole. Such maintenance may include cleaning, replacement, painting or repainting of the pole. Wooden utility poles are not required to be painted.

5.38.340 Moving of building(s) and/or equipment.

Any person maintaining overhead wireless or utility facilities in public right-of-way must, upon seven days' notice from the Council, disconnect or move said facilities to allow for the moving of building(s) and/or equipment across or along any such public right-of-way; provided, however, that the advance notice may be reduced to 24 hours if the facilities are below the minimum clearance set by law or regulation or in the case of an emergency. The cost of moving such facilities must be in accordance with existing tariffs or applicable State law, and borne as follows: (1) by the owner of the facilities if: (a) the wires, cables or appurtenances are below the minimum vertical clearance required by State law, City ordinance, or rules of the Council, (b) above the surface of the public right-of-way, or (c) no adjustment would be necessary if the minimum clearance had been maintained; or (2) by the person desiring to move the building(s) and/or equipment under all other circumstances.

5.38.350 Billings and collections.

The Council, jointly with the Finance Director, may establish procedures pertaining to the billing and collection of fees and charges adopted pursuant to this chapter.

5.38.360 Liability.

The Council and other employees charged with the enforcement and administration of this chapter, acting for the City in good faith and without malice in the discharge of their duties, do not thereby render themselves liable personally for damages that may accrue to persons or property as a result of an act required or by reason of an act or omission in the discharge of such duties.

5.28.370 Tree trimming.

Any wireless carrier or public utility required by State statute or regulation to trim or remove trees which may interfere with their facilities must ensure that their tree trimming activities protect the appearance, integrity and health of the trees to the extent reasonably possible. The wireless carrier or public utility must prepare and maintain a tree trimming schedule to ensure compliance with this provision and to avoid exigent circumstances where tree cutting, trimming or removal is necessary to protect the public safety or continuity of service without the regard for the appearance, integrity or health of the trees that planned maintenance would otherwise allow. The wireless carrier or public utility must submit the schedule to the City Engineer. Except where exigent circumstances do not permit, the wireless carrier or public utility must give the owner the property on which the trees are located at least five days' advance written notice of the tree trimming. Tree trimming on any City streets must comply with the standards developed by the City's street tree advisory committee.

5.38.380 Underground facilities.

(A) The undergrounding requirements of this section apply where the wireless telecommunications carrier, public utility, or other person's facilities consist of cable or any other facilities which are capable of being placed underground. This section does not apply to antennas or other facilities, which are required to remain above-ground, in order to be functional.

(B) In any area of the City in which there are no aerial facilities other than antennas or other facilities required to remain above-ground in order to be functional or otherwise for the provision of wireless services, or in any public right-of-way in which all wireless telecommunications wires and cables, and electric power wires, cables, 15,000

volts and lower, and other aerial facilities capable of undergrounding have been placed underground, no person is permitted to erect poles or to run or suspend wires, cables or other facilities thereon, but must lay such wires, cables or other facilities underground in the manner required by the City pursuant to this section, and Chapters 15.32 and 19.68 AMC, if applicable.

(C) If utility or street improvement projects are anticipated within the same public right-of-way within 12 months of a Permittee's proposed construction, the City may permit interim installation of above-ground facilities. In the event that the City does not require the undergrounding of such facilities at the time of initial installation, the City may, at any time in the future, require the conversion of such above-ground and/or aerial facilities to underground installation at the carrier, utility, or other person's expense, with exceptions as set forth in RCW 35.99.060(d).

(D) The City must allow new electric power lines and cables operating above 15,000 volts to be constructed above-ground when location within the City right-of-way is approved by the City Engineer.

(E) Whenever a service provider or public utility undertakes an undergrounding project in any area of the City, it must underground their above-ground facilities in the manner specified by the City, concurrently and together with the other affected carriers, utilities, and other persons in the affected area. The location of any such relocated and underground facilities must be approved by the Council. Such service provider must underground their facilities at no cost to the City, except as provided in RCW 35.99.060(d).

(F) In the event that the City undertakes any public improvement which would otherwise require, in the discretion of the Council, the relocation of carrier, utility, or other person's above-ground facilities, the Council may, by written notice to such persons, direct that any such facilities be converted to underground facilities. Any such conversion must be done subject to and in accordance with applicable schedules and tariffs on file with the WUTC or such other regulatory agency having jurisdiction.

5.38.390 Joint trenching.

Recognizing that trenching and excavation within public right-of-way can significantly degrade the quality and longevity of street surfacing and seriously inconvenience the public, all Permittees must afford other wireless carriers, public utilities, and the City an opportunity to share in the use of their excavations and trenches within public right-of-way. In the event that the City, a wireless carrier, or a public utility desires to share in a Permittee's excavation, it must provide a written request to do so. Joint use of excavations are subject to the following conditions:

(A) Such joint use may not unreasonably delay the work of the party causing the excavation to be made;

(B) Any party desiring to share in an excavation may be required to pay the fair and reasonable pro rata cost of said excavation. Such joint use must be arranged and accomplished on terms and conditions satisfactory to both parties; and

(C) Either party may deny such request for safety reasons.

5.38.400 Notice of tariff changes.

A Permittee must, when making application for any changes in tariffs affecting the provisions of this chapter or any approval issued hereunder, notify the City in writing of the application and provide the Council with a copy of the submitted application. The Permittees must further provide the Council with a copy of any actual approved tariff change affecting any approval issued pursuant to this chapter.

5.38.410 One-call locator.

All carriers, utilities, Permittees, and other persons must, before commencing any construction within a public right-of-way, comply with all of the requirements set forth in Chapter 19.122 RCW, the one-call locator service.

5.38.420 Violation – Penalties.

(A) No person may violate or fail to comply with this chapter.

(B) A violation of or failure to comply with any provision of this chapter is a civil infraction subject to the enforcement provisions of Chapter 1.24 AMC.

(C) A violation or failure to comply with any provision of this chapter, including any order of the Council authorized by this chapter, is, in addition to any other remedies, grounds for the Council to revoke the underlying permit issued to the Permittee, if any, and grounds for the denial of any additional permits under this chapter until the Permittee is in full compliance with the provisions of this chapter.

(D) Violation of a stop-work order issued pursuant to AMC XX.XX.250 or 260 constitutes a gross misdemeanor, punishable by not more than 90 days in jail and a fine not exceeding \$1,000, or both.



Planning Commission SPECIAL Meeting Minutes for January 3, 2019

This is not a verbatim transcript of the meeting and is written in an attempt to capture the general spirit of the discussion based upon notes and video observation by the author. To view the video recording of this meeting, click [here](https://www.anacorteswa.gov/700/Watch-Meetings), or go to <https://www.anacorteswa.gov/700/Watch-Meetings>.

Chair McNett called the Special Meeting of January 3, 2019 to order at approximately 3:00 p.m.

Roll Call

Members Present: Commissioners MacKenzie, McNett, Cleland-McGrath, Mount and Doll

Absent: Commissioners Moffitt and Graf

Minutes

No Minutes were presented

Correspondence

None

New Business

Public Meeting – Public Meeting with Planning Commissioners, Stakeholders and Staff – Wireless Telecommunications Draft Regulations

Ms. Darcy Swetnam, City Attorney, introduced the first draft of the wireless telecommunication regulations within the City of Anacortes. Ms. Swetnam provided a brief review on the changes to the regulations for wireless telecommunication including the need to updates due to new technology such as small cell deployment and updates in state and federal laws. In August 2017, Council adopted Ordinance 3010 which placed a moratorium on new applications for telecommunication facilities and franchise agreements within the City, with an additional extension that was set to expire February 2019. City staff has been working on the new regulations with outside counsel from the Foster Pepper law firm to develop the new sections of code. Ms. Swetnam then invited Ms. Tacy Hass, Foster Pepper, to present more detail on the draft regulations.

Ms. Hass provided an overview of the two draft sections that consist of wireless services facilities and the public utilities and telecommunications right of way use chapter. Ms. Hass compared the wireless service facility permit process to a zoning permit process and provided what type of facility is allowed within different zones with 2 different types of permits – a wireless service facilities permit and a conditional wireless use permit. Ms. Hass included that the application processes take into account the differentiation between complex and simple facilities and streamline requirements in the applications in consideration of timelines for review and provide visibility and performance standards.

Chair McNett then offered the floor to members of the audience for their input and questions.

Ms. Lila Vaga, Network Engineer, Verizon Wireless, discussed concerns relating to eligible facilities requests, small wireless facilities and macro facilities and their differences, co-location definitions. Ms. Vega also suggested a few language changes to more closely mirror the federal regulations and pointed out that some middle requirements such as landscape plans, fencing plans, etc., are really not truly appropriate to small wireless facilities or small cells which are located in the public right of way and most often do not have ground based equipment. She also expressed concern about the CUP process being required for small wireless facilities which is generally not be something that could be accomplished in the 60-90 day approval window set out in federal law and suggested administrative review instead. Ms. Vaga provided Verizon has worked with many jurisdictions throughout the Pacific Northwest and nationally regarding small cell wireless and wireless facilities in general and offered their assistance in the development of these regulations.

Ms. Linda Atkins, Davis Wright Tremaine, Seattle, WA, representing T-Mobile. Ms. Atkins provided their concerns include how the different types of facilities that have different federal legal requirements and different processing requirements have been lumped into one process. Ms. Atkins believes it would be very helpful to have a separate process for small wireless facilities which is what most jurisdictions around Puget Sound are following as they update their codes. Ms. Atkins provided some examples of concerns such as there is no provisions for batching small wireless facility permits. Batching is a more efficient way of deploying small wireless facilities at one time. Also, there is concern regarding prohibited locations such as in the Central Business District because the whole purpose of small cells is to provide additional capacity in areas where there is a lot of demand for data. This is typically your downtown areas and we have been finding over the last year most jurisdictions have been able to find a way to incorporate the ability to locate small wireless facilities in downtown areas in a way that is sensitive to the community need for aesthetics.

A representative of Crowne Castle, an infrastructure management company, echoed similar concerns of the previous stakeholders and specifically the opportunity or lack thereof to contribute as a stakeholder in some of the provisions of this ordinance and hope that some of the comments brought forth today will be considered heavily and perhaps even a greater opportunity for some red line comments to go into the draft. The application requirements, replacement as opposed to new technology and the requirement for photo simulations, landscape requirements, were among the concerns presented.

Amelia McNamara of Crowne Castle, expressed concerns about the permitting process.

Patrick Gallagher, 1406 Portallis Court, Anacortes, discussed multiple entities using the poles and the clutter on the landscape and whether these procedures would be followed by the City as it rolls out the fiber network.

Commissioners asked for clarification to understand better the difference between the normal cell towers and coverage provided by those and the newer technologies, spacing of clusters to address densities, placing utilities in vaults, on rooftops, aesthetic issues, whether the regulations have been written to accommodate changing regulations and continuous technology updates, how this will work with the City's installation of the new fiber network, among other discussions. Commissioners also discussed locations of equipment in various sites in residential, industrial, medical and commercial zones, the differences between monopoles and street poles.

Commissioner Doll asked for clarification on what adverse impacts may be when locating wireless services. Ms. Swetnam provided the intent of that is to maintain a balance within the community such as keeping the aesthetics of a neighborhood as intended.

Chair McNett called the meeting to a close at approximately 4:30 p.m.

To view materials related to the Draft Regulations for Wireless Telecommunications, click [here](https://www.anacorteswa.gov/1022/Wireless-Code-Update), or go to <https://www.anacorteswa.gov/1022/Wireless-Code-Update>.



Planning Commission Public Hearing Minutes for January 16, 2019

This is not a verbatim transcript of the meeting and is written in an attempt to capture the general spirit of the discussion based upon notes and video observation by the author. To view the video recording of this meeting, click [here](https://www.anacorteswa.gov/700/Watch-Meetings), or go to <https://www.anacorteswa.gov/700/Watch-Meetings>.

Chair McNett called the Public Hearing of January 16, 2019 to order at approximately 5:00 p.m.

Roll Call

Members Present: Commissioners Moffitt, MacKenzie, Graf, McNett, and Cleland-McGrath

Absent: Commissioners Mount and Doll

Minutes

No Minutes were presented

New Business

Public Hearing – Public Hearing Wireless Telecommunications Draft Regulations

Chair McNett opened the public hearing on the Wireless Telecommunications Draft Regulations.

Mr. Allen Barber, Verizon Wireless, 3245 158th Avenue SE, Bellevue, WA. Mr. Barber expressed some concerns including the provisions in the Ordinance chapter 19.68.30 and the definition around co-location, keeping in alignment with the federal law or the needs of the technology, the land use process to permit which he feels doesn't allow for the shot clocks of 60 and 90 days, and screening requirements.

Commissioner Graf questioned using history to predict what the impact is going to be on a permitting process as the current technology will be different from the new technology and believes the new regulations will cause more applications coming through to City staff. Commissioner Graf asked how this process and requirements compare to other communities.

Ms. Tacy Hass, Foster, Pepper, provided input on how a facility would be installed on a new pole in the right of way. New construction would require 3 permits which would include a construction permit. Ms. Hass provided that the code is geared towards encouraging co-location, although it is not always feasible to place more than one facility on the utility pole. That may be one of the challenges the City is going to face.

Ms. Hass provided in response to questions regarding overwhelming the planning department with numerous applications that we only allowed batching of up to 5 small cell facilities at one time just because the federal regulation does take into account the fact that while there is presumptions, if a city cannot reasonably review all the applications within a timeframe then there is some leeway.

Mr. Measamer, Director of Planning, Community and Economic Development, provided there have been maybe 5 applications over the past few years and that the industry has been really good about contacting and working with the City in advance so we can be prepared. These processes get more complicated in areas such as Skyline or other newer developments where facilities are underground and we are looking at potentially having a mono-pole or some other type of pole in the right of way or on private property in those areas.

Ms. Darcy Swetnam, City Attorney, provided there will be several processes that the providers are going to go through. Not all process will require a master permit every time a small cell node is deployed. Once a master permit is in place, that is essentially a franchise and if they decide they want to build a small cell node in a particular neighborhood, if they are not going to be digging up roadway, they will not need a construction permit. They would have to get some type of land use permit. Ms. Hass mentioned the optional pre-application process included in the regulations is designed to help move the process along quickly. If the industry group member are worried about the time it is going to take, they can submit materials that will be helpful in their review process.

Ms. Hass provided they did review other cities and there are some different approaches. Some have more regulations so it is a mixed bag and a lot of the local aspects including aesthetics vary quite a lot from city to city. Most communities have a master permit process where they address right of way issues and then a separate land use process for the siting of the actual project. The discretion is really in the process for the individual land use applications.

Commissioner MacKenzie believes that if part of the scale and engineering standards and some infrastructure were built into the master permit application, it should simplify the individual permitting process. Commissioner MacKenzie expressed concern about the types of poles and does not feel that there is differentiation between the types of facilities and asked if he will get a big cell tower on his neighbor's property or a tiny box that will be hidden on top of the pole.

Ms. Hass provided there are three different applications – one for non-substantial change; one for small wireless facilities; and one that covers the remainder. We worked to differentiate the criteria while also keeping some consistency just in terms of making sure that even though they are technically called small wireless facilities, they can be much bigger because of the equipment surrounding them. We also are making sure that equipment still meets the visibility criteria the City wants in place. Ms. Hass added the City can consider adding more language that is technically feasible to address some of these concerns because clearly you can't really screen a small cell that is up 30 feet on a pole. But you can do other things like making sure there is landscaping around the equipment or doing stealth type camouflage and making sure that it fits into the surrounding environment.

Commissioner MacKenzie asked how to differentiate the regulations to accommodate the different areas such as Old Town where very many poles exist and the impact would be lesser than compared to Skyline where there are few poles where the impact would be much greater.

Ms. Hass responded that is the reason for the 2 processes and they are determined by area as opposed to the type of facility.

Commissioner Cleland-McGrath expressed concern over installing poles in neighborhoods that have been developed to create beautiful views. Ms. Hass provided this will be an issue for the City to work with in the future but that she has not specifically seen any issues regarding this.

Chair McNett asked about the conditional use process and timelines and shot clocks; how will the City handle the deadlines. Will the hearing examiner drop everything to make sure the issues can be addressed right away or is the City considering eliminating the conditional use process based on recategorizing what fits in what box. Ms. Swetnam provided it is the City's intent to make the shot clock timelines and be able to work through the processes within those timelines and added that if the Planning Commission believes it is not the right fit for Anacortes, they could provide that recommendation to City Council.

Chair McNett reviewed the conditional use process and requested clarification as to whether the clock stops when an application is received and reviewed, during the comment period and while waiting for the applicant to respond. Ms. Swetnam provided that is correct although the clock does not stop during the public comment period.

Commissioner Moffitt asked how competing needs of multiple providers will be met for co-locations on a single pole. Ms. Swetnam provided that whoever applies for something first probably has the opportunity to use that pole, but recalled from the previous meeting when the Verizon rep indicated this was probably unlikely because of how these small cells are deployed right now.

Commissioner Cleland-McGrath asked in regard to long-term planning where there are no poles. Mr. Barber provided that a strategy that works in some cities is utilizing street lights. If there is no lighting then it is more of a challenge and you have to go with slim-line poles, small antennas to minimize the initial impact. Commissioner Cleland-McGrath asked if we have the verbiage in the regulations that says if there is not a pole that we encourage a light pole to be installed for these kinds of boxes.

Ms. Swetnam provided it is not currently included but the approach utilized through the application process gives the director some discretion. If it is a CUP process, the decision makers have some discretion to work with the applicant to try to make it visually appealing.

Mr. Bruce McDougal, Anacortes City Council Sysco Systems. Mr. McDougal asked for some clarification on density increases in the transition from 4G to 5G and whether they will be the same with no additional radios or equipment in the transition. Mr. Barber provided it would be significantly denser. Mr. McDougal and Mr. Barber discussed the differences in density on light poles of different heights and how many large cell poles in a town the size of Anacortes would need.

Commissioner MacKenzie asked if the master use permit included as much of the technical requirements as possible, would that alleviate some of the time crunches when processing the smaller permits that come along. He also asked how hard is it to modify a master use permit if the technology or hardware changes after they have been preapproved. Ms. Hass referred back to a previous discussion regarding the master use permit and that only one is required which allows use in the right of way; changes would really only occur if they are building something new in the right of way or constructing something new.

Ms. Swetnam provided she understands the concerns to create a more streamlined process and that is something that staff can discuss and see if that is possible. She added the challenge with that is we know that each of the providers has slightly different technology; they want to do different things and so it is really hard for us to anticipate in a master permit all of the types of applications that they are going to want to submit. If the carriers are going to put an application on top of an existing light pole or power pole, that is a very different request than putting in a new pole. Having a separate wireless service facility permit or CUP allows us to readdress the conditions and whether that specific project meets them, without having to anticipate. We want this to be a code that is robust enough that as the technology changes, we can roll with it instead of having to rewrite it and the concern would be that if we were overly prescriptive in a master permit process, we might be locking ourselves into a moment in time in terms of the technology.

Commissioner MacKenzie asked if there is a way to streamline the land use process. Ms. Hass provided that the goal is to balance both – deployment of these new facilities with preserving the historic and residential quality of neighborhoods. That is why there is the CUP versus a more streamlined administrative process.

Chair McNett believes it makes sense to process these administratively and the biggest concerns are the aesthetic impact in neighborhoods and streamlining the process. Chair McNett also shared that a major concern are the macro towers.

Commissioner Graf presented he is not fully convinced that we do not have an overly restrictive application process.

Mr. Measamer provided that we have a good starting point regarding the number of applications, types of applications, etc. Once an ordinance is approved by the City Council and we start working through the administration processes and various applications, if issues arise that need attention, we will come back to the Planning Commission and City Council with some recommended changes that might help everybody through the process.

With no further public comment, Chair McNett announced the public hearing will be continued to January 30, 2015 at 5 p.m. and closed the hearing at approximately 6 p.m.

To view materials related to the Draft Regulations for Wireless Telecommunications, click [here](https://www.anacorteswa.gov/1022/Wireless-Code-Update), or go to <https://www.anacorteswa.gov/1022/Wireless-Code-Update>.

From: [Swetnam, Darcy](#)
To: [Grage, Libby](#)
Subject: FW: Anacortes Wireless Update - Verizon Redlines
Date: Tuesday, January 8, 2019 1:17:26 PM

From: Vaga, Lelah H <lelah.vaga@verizonwireless.com>
Sent: Friday, January 4, 2019 3:42 PM
To: Swetnam, Darcy <darcys@cityofanacortes.org>
Cc: Devendra Maharaj <devendra.maharaj@verizonwireless.com>; Kim Allen <kim.allen@wirelesspolicy.com>
Subject: Fwd: Anacortes Wireless Update - Verizon Redlines

for some reason, this did not go out on my first attempt. Here it is again.

Hello Darcy - Thank you for the opportunity to address the planning commission yesterday. As requested, I am including our detailed redline of the proposed code here. The draft code moves generally in the right direction but has some technical and structural challenges for small wireless facilities that we would like to have an opportunity to discuss in detail with staff prior to the public meeting on 1/16/2019. We have found that more informal meetings with city staff, wireless industry representatives, and representatives of the local utilities can often help when resolving these issues. If you are interested in coordinating a meeting of that nature, we would be happy to assist.

The primary concerns that we have with the code are as follows:

- Sections 19.68.030-080--The code uses the Eligible Facilities Request process for the permitting of Small Wireless Facilities in the ROW, even though the federal rules and definitions are very different for these two types of wireless facilities. We would like to meet with staff and the consultants to propose separating the processes, standards, and submittal requirements for EFR's, SWF's and macros. Each type of facility has different aesthetic impacts and should be addressed separately to avoid confusion.
- We propose a definition of collocation that addresses the fact that there are different federal definitions of collocation for SWF's and EFR's.
- Sections 19.68.060-070--We suggest using the substantial change language from the Code of Federal Regulations for definitions and processes for EFR's.
- Section 19.68.080--Some of the submittal requirements like landscape plans and fencing plans do not work with SWF's in the ROW, which is why we would like to put these facilities in a separate section.
- Section 19.68.170-- We are concerned that the CUP process is required for some SWF's, which would make approval within the 60/90 day shot clocks from the recent FCC Order very problematic. Suggest administrative review for all SWF applications in all zones.
- Section 19.68.180-The limitation on equipment cabinet size to 5 CF with no side longer than 3 feet is unworkable and does not align with the FCC Order allowing a maximum of 28 cubic feet on the pole.

- The new chapter on Master Permit/Construction permit applications requires city council approval, which is not logistically feasible within the 60/90 day shot clocks. Suggest making these all administrative processes.
- With the holidays ensuing since we received the draft code, there has not been an opportunity to have internal risk management comment on the insurance and indemnity provisions proposed. Verizon will propose a self-insurance option.
- We understand that updates to the wireless code involve a lot of technical detail to make the code work for providers and the city. The goal is to work in partnership to develop a durable and efficient process to bring the enhanced service and coverage your residents and businesses need, while retaining the community's aesthetic values.

You had also asked about cities that have recently passed codes that work well. There has been a great deal of activity. As I had mentioned yesterday, Ogden Murphy Wallace has been leading the effort in many cities in Washington with regard to Wireless Codes. They were the lead firm in the Consortium of Washington Cities that formed a few years ago to research Small Cell wireless. Elana Zana and Scott Snyder lead those efforts and both are wonderful resources for more information. As to specific jurisdictions that have recently passed codes, Kennewick comes to mind as the most recent code passed to my knowledge, and as one of the few that are fully compliant with the most recent FCC order. Federal Way also passed an updated code this week, but it is an interim ordinance. Mount Lake Terrace is working through a code change process now for their permanent wireless code, and the drafts of that code that we have reviewed are also fully compliant with the current Federal Law.

Please let me know if we can be of any further assistance.

Lelah Vaga
Senior Manager of Municipal Engagement
Verizon Wireless
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lelah.vaga@verizonwireless.com

Chapter 19.68
WIRELESS SERVICE FACILITIES

Sections:

- 19.68.010 Purpose.
- 19.68.020 Applicability.
- 19.68.030 Definitions.
- 19.68.040 Permit required.
- 19.68.050 Substantial Change.
- 19.68.060 Non-substantial Change.
- 19.68.070 Optional Pre-application.
- 19.68.080 Eligible Facility Request application.
- 19.68.090 Permit application - Small Wireless Facility.
- 19.68.100 Permit application – All other Wireless Facilities.
- 19.68.110 Permit approval process.
- 19.68.120 Permit review – general criteria.
- 19.68.130 Permit review – additional criteria for conditional uses.
- 19.68.140 Completeness Review.
- 19.68.150 Timeframe for Review.
- 19.68.160 Construction.
- 19.68.170 Appeals
- 19.68.180 Prohibited locations
- 19.68.190 Permitted locations.
- 19.68.200 Visibility and performance Standards
- 19.68.210 Colocation standards
- 19.68.220 Requirements for non-Substantial Modifications.
- 19.68.230 Maintenance of facilities.
- 19.68.240 Testing of facilities required – Radio-frequency (RF) emissions.
- 19.68.250 Testing of facilities required – Noise emissions.
- 19.68.260 Security fencing.
- 19.68.270 Abandonment of facilities.
- 19.68.280 Signs.
- 19.68.290 Lighting standards.
- 19.68.300 SEPA.

19.68.010 Purpose.

The purposes of this chapter are as follows:

- (1) Establish development regulations consistent with the City's Comprehensive Plan;
- (2) Protect property values and promote tourism through protection of scenic vistas of the mountains, tree-covered hillsides, the waterfront, and tourist-related zones and areas;
- (3) Facilitate the use of public property and structures for wireless service facilities to reduce the impact of such facilities upon residential and other property;
- (4) Maintain the quality of life associated with the aesthetic character of the City's surroundings;
- (5) Provide adequate sites for locating wireless service facilities in areas where the adverse impact on the community is minimal;
- (6) Provide facilities and infrastructure to provide wireless communications service to City residents, businesses, and others when in Anacortes;

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- (7) Encourage optimal colocation and sharing of new and existing facilities, and minimize the total number of towers throughout the community;
- (8) Encourage use of most appropriate technology and prompt removal of outdated or abandoned wireless service facilities;
- (9) Encourage the location of wireless service facilities upon alternative support structures;
- (10) Require that the design of wireless service facilities incorporate camouflage, disguise, screening and concealment technology so that such facilities blend into their surroundings;
- (11) Avoid the potential damage to adjacent properties from tower failure by engineering and careful siting of tower structure;
- (12) Enhance the ability of the providers of wireless services to provide such services to the community quickly, effectively, and efficiently; and
- (13) Provide a level, nondiscriminatory competitive environment and thereby encouraging increased competition among providers of functionally equivalent wireless services.

19.68.020 Applicability.

Except as otherwise provided herein, the placement of any wireless service facility at any location within the City is subject to the provisions of this chapter. The standards and process requirements of this chapter supersede all other review process and approval criteria, setback, height or landscaping requirements of this title. Except as provided herein, all wireless telecommunication service facilities must comply with the provisions of this chapter.

19.68.030. Definitions.

- (1) "Antenna" means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.
- (2) "Base station" means: a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a "Tower" or any equipment associated with a Tower.
 - (A) The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
 - (B) The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks).
 - (C) The term includes any structure other than a tower that supports or houses equipment 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 such support.
 - (D) The term does not include any structure that does not support or house equipment for wireless telecommunications services.
- (3) "Camouflage" means a palette of techniques used to disguise, hide and conceal a wireless service facility from public view by blending its appearance into elements of the visual background. The term connotes the use of paint, landscaping, building materials and artificial screens in patterns that merge with the elements in the background environment.

(4) "Colocation" for the purposes of Eligible Facilities Requests means the placement or installation of wireless facilities on existing structures that include a wireless facility or a wireless support structure, including water towers and other buildings or structures. The term includes the placement, replacement, or modification of wireless facilities within an approved equipment compound.

(5) "Colocation" for the purpose of applications to site Small Wireless Facilities and other wireless facilities, excluding Eligible Facilities Requests, means the mounting of antennas (including associated equipment such as wiring, cabling, cabinets, or backup power) on buildings, towers or other non-tower structures, ~~where there is an existing antenna on the building or structure, and where~~ One of the following criteria is met:

Commented [KA1]: The deleted language is inconsistent with the definition of colocation in the FCC Order, Para. 140.

(A) ~~Non-Visible Antennas. The new antenna is not visible from any adjacent streets or surrounding public spaces and is added in the same vicinity as a pre-existing antenna;~~

(B) ~~Visible Replacement Antennas. The new antenna is visible from adjacent streets or surrounding public spaces, provided that~~

(1) ~~It is a replacement for a pre-existing antenna;~~

(2) ~~The new antenna will be located in the same vicinity as the pre-existing antenna;~~

(3) ~~The new antenna will be visible only from adjacent streets and surrounding public spaces that also afford views of the pre-existing antenna;~~

(4) ~~The new antenna is not more than 3 feet larger in height or width (including all protuberances) than the pre-existing antenna, and~~

(5) ~~No new equipment cabinets are visible from the adjacent streets or surrounding public spaces; or~~

(C) ~~Other Visible Antennas. The new antenna is visible from adjacent streets or surrounding public spaces, provided that~~

(1) ~~It is located in the same vicinity as a pre-existing antenna;~~

(2) ~~The new antenna will be visible only from adjacent streets and surrounding public spaces that also afford views of the pre-existing antenna;~~

(3) ~~The pre-existing antenna was not deployed pursuant to the exclusion in this paragraph;~~

(4) ~~The new antenna is not more than three feet larger in height or width (including all protuberances) than the pre-existing antenna, and~~

(5) ~~No new equipment cabinets are visible from the adjacent streets or surrounding public spaces;~~

(iii) ~~The new antenna complies with all zoning conditions and historic preservation conditions applicable to existing antennas in the same vicinity that directly mitigate or prevent effects, such as camouflage or concealment requirements;~~

(iv) ~~The deployment of the new antenna involves no new ground disturbance; and~~

(v) ~~The deployment would otherwise require the preparation of an Environmental Assessment under Federal law solely because of the age of the structure.~~

(6) "Director" means the Director of Planning, Community, and Economic Development.

(7) "Electrical transmission tower" means a structure that physically supports high voltage overhead power lines. The term does not include a utility pole.

(8) "Eligible Facilities Request" or "EFR". Any request for modification of an existing tower or base station that does not substantially change the physical dimension of such tower or base station, involving:

(i) Colocation of new transmission equipment;

(ii) Removal of transmission equipment; or

(iii) Replacement of transmission equipment.

(9) "Eligible Support Structure." Any tower or base station, provided that it exists at the time the relevant EFR application is filed with the state or local government.

(10) "Equipment Cabinet" means an enclosure that is mounted above base flood elevation or placed on a concrete slab that contains improvements, personal property, and facilities to operate its wireless services including: radio receivers, transmitters, related facilities, and/or related cables and utility lines, location-based power sources, the electrical meter and any other necessary equipment.

(11) "Equipment Shelter" means an enclosed structure, shed or box at the base of a mount to store improvements, personal property, and facilities to operate its wireless services including: radio receivers, transmitters, related facilities, and/or cabinets, related cables and utility lines, location-based power sources, the electrical meter and any other necessary equipment.

(12) "Existing." Any tower or base station is existing for purposes of this chapter if it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not permitted when it was built, but was lawfully constructed, is existing for purposes of this chapter.

(13) "Facilities" means all of the towers, equipment, fixtures, antennas, equipment cabinets, equipment shelters, and other appurtenances necessary to furnish and deliver wireless services, including but not limited to utility, monopoles, and street poles with cross arms or without cross arms, wires, lines, conduits, cables, communication and signal lines and equipment, braces, guys, anchors, vaults, and all attachments, appurtenances, and appliances necessary or incidental to the distribution and use of wireless services. Facilities include "Small Wireless Facilities" as defined below.

(14) "FCC" or "Federal Communications Commission" means the federal agency, or its lawful successor, authorized to regulate and oversee wireless telecommunications carriers, services and providers.

(15) "Lattice tower" means a type of mount that is self-supporting with multiple legs and cross bracing of structural steel.

(16) "Monopole" means a type of mount that is self-supporting with a single shaft of wood, steel or concrete and a platform or racks for panel antennas arrayed at the top.

(17) "Public street" means any highway, street, road, alley or other public way for motor vehicle travel within the city and under the jurisdiction and control of the city which has been acquired, established, dedicated or devoted to street purposes.

(18) "Right(s)-of-way" means all public streets and associated 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, sidewalks, bikeways and horse trails, whether improved or unimproved, including any air rights, subsurface rights or easements related thereto.

(19) "Service provider" means every corporation, company, association, joint stock association, firm, partnership, person, city, town, or other legal entity owning, operating, or managing any facilities used to provide and providing wireless telecommunications services for hire, sale, or resale to the general public. Service provider includes the legal successor to any such corporation, company, association, joint stock association, firm, partnership, person, city, town, or other legal entity.

(20) "Site" means the current boundaries of the leased or owned property surrounding the facility and any access or utility easements currently related to the site, and for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.

(21) "Small Wireless Facility" encompasses facilities that meet the following conditions:

(A) The facilities—

- (1) are mounted on structures 50 feet or less in height including their antennas,
- (2) are mounted on structures no more than 10 percent taller than other adjacent structures, or
- (3) 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;

(B) Each antenna associated with the deployment, excluding associated antenna equipment, is no more than three cubic feet in volume;

(C) 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;

(D) The facilities do not require antenna structure registration under Federal law;

(E) The facilities are not located on Tribal lands, means all lands within the exterior boundaries of any Indian reservation and all dependent Indian communities; and

(F) The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified under Federal law pertaining to wireless facilities.

(22) "Stealththing" means designing facilities to be architecturally incorporated into the surrounding community's environs while minimizing aesthetic impacts. Examples of stealththing include, but are not limited to, steeples, windmills, water towers, flag poles, light poles, or chimneys.

(23) Substantial Change" means a modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

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

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

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

It entails any excavation or deployment outside the current site;

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

It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment; provided, however, that this limitation does not apply to any modification that is noncompliant only in a manner that would not exceed the thresholds identified in subsections (g)(i) through (iv) of this section.

(24) "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

(25) "Transmission equipment" means equipment that disseminates information by wire, radio, optic cable, electromagnetic, or similar means for any FCC-licensed or authorized wireless telecommunication service,

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Chapter 19.68 WIRELESS SERVICE FACILITIES

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 telecommunications 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.

- (26) "Wireless telecommunications service" or "wireless service" means the transmission of information by wire, radio, optic cable, electromagnetic, or 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, wireless telecommunications service excludes the over-the-air transmission of broadcast television or broadcast radio signals and excludes "cable services," "cable communications systems" and "CATV systems" as defined in Chapter 5.44.
- (27) "Tower" means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio, and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.
- (28) "Utility pole" means a pole privately owned or installed by a utility company for the purpose of electrical transmission.
- (29) "Wireless" means communications using radio frequency or optical emissions to complete one or more communications paths in whole or in part among originating and receiving points without other tangible physical connection, including without limitation, radio and unguided optical waves, and the apparatus used for such transmission.
- (30) "Wireless support structure" means a freestanding structure that is designed to support or is capable of supporting wireless facilities. The term does not include a utility pole, monopole, street pole, or tower.

19.68.040 Permit required.

(A) New Facilities. A wireless service facility (WSF) permit or wireless conditional wireless use permit (WCUP) is required prior to the site preparation, construction, or installation of any new wireless service facility. The permit required in each zone is specified in AMC 19.68.

(B) Colocating Facilities. A wireless service facility (WSF) permit or conditional wireless use permit (WCUP) is required in every zone prior to the colocation of any wireless service facility and is required for modifications that qualify as a Substantial Change. Colocations involving modifications under subsection (C) below are exempt from this requirement.

(C) Non-Substantial Change. A modification to an existing facility that involves the addition, removal, and/or replacement of transmission equipment that meets the criteria for a Non-Substantial Change as set forth in 19.68.060 must submit an Eligible Facility Request application. A WSF or WCUP will not be required for these types of modifications.

(D) Substantial Change. A modification to an existing facility that involves the addition, removal, and/or replacement of transmission equipment that is a Substantial Modification as defined in 19.68.050 is subject to the requirements for new facilities or colocations as applicable.

(E) No wireless service facility permit may be issued under this chapter unless the applicant demonstrates compliance with the terms, conditions and performance standards set forth in this chapter. Any WCUP must also meet the criteria for said use permits set forth in Section 19.68.130.

19.68.050. Substantial Change.

Commented [KA2]: Moved to definitions.

(A) "Substantial Change" for purposes of this Chapter means a modification to an existing facility that meets any of the following criteria:

Criteria 1:

(1) For towers outside of public rights of way, if the modification increases the height of the tower by the greater of: (i) more than 10%, or (ii) by the height of one additional antenna array, with separation from the nearest existing antenna not to exceed twenty feet; or

(2) For those towers in the rights of way and for all base stations, if the modification it increases the height of the tower or base station by the greater of: (i) 10% or (ii) 10 feet.

Criteria 2:

(1) For towers outside of public rights of way, if the modification involves adding an appurtenance to the body of the tower that protrudes from the edge of the tower the greater of: (i) 20 feet, or (ii) the width of the tower structure at the level of the appurtenance; or

(2) For other eligible support structures, if the modification protrudes from the edge of the structure more than 6 feet;

Criteria 3:

(1) For any eligible wireless support structure, if the installation includes more than the standard number of new equipment cabinets, not to exceed four; or

(2) For towers in the public rights of way and base stations, if the modification 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.

Criterion 4:

For any eligible support structure, if the modification entails any excavation or deployment outside the current site;

Criterion 5:

For any eligible support structure, if the modification defeats the existing concealment elements of the tower, base station, or any other wireless support structure.

Criterion 6:

For any eligible support structure, if the modification violates any of the conditions of approval (besides—modification allowed under criteria #1-5 associated with prior approval(s)).

19.68.060 Non-Substantial Change.

Commented [KA3]: Covered by definitions.

(A) "Non-substantial Change" means a modification that meets all of the following criteria:

Criteria 1:

(1) For towers outside of public rights-of-way, if the modification does not increase the height of the tower by the greater of: (i) more than 10%, or (ii) by the height of one additional antenna array, with separation from the nearest existing antenna not to exceed twenty feet; or

(2) For those towers in the rights-of-way and for all base stations, if the modification does not increase the height of the tower or base station by the lesser of: (i) 10% or (ii) 10 feet.

Criteria 2:

(1) For towers outside of public rights-of-way, if the modification does not protrude from the edge of the tower by the greater of: (i) 20 feet, or (ii) the width of the tower structure at the level of the appurtenance; or

(2) For those towers in the rights-of-way and for all base stations, if the modification does not protrude from the edge of the structure more than 6 feet;

Criteria 3:

(1) For any eligible support structure, if the installation includes new equipment cabinets, the modification does not include the installation of more than 4 equipment cabinets; or

(2) For towers in the public rights-of-way and base stations, if the modification does not involve the installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the tower, and does not involve the installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the tower.

Criterion 4:

For any eligible support structure, if the modification does not entail any excavation or deployment outside the current site

Criterion 5:

For any eligible support structure, if the modification does not defeat the existing concealment elements of the tower or base station or other wireless support structure.

Criterion 6:

For any eligible support structure, if the modification does not violate any of the conditions of approval (besides—modification allowed under criteria #1-5 associated with prior approval(s)).

19.68.070. Optional Pre-application.

An optional pre-application may be submitted up to thirty (30) days prior to the submission of an Eligible Facilities Request application, or a permit application associated with a Small Wireless Facility or other wireless facility. The information submitted along with a pre-application may include the following information:

- (1) The name and address of the applicant;
- (2) Identification of all carriers using the facility;
- (3) The type of facility proposed;
- (4) If the applicant is not the owner or person in control of the eligible support structure or site, an attestation that the owner or person in control of the eligible support structure and/or site has consented to the proposed facility modification. If the eligible support structure is to be located within a public right-of-way, the applicant must also attest that the applicant has authorization to install, maintain, and operate transmission equipment in, under and above the public right-of-way.
- (5) A stamped report by a state of Washington registered professional engineer demonstrating compliance with existing structural, electrical, and safety codes, and describing the general structural capacity of the eligible facility, small wireless facility, or other wireless facility.
- (6) Detailed site plan and drawings.
- (7) Dimensioned elevation drawings of the existing tower or structure showing the existing and proposed antennas, and equipment structures (at 1/8" = 1' or comparable scale).
- (8) Copies of the land use or building permit approval that authorized the original installation of the tower or wireless facilities on the structure;
- (9) If new equipment cabinets, generators, or any other ground equipment components are being proposed, an assessment of noise that shows compliance with City and/or Federal noise standards.
- (10) A description of compliance with the applicable visibility and performance standards set forth in section 19.68.200.
- (11) A stamped report by a state of Washington registered professional engineer demonstrating compliance with radio-frequency emissions standards.

19.68.080. Eligible Facilities Request applications.

(A) For the purposes of this section, a complete application includes:

- (1) The name and address of the applicant;
- (2) Identification of all carriers using the facility;
- (3) An assertion that the proposed facilities modification is subject to review under Section 6409 of the Spectrum Act.
- (4) If the applicant is not the owner or person in control of the eligible support structure or site, an attestation that the owner or person in control of the eligible support structure and/or site has consented to the proposed facility modification. If the eligible support structure is to be located within a public right-of-way, the applicant must also attest that the applicant has authorization to install, maintain, and operate transmission equipment in, under and above the public right-of-way.

(5) If the proposed modification will alter the exterior dimensions or appearance of the eligible support structure, the applicant shall include a detailed visual simulation depicting how the eligible support structure will appear after the proposed modification is complete, and particularly, how concealment or stealth will be extended with the modification. The visual simulation shall depict to scale the eligible support structure in relation to the trees, landscaping and other structures adjacent to, or in the immediate vicinity of, the eligible support structure.

(6) If the applicant proposes a modification to a tower, a stamped report by a state of Washington registered professional engineer demonstrating that the proposed modifications will comply with existing structural, electrical, and safety codes, and describing the general structural capacity of the tower with the proposed modification.

(7) If the applicant proposes a modification to a base station, a stamped report by a state of Washington registered professional engineer demonstrating that the proposed modifications will comply with existing structural, electrical, and safety codes.

(8) If the applicant proposes a modification requiring alteration to the eligible support structure, excavation, installation of new equipment cabinets, or other activities impacting or altering the land, existing structures, fencing or landscaping, the applicant must submit a detailed site plan and drawings, showing the point of true north, and an appropriate scale depicting:

- (i) the location, elevation, and dimensions of the existing eligible support structure;
- (ii) the location, elevation, and dimensions of the existing transmission equipment;
- (iii) the location, elevation and dimensions of the transmission equipment, if any, proposed to be collocated or that will replace existing transmission equipment;
- (iv) the location, elevation and dimensions of any proposed new equipment cabinets and the intended use of each;
- (v) any proposed modification to the eligible support structure;
- (vi) the location of existing structures on the site, including fencing, screening, trees, and other significant site features; and
- (vii) the location of any areas where excavation is proposed showing the elevations, depths, and width of the proposed excavation and materials and dimensions of the equipment to be placed in the area excavated.

(9) If excavation or deployment is proposed outside the current site of the tower or base station, a description of the boundaries of the site together with a scale drawing based on an accurate traverse, with angular and lineal dimensions showing the tower or base station with respect to the site. The city may require a survey by a land surveyor licensed in the state of Washington when, in the judgment of the approval authority, a survey is reasonably necessary to verify the boundaries of the site.

(10) If the applicant proposes a modification that will protrude from the edge of a non-tower eligible support structure, record drawings, as-built plans, or the equivalent, showing at a minimum the edge of the eligible support structure at the location of the proposed modification.

(11) Copies of the land use or building permit approval that authorized the original installation of the tower or wireless facilities on the structure;

(12) If new equipment cabinets, generators, or any other ground equipment components are being proposed, an assessment of noise that shows compliance with City and/or Federal noise standards.

(13) A stamped report by a state of Washington registered professional engineer demonstrating compliance with Federal radio-frequency emissions standards for wireless facilities.

(B) Waiver of Submittal Requirement. The approval authority may waive any submittal requirement upon determination that the required submittal, or part thereof, is not reasonably related to the substantial change criteria. A waiver, to be effective, must be in writing and signed by the approval authority.

(C) Eligible facilities for review under this section include Non-Substantial Changes to the physical dimensions of the base structure or tower, involving (i) collocation of new transmission equipment; (ii) removal of transmission equipment; or (iii) replacement of transmission structure.

(D) Within the applicable timeframe for review set forth in Section 19.68.120, the City must approve the application unless it determines that the application involves a Substantial Modification. If the City determines that the application involves a Substantial Modification, the applicant must submit the appropriate Permit application required, if any, under the requirements in Section 19.68.080.

19.68.090 Permit application – Small Wireless Facility.

(A) Application. A complete application for a wireless service facility permit or ~~wireless conditional use permit~~ must include the following information and materials on a form provided by the Director. Applications for Small Wireless Facilities may be submitted in batches of applications, which may encompass up to five separate applications filed at the same time, each for one or more sites, *or* a single application covering up to five sites, unless the City agrees to a larger number based upon its capacity to review additional applications. For the purposes of this section, a complete application includes:

Commented [KA4]: The permits for a small wireless facility must be processed in 60 days for a colocation and 90 days for a new pole, including appeals. There is insufficient time for a conditional use permit process which requires notice and hearing.

(1) The name and address of the applicant;

(2) Identification of all carriers using the facility;

(3) If the applicant is not the owner or person in control of the eligible support structure or site, an attestation that the owner or person in control of the eligible support structure and/or site has consented to the proposed facility modification. If the eligible support structure is to be located within a public right-of-way, the applicant must also attest that the applicant has authorization to install, maintain, and operate transmission equipment in, under and above the public right-of-way.

(4) A stamped report by a state of Washington registered professional engineer demonstrating compliance with existing structural, electrical, and safety codes, and describing the general structural capacity of the new small wireless facility or the facility upon which the small wireless facility is to be colocated.

(5) A description of compliance with: the applicable visibility and performance standards set forth in section 19.68.200. This includes, but is not limited to:

(a) A scaled Site plan clearly indicating the location, type and height of the proposed facility, or colocation, on-site land uses and zoning, adjacent land uses and zoning, comprehensive plan classification of the Site, proposed means of access, setbacks from property lines, spacing between tower(s) and other wireless facilities, elevation drawings of the proposed tower and any other structures, topography of the site, and proposed parking;

(b) If the proposed Small Wireless Facility siting involves a colocation that will alter the exterior dimensions or appearance of an existing facility, applicant shall include a detailed visual simulation depicting how the existing facility will appear after the proposed modification is complete, and particularly, how concealment or stealth will be extended, if applicable. The visual simulation shall depict to scale the existing facility with any colocation in relation to the trees, landscaping and other structures adjacent to, or in the immediate vicinity of, the eligible support structure.

(c) Legal description of the parent tract and leased parcel (if applicable);

(d) If new equipment cabinets, generators, or any other ground equipment components are being proposed:

(i) an assessment of noise that shows compliance with City and/or Federal noise standards;

(ii) a description of the method of concealment of equipment components, such as: whether such components will be located within an existing building, within an architecturally compatible addition to an existing building, or within a new building which is architecturally compatible with other buildings on the site and adjoining properties; located underground; or within an equipment cabinet or shelter;

(iii) if equipment is proposed to be concealed within an equipment cabinet or shelter that will be located above ground, a description of the landscaping and screening.

(e) Any engineering report(s) required to show feasibility of meeting the applicable criteria in this section as applicable;

(6) A stamped report by a state of Washington registered professional engineer or an assessment demonstrating compliance with Federal radio-frequency emissions standards applicable to wireless facilities.

(B) Waiver of Submittal Requirement. The approval authority may waive any submittal requirement upon determination that the required submittal, or part thereof, would materially inhibit wireless service. A waiver, to be effective, must be in writing and signed by the approval authority.

(C) Fee. Every application for a small wireless service facility permit or wireless conditional use permit must be accompanied by an application fee which will be set by the City Council in its unified fee schedule, to reimburse the City for the costs of reviewing the application, including any third-party review required by the City, and fees equal to the a reasonable approximation of the objectively reasonable costs for the attachment to or use of property owned or controlled by the City.

19.68.100 Permit application – all other Wireless Facilities.

(A) Application. A complete application for a wireless service facility permit or wireless conditional use permit for wireless facilities other than Small Wireless Facilities and Eligible Support Structures or EFRs must include the following information and materials on a form provided by the Director. For the purposes of this section, a complete application includes:

(1) The name and address of the applicant;

(2) Identification of all carriers using the facility;

(3) If the applicant is not the owner or person in control of the eligible support structure or site, an attestation that the owner or person in control of the eligible support structure and/or site has consented to the proposed facility modification. If the eligible support structure is to be located within a public right-of-way, the applicant must also attest that the applicant has authorization to install, maintain, and operate transmission equipment in, under and above the public right-of-way.

(4) A description of compliance with: the applicable visibility and performance standards set forth in section 19.68.200. This includes, but is not limited to:

(a) A scaled Site plan clearly indicating the location, type and height of the proposed facility, or colocation, on-site land uses and zoning, adjacent land uses and zoning, comprehensive plan classification of the Site, proposed means of access, setbacks from property lines, spacing between tower(s) and other structures, elevation drawings of the proposed tower and any other structures, topography of the site, and proposed parking;

(b) Legal description of the parent tract and leased parcel;

(c) A landscape plan showing specific landscape materials;

(d) Method of fencing, the finished color and/or the method of camouflage and illumination.

(5) A description of compliance with the additional requirements in this Chapter for collocating and/or for conditional uses, if applicable.

(6) If new equipment cabinets, generators, or any other ground equipment components are being proposed:(i) an assessment of noise that shows compliance with City and/or Federal noise standards.

(7) A stamped report by a state of Washington registered professional engineer demonstrating compliance with radio-frequency emissions standards as set forth in Section 19.68.240.

(B) New facilities. In addition to the application materials delineated in subsection (A) above, an application for a new wireless facility must provide:

(1) A notarized statement by the applicant as to whether construction of a new facility will accommodate colocating of additional antennas for future users.

(2) An explanation of how the proposed new facility at the proposed location is necessary to do one of the following: fill a significant gap in service, to introduce new services, to densify a network, or to otherwise improve service capabilities.

(3) A description of the suitability of the use of existing facilities, including towers or other structures to provide the services to be provided through the use of the proposed new facility.

(4) Any other engineering report(s) required to show feasibility of meeting the applicable criteria in subsections (A) and/or (B) as applicable;

(C) Third Party Review. The City may require the applicant to submit its materials to a third-party for review, as may be reasonably necessary to determine compliance with this Chapter, such as an engineer or architect, by way of example only.

(D) Fee. Every application for a wireless service facility permit or wireless conditional use permit must be accompanied by an application fee which will be set by the City Council in its unified fee schedule, to reimburse the City for the costs of reviewing the application, including any third-party review required by the City, and fees equal to the a reasonable approximation of the objectively reasonable costs for the attachment to or use of property owned or controlled by the City.

19.68.110 Permit approval process.

(A) Wireless service facility permit (WSF). The review process for wireless service facility permit applications is that for a Type 1 (Administrative Ministerial Action) as delineated in Section 19.20.030 AMC.

(B) Wireless conditional use permit (WCUP). The review process for wireless conditional use permit applications is that for a Type 3-HE review, delineated in Section 19.20.030 AMC. The criteria for a conditional use permit as set forth in other provisions of the City's code does not apply.

(C) This permit approval process does not apply to Eligible Facility Requests.

19.68.120 Permit review - general criteria.

(A) In evaluating a permit application under this Chapter, the decision-maker must examine the following criteria:

(1) Whether all requisite licenses, certificates, and authorizations from applicable Federal, State, and local agencies have been obtained by the applicant;

(2) Whether the applicant has shown that its proposed facility or colocation meets the standards and criteria set forth in this Chapter, including the visibility and performance criteria set forth in Section 19.68.200;

(3) Whether the applicant has shown that its proposed facility meets any additional requirements in this Chapter for colocating and/or conditional uses, if applicable.

~~(B) For a new wireless facility or a new Small Wireless Facility, whether it is necessary to fill a significant gap in service, to introduce new services, to densify a network, or to otherwise improve service capabilities.~~

(C) Decision. After considering all information submitted, and the record on file and from any hearing, the decision-maker will decide whether to grant, deny, or grant the permit with conditions, and must issue a written decision containing findings of fact supported by substantial evidence, based on the criteria above.

(D) Issued permit. Any wireless service facility permit that is issued under this Chapter must contain the location, nature, and extent of approved use, together with all conditions that are imposed. A copy of the permit will be kept

Commented [KA5]: The FCC Order, which took effect 1/14/2019, specifically provides at Paras. 35-37 that a demonstration of need is not required.

on file and reviewed annually by the administering City official. If, at any time, the use no longer complies with the stated conditions, the owner will be declared in violation of this chapter.

19.68.130 Permit review - supplemental criteria for conditional uses.

(A) In addition to the general criteria for approval uses set forth in this Chapter, the following criteria apply to all permits denominated as conditional uses:

(1) The applicant must demonstrate that visual, noise, and other impacts associated with the proposed facility have been minimized to the maximum extent possible using existing concealment technology, site design, noise abatement techniques, concealment, disguise, camouflage, and/or the use of architecturally compatible improvements to existing structures where permitted, and/or underground placement of ancillary equipment. In evaluating the site design, consideration will be given to whether the facility will blend into the surrounding topography, tree coverage, foliage, and other natural features and whether locating the facility in alternative locations upon the subject property, or reasonably available properties, would better conceal the facility through use of existing natural and built features;

(2) The applicant must demonstrate compatibility of the proposed structure with the height and mass of existing buildings in the area.

(2) The applicant must demonstrate that the design of the proposed facility complies with the purpose and intent of this chapter, including, but not limited to, the visibility and performance standards set forth in AMC 19.68.200 which most closely match the proposed facility;

(3) The applicant must demonstrate that alternative locations, including other colocations and alternative support structures, are not available for the proposed facility;

(4) The applicant must demonstrate that the proposed facility is not in conflict with the health and safety of the community;

(5) The applicant must demonstrate that the proposed facility will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts on such facilities.

(B) In evaluating any proposed wireless service facility denominated as a conditional use, the Director may, at the expense of the applicant, retain an outside consultant to review the technical, design and other materials submitted by the applicant in conjunction with the proposal.

19.68.140 Completeness review.

(A) Completeness Review. Applications must be reviewed for completeness within thirty days of receipt, except for applications to site Small Wireless Facilities, which must be reviewed for completeness within ten days of receipt. If the application is not reviewed for completeness within the applicable timeframe, it will be deemed complete.

(B) Tolling. For applications to site Small Wireless Facilities, the review period resets once an applicant submits its additional materials. For all other applications deemed incomplete, the review period is tolled for up to sixty days. Once an applicant submits additional materials, the review timeframe begins to run again. If the applicant does not submit the required materials, the City may deny the application.

(C) Submittal of Additional Materials. If an applicant submits additional materials, the Director must provide notice within ten (10) days as to any additional materials identified in the original notice that were not provided with the supplemental materials. Second or subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness. For second or subsequent notices of incompleteness, the review timeframe will be tolled for all applications including for siting Small Wireless Facilities. If the applicant does not submit the required materials, the City may deny the application.

(D) Failure to act. If the decision-maker fails to approve or deny a request seeking approval for either a wireless service facility permit or conditional use permit within the applicable timeframe for review, accounting for any tolling, the request is deemed granted. The deemed grant does not become effective until the applicant notifies the applicable reviewing authority in writing after the review period has expired that the application has been deemed granted.

19.68.150 Timeframe for review.

The timeframe for review of an application for a wireless facility permit or wireless conditional use permit begins to run when an application is submitted, not when the application is deemed complete.

	Modifications that are not Substantial.	Colocating Wireless Facilities	New Wireless Facility	Colocating Small Wireless Facilities	New Small Wireless Facility
Timeframe	Approval required within sixty (60) days from receipt of submission of application	Written decision due within ninety (90) days from submission of application	Written decision due within one hundred and fifty (150) days from submission of application.	Written decision due within sixty (60) days from submission of application	Written decision due within ninety (90) days from submission of application.
Notes	If the City finds that the application involves a Substantial Change, the City may process the application as one for a new facility or deny the application.	This provision does not apply to Small Wireless Facilities.	This provision does not apply to Small Wireless Facilities.		

19.68.160 Construction.

(A) Construction within two years. Construction or substantial progress toward construction of a facility for which a permit has been issued pursuant to this chapter must be undertaken within two years after approval of the permit. Substantial progress toward construction includes, but is not limited to: the letting of bids, making of contracts, and purchase of materials involved in development.

(B) Tolling. In determining whether the two-year period has run, time during which litigation has been pending related to the construction of the facility must not be included.

(C) Extension and termination. The city may, at its discretion, extend the two-year period for a reasonable time, based on factors including the inability to expeditiously obtain other required governmental permits prior to the commencement of construction. If a facility for which a permit has been granted has not been completed within three years after the approval of a permit the City must review the permit upon the expiration of three years, and upon a showing of good cause for the delay, either (a) extend the permit for one year; or (b) terminate the permit.

19.68.170 Appeals.

Appeals may be commenced on an action by the decision-maker on a permit application, within thirty (30) days of such act or failure to act, in any court of competent jurisdiction. This section supersedes the City's administrative appeal process set forth in Section 19.20.210.

19.68.180 Prohibited Locations.

(A) Lattice and guyed wire towers are not permitted in any zoning district.

(B) Commercial advertising including billboards and business identification signs may not be used as alternative antenna support structures.

19.68.190 Permitted locations.

New wireless service facilities, which includes new Small Wireless Facilities are permitted as follows, with the type of permit indicated. For those facilities located within a "right-of-way", a master permit and construction permit for such use is required under the provisions of Chapter XX.XX. The zones referred to below are defined in the City's general zoning code.

Type of Facility	Residential Zones (R1, R2, R2A, R3, R3A, R4, R4A, OT)	Mixed Use Zones (CBD, C, MMU, CM, CM2, P)	Industrial Zones (LM, LM1, MS, HM, I, AZ)
Monopole	Permitted with WSF, except permitted with WCUP in OT	Permitted with WSF, except permitted with WCUP in P and except not permitted in CBD	Permitted with WSF
Electric Transmission Towers	Permitted with WSF, except permitted with WCUP in OT.	Permitted with WSF, except permitted with WCUP in P and except not permitted in CBD	Permitted with WSF
Utility Poles	Permitted with WCUP	Permitted with WSF, except permitted with WCUP in P, and except not permitted in CBD	Permitted with WSF
Water Tank Mounted	Permitted with WSF, except permitted with WCUP in OT	Permitted with WSF	Permitted with WSF
Playfield, Ballfield and Stadium Light Mounted Facilities	Permitted with WCUP	Permitted with WSF	Permitted with WSF
Building Attached	Permitted with WSF, only on buildings with nonresidential uses, and except permitted with WCUP in OT	Permitted with WSF	Permitted with WSF
Stealth Support Structure	Permitted with WSF, except permitted with WCUP in OT	Permitted with WSF, except permitted with WCUP in P	Permitted with WSF
Other Types Not Listed	Permitted with WCUP	Permitted with WCUP	Permitted with WCUP

Commented [KA6]: There is insufficient time under the federal shot clocks to use this process with small wireless facilities

19.68.200 Visibility and performance standards.

All wireless service facilities locating within Anacortes must comply with the following standards:

(A) Standards for all types of facilities:

General	1. All portions of the facility must be the minimum size necessary to support operation of the facility, as certified by the provider's licensed engineer. Where multiple facilities are proposed to be located in close proximity, they may be required to be consolidated in one equipment housing structure. 2. Owners and operators must provide information regarding the opportunity for the co-location of facilities. Provision for future co-location may be required if technically feasible and where opportunities for smaller facilities with fewer impacts are limited due to topography, lack of existing above ground structures or other circumstances. To determine feasibility, the applicant must submit an engineer's report regarding the feasibility of co-location.
Antennas	1. In general, an antenna array must either be flush mounted within 12 inches of the support structure, or within 12 inches of the face of the building it is attached to; or be contained in a canister that is a continuation of the support structure and is centered on top of the support structure; or be placed pursuant to the City's adopted design standards, subject to the concealment requirements below. 2. All antennas or arrays must be a color and material that matches the support structure. 3. Roof-mounted installation is permitted when the City's adopted design and the Appearance and Screening requirements below have been met. The antennas, mounting brackets and any concealment structures are exempt from the height limit of the underlying zone to the extent that the total height of such facilities does not increase the overall building height by 18 feet, or 50 percent of the original building height, whichever is less.
Equipment Cabinets, Shelters, and Undergrounding	1. All equipment necessary for the operation of the facility must be concealed, either within an existing building, within an architecturally compatible addition to an existing building, or within a new building which is architecturally compatible with other buildings on the site and adjoining properties; or located underground with exceptions as stated in Chapter AMC 15.32, and excepting equipment cabinets and shelters, which may be located above ground, and landscaped and screened pursuant to the City's typical landscaping requirements. 2. This section does not apply to antennas or other facilities that are required to remain above-ground in order to be functional, or if it would otherwise materially inhibit wireless service. 3. Underground shelters are not allowed where such shelters would interfere with existing uses of public land including, but not limited to, public rights-of-way. Equipment enclosures less than or equal to five cubic feet, with no single dimension over three feet, may be mounted directly on a street pole. These dimension limitations do not apply to Small Wireless Facilities. 4. Equipment cabinets and shelters are permitted upon abutting private property and may be located within public rights-of-way, pursuant to the applicable requirements and obtaining the appropriate permits specified in Chapter AMC XX.XX. 5. The size of equipment cabinets and shelters must be minimized to the greatest extent possible. 6. Prefabricated concrete and metal structures for equipment enclosures are not permitted unless treated with a facade giving the appearance of masonry or wood siding and are compatible with the existing neighborhood and surrounding setting.
Appearance and Screening	The following standards must be met to ensure the facility minimizes its visual impact: 1. Design and configurations must be compatible with the existing neighborhood, blend in with the surrounding setting, and/or are screened from surrounding uses and properties. 2. Design and configurations must minimize visual intrusion of the facility on surrounding uses and properties. Such techniques may include, for example: containing transmission and power cables and other conduit within any support structure, locating facilities underground, or otherwise screening the facility; minimizing the lateral projection of antenna arrays to the greatest extent

Commented [KA7]: Verizon requests an exception to this for small wireless facilities, as colocation is not possible and requiring an engineering certification for each pole is unduly burdensome.

	technically feasible; and integrating antenna arrays into the design of any structure to which they are attached. The applicant must submit an engineer's report regarding the feasibility of the lateral projection of antenna arrays. 3. Facilities on private property must be screened through the use of mature trees that are a minimum of 20 feet tall and planted to screen at least 80 percent of the area around the facility. 4. For stealth supported structures, the structure must be designed to resemble an object that would be commonly found in the area, including, but not limited to, a flagpole, a clock or bell tower, a tree that is a native conifer species, or a silo. Antennas, to the maximum extent feasible, must be concealed by the stealth support structure, or must not be easily recognized. To determine feasibility, the applicant must submit an engineer's report regarding the feasibility of concealing the antennas.
Noise	Noise reduction measures must comply with the City and/or Federal noise regulations, whichever demonstrates the least amount of noise impact for the nearest residential dwelling(s) at any time of day or night, as measured from the closest point from the exterior of the dwelling to the wireless facility. Such requirements are exempt during testing of alternative power sources (i.e., power generators or similar emergency power sources).
Landscaping	1. Facilities and/or equipment cabinets must be surrounded with a minimum of four feet wide landscaping, in the applicable zones set forth in the City's general zoning provisions, if technically feasible. 2. Towers must be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from properties used for residences. In some cases, natural growth around the property perimeter may provide a sufficient buffer. 3. Existing mature tree growth and natural land forms on the site must be preserved to the maximum extent possible.
Setbacks	1. In residential zones, towers, antennas, monopoles, and other wireless facilities and equipment pertaining thereto must not be closer than the greater of 20' or 100% of the tower height from the adjoining lot line. 2. In non-residential zones, facilities must comply with the setback requirements set forth in the applicable zoning code, Chapter 17 AMC, and meet or exceed the City or Federal noise regulations, whichever demonstrates the least amount of noise impact for the nearest residential dwelling(s), as measured from the closest point from the exterior of the dwelling to the facility. 3. The setback may be reduced if the applicant uses noise abatement techniques, such as decorative noise walls, to achieve equivalent or greater reduction of visual and noise impacts from the facility. 4. For co-locations, new equipment associated with the facility must be placed no closer to existing residential uses than any existing equipment enclosure on the subject property.
Spacing	1. In residential zones, towers and their antennas must not be closer than 200' or 100% of the tower height from the nearest residential dwelling(s), as measured from the closest point from the exterior of the dwelling to the facility. 2. In non-residential zones, there are no spacing requirements. 3. The minimum spacing requirements herein will not apply if they have the effect of materially inhibiting wireless service.

Commented [KA8]: Verizon requests deleting this requirement, as it is unclear what is being requested.

(B) Standards for specific types of facilities:

New Monopoles and Stealth Wireless Support Structures	Any wireless service provider which proposes to construct a new monopole or stealth supported facility must provide, as part of its permit application, written findings from a qualified engineer which demonstrate that: 1. Either there are no other facilities reasonably available for colocation; or 2. Any existing facilities reasonably available are not technologically suitable for use by the applicant; and 3. The proposed monopole has been designed in a manner that will allow for the colocation of at least one additional antenna array on the structure.
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	4. The height of the monopole may not exceed 120 feet or the height of similar structures permitted in the zone within which it is located, whichever is greater.
Colocating Monopoles or Utility Poles Within Public Rights-of-Way	1. More than one facility may be colocated on any monopole, subject to the permits. 2. Monopoles located within public rights-of-way must be located a minimum of 500 feet apart; a shorter distance may be approved if the applicant submits an engineering analysis and equipment specifications that demonstrate the reduced distance is necessary to provide adequate coverage and/or capacity. 3. Where a utility located upon a monopole requires vertical separation between its facilities and the antenna(s), the structure/pole and antenna may be raised or replaced with a taller structure to accommodate the minimum separation requirement, not to exceed 20 feet in the public right-of-way. Any additions must be constructed of similar materials, and have surface treatments which match the color and texture of the original facility.
Electric Transmission Towers or Utility Poles Outside Public Rights-of-Way	Where a utility located upon the support structure (such as electric transmission tower) requires vertical separation between its facilities and the antenna(s), the structure/pole and antenna may be raised by a mount or replaced with a taller structure to accommodate the minimum separation requirement, not to exceed 30 feet. Any additions must be constructed of similar materials, and have surface treatments which match the color and texture of the original facility.
Playfield, Ballfield and Stadium Light Mounted Facilities	Only one facility is permitted on any playfield, ballfield, or stadium light. Where lighted signs and illuminated areas are permitted, such illuminating devices must be shaded and directed so as not to be visible from any residentially zoned property.
Building Attached	The equipment for roof-mounted antennas within the OT zone must be located within the same building on which the antennas are located. This provision will not apply to Small Wireless Facilities if it has the effect of materially inhibiting the provision of service.

19.68.210 Requirements for colocations.

(A) All wireless facilities colocating within the City of Anacortes must meet the following standards. This section does not apply to Eligible Facilities Requests.

(B) Colocations (as defined in Section 19.68.030(5)) are permitted on existing monopoles and stealth support structure facilities, so long as the colocation maintains the appearance of the existing structure, and do not interfere with the City's placement of cameras or other public safety uses.

(C) The height of the existing facility may be increased by the minimum vertical separation necessary between the facilities, not to exceed 20 feet; except for towers and utility poles outside public rights-of-way, the height of which may be increased by up to 30 feet to accommodate the minimum separation requirement. The height of the existing facility with all increases in height due to colocations may not exceed the general height limitation for similar structures or buildings within the zone in which it is permitted or 120 feet, whichever is greater.

(D) Existing monopoles and antenna support structures may be replaced to accommodate colocation. Monopoles and stealth support structures must, to the maximum extent feasible, be located within 20 feet of the existing structure within the public right-of-way, or within 30 feet of the existing structure outside of the public right-of-way, and maintain the design of the original structure, including any stealth or camouflage components. To determine feasibility, the applicant must submit an engineer's report regarding the feasibility of a proposed replacement.

(E) All antenna support structures permitted pursuant to the terms of this chapter or otherwise located within the City of Anacortes must be made available for use by the owner or initial user thereof, together with as many other wireless service providers as can be technically colocated thereon. The owner of an antenna support structure may charge a reasonable fee for the colocation of additional facilities upon said structure which does not exceed the fair

market value for the space occupied by said colocated facilities. If the City is the owner, it may not charge a fee that exceeds a reasonable approximation of the objectively reasonable costs associated with siting a Small Wireless Facility on the antenna support structure.

(F) Colocating facilities must meet all other visibility and performance standards in Section 19.68.200.

19.68.220 Requirements for Non-Substantial Changes.

All modifications to wireless service facilities to the existing facility, including Small Wireless Facilities, that are Non-Substantial, must comply with the following standards:

(A) No modification may violate the City or Federal noise regulations. A noise study must be submitted with any modification to antennas or equipment.

(B) No modification may violate the Federal radio-frequency emission standards.

(C) No modification may violate setback or other lot coverage or height requirements in this Chapter.

19.68.230 Maintenance of facilities.

The owner and/or operator of all wireless service facilities must maintain their facilities in a good and safe condition and in a manner which complies with all applicable Federal, State, and local requirements.

19.68.240 Testing of facilities required – Radio-frequency (RF) emissions.

(A) All wireless service facilities must comply with applicable Federal Communications Commission (FCC) regulations regarding radio-frequency emissions. All tests must be performed by or under the supervision of a professional engineer competent to perform such testing and interpret the data gathered.

(B) Reports or similar support documents must be submitted for all facilities confirming compliance with all applicable FCC regulations. Compliance reports are required when requested by the Director.

(C) If at any time radio-frequency emission tests show that a facility exceeds any of the standards established by the FCC, the owner or operator thereof must immediately discontinue use of the facility and notify the Director. Use of such facilities may not resume until the owner or operator demonstrates that corrections have been completed which reduce the radio-frequency emissions to levels permitted by the FCC.

19.68.250 Testing of facilities required – Noise emissions.

(A) The owner or operator of a wireless service facility must conduct tests necessary to demonstrate compliance with all applicable local regulations regarding the noise emissions of the facility when notified in writing by the Director that a noise complaint has been received regarding the facility. All such tests must be performed by or under the supervision of a licensed environmental noise consultant competent to perform such tests and interpret the data gathered.

(B) When such a report is required, a report, certified by a licensed environmental noise consultant, setting forth the observed noise levels at the property line of the property upon which the facility is located must be submitted. The report must account for background noise and other noise sources and demonstrate the noise levels emitted by the facility, including any air conditioning or ventilation equipment contained therein. Such report must address standards set forth within noise reduction measures within noise provisions in Section 17.54.010 AMC or the standards set forth with the Federal Interagency Committee on Urban Noise, whichever demonstrates the least amount of noise impact for the nearest residential dwelling(s), at any time of day or night, as measured from the closest point from the exterior of the dwelling to the wireless facility.

(C) The Director may retain a technical expert in environmental noise measurement to verify the noise measurements and certification. The cost of such a technical expert must be borne by the owner or operator of the facility, if said facility fails to comply with applicable State or local noise standards.

(D) This section does not apply during the testing of alternative power sources (i.e., power generators).

19.68.260 Security fencing.

All wireless service facilities must be protected from unauthorized entry. The perimeter of all wireless service facilities which include an antenna support structure must be secured with security fencing which does not exceed seven feet in height. Wireless service facilities that do not include an antenna support structure must be protected from unauthorized entry through appropriate means approved by the Director or his or her designee on a case-by-case basis consistent with the purpose of protecting the public health, safety, and welfare.

19.68.270 Abandonment of facilities.

Any antenna support structure that has had no antennas mounted upon it for a period of six months, or if the antennas mounted thereon are not operated for a period of six months, will be considered abandoned, and the owner thereof must remove such structure and any accompanying equipment and enclosure within 90 days after receipt of a notice from the Director to do so. The Director may extend this time period to a maximum of six additional months. The owner or operator of all wireless service facilities must, when requested by the Hearing Examiner, submit a written report, signed under penalty of perjury, which demonstrates whether or not there has been a cessation in use of the facility for a period of six months during the prior year. If a facility and associated equipment are not removed within 90 days after receipt of a notice from the Hearing Examiner requiring said removal, the Hearing Examiner may seek and obtain a court order directing such removal and imposing a lien upon the real property upon which such wireless service facility is situated in an amount equal to the cost of removal. In the event that more than one wireless service provider is using the antenna support structure, the antenna support structure will not be considered abandoned until all such users cease using the structure as provided in this section.

19.68.280 Signs.

Except as approved as part of a plan to conceal, disguise, or camouflage a wireless service facility, no signs, symbols, flags, banners, or similar devices must be placed on, attached to, painted, or inscribed upon any antenna support structure or alternative antenna support structure. Notwithstanding the foregoing, an applicant and/or land owner may place not more than four signs measuring 12 by 18 inches upon or near a wireless service facility which:

- (A) state that trespassers will be prosecuted;
- (B) list the names and telephone numbers of persons to be contacted in the event of an emergency;
- (C) identify the applicant and/or land owner or person responsible for operating the wireless facility; and/or
- (D) contain information necessary and convenient for the person operating the wireless service facility to identify the wireless service facility.

Nothing in this section may be construed to prohibit the placement of safety or warning signs upon any portion of the wireless service facility which are required by law or which are designed to apprise emergency response personnel and the employees and agents of wireless service providers of particular hazards associated with equipment located upon the wireless service facility.

19.68.290 Lighting standards.

Except as specifically required by Federal Aviation Administration (FAA) or FCC regulations, antenna support structures cannot be illuminated. However, equipment enclosures may be illuminated for security reasons when compatible with the surrounding neighborhood.

19.68.300 SEPA.

Integration of environmental review. An application for a wireless service facility permit or wireless conditional use permit that is subject to the State Environmental Policy Act (SEPA) must be reviewed per AMC Chapter 18.04 concurrently with the review of the permit reviewed under this Chapter, except where exempted by that chapter. If there is a conflict between this Chapter and development regulations in other Chapters, the provisions of this Chapter will apply.

Chapter XX.XX

PUBLIC UTILITY AND TELECOMMUNICATIONS

RIGHT-OF-WAY USE*

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XX.XX.010 Purpose.

The purpose of this chapter is to provide for the regulation of the use of public right-of-way by any business, service, or person which is engaged in supplying the public with some commodity or service which is of public consequence and need, such as public and private utilities, wireless telecommunications or transportation service.

XX.XX.020 Applicability.

The provisions of this chapter apply to all public utility and wireless carriers which occupy, use, construct, or maintain utility or telecommunications facilities within public right-of-way of the City.

To the extent the provision of any current franchise or other written agreement with a public utility or wireless carrier conflicts with any provision of this chapter, the applicable provision of the franchise or other written agreement prevails.

XX.XX.030 Definitions.

For the purposes of this chapter, the following terms, phrases, and words have the meanings set forth below unless the context clearly indicates otherwise. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

(1) "Act" means a decision to grant, condition, or deny the use condition, or deny a permit, which may be subject to administrative appeal, or a notification to the applicant in writing of the amount of time that will be required to make the decision and the reasons for this time period.

(2) "Base station" means: a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a "Tower" or any equipment associated with a Tower.

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

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

(C) The term includes any structure other than a tower that supports or houses equipment 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 such support.

(D) The term does not include any structure that does not support or house equipment for wireless telecommunications services.

(3) "City Engineer" means the City Engineer of the City of Anacortes, Washington acting in his or her official capacity, and his or her designee(s).

(4) "Complex project" means a construction project involving, by way of example only: adding, installing, or relocating numerous conduits, wires, lines, poles, pipes, cables, communication and signal lines, braces, guys, anchors, vaults, pedestals, antennas, and/or other structures, equipment and appurtenances to a public utility or wireless facility; navigating intricate or complicated facility or land ownership issues; determining whether significant environmental impact(s) exist; and/or the analysis of highly technical structural or engineering information or reports.

(5) "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 or property from natural consequences, such as storms, earthquakes, riots or wars.

(6) "Facilities" means all of the towers, equipment, fixtures, antennas, equipment cabinets, equipment shelters, and other appurtenances necessary to furnish and deliver wireless services, including but not limited to utility, monopoles, and street poles with cross arms or without cross arms, wires, lines, conduits, cables, communication and signal lines and equipment, braces, guys, anchors, vaults, and all attachments, appurtenances, and appliances necessary or incidental to the distribution and use of wireless services. Facilities include "Small Wireless Facilities" as defined below.

(7) "Master permit" means the agreement whereby the City of Anacortes may grant general permission to a service provider to enter, use, and occupy the right-of-way for the purpose of locating facilities. This definition is not intended to limit, alter, or change the extent of the existing authority of the City of Anacortes to require a franchise, nor does it change the status of a service provider asserting an existing statewide grant based on a predecessor telephone or telegraph company's existence at the time of the adoption of the Washington State Constitution to occupy the right-of-way. A master permit does not include cable television franchises or permits.

(8) "Overhead facilities" means utility poles, utility facilities and wireless facilities located above the surface of the ground, including the underground supports and foundations for such facilities.

(9) "Permittee" means the public utility, service provider, or other person authorized under a master permit or construction permit under the provisions of this Chapter.

(10) "Person" means and includes corporations, companies, associations, joint stock companies or associations, firms, partnerships, limited liability companies and individuals and includes their lessors, trustees and receivers.

(11) "Public improvement" as used herein, means all work, construction, alterations, repair or improvements within public right-of-way, executed at the cost or under contract of the City, or caused to be performed by any person or entity as a condition or requirement of an approval or permit for zoning, land use, construction, or development if dedicated or required to be dedicated to the public use, benefit or enjoyment.

(12) "Public right-of-way" means any highway, street, alley, other public right-of-way, or easement for motor vehicle under the jurisdiction and control of the City which has been acquired, established, dedicated or devoted to such purposes, but only to the extent of the City's right, title, interest or authority to grant a permit to occupy and use such streets and easements for wireless and utility facilities.

(13) "Public utility" as used herein, means a company or entity engaged in any business or service regularly supplying the public with some commodity or service which is a public need and consequence, such as natural gas, electricity, water or sanitary sewer, including any business subject to regulation as to rates and service by the Utilities and Transportation Commission under the provisions of RCW Title 81.

(14) "Service provider" means every corporation, company, association, joint stock association, firm, partnership, person, city, or town owning, operating, or managing any facilities used to provide and providing wireless service for hire, sale, or resale to the general public. Service provider includes the legal successor to any such corporation, company, association, joint stock association, firm, partnership, person, city, or town.

(15) "Small Wireless Facility" encompasses facilities that meet the following conditions:

(A) The facilities—

- (1) are mounted on structures 50 feet or less in height including their antennas as defined in section 1.1320(d), or
- (2) are mounted on structures no more than 10 percent taller than other adjacent structures, or
- (3) 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;

- (B) 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;
- (C) 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;
- (D) The facilities do not require antenna structure registration under Federal regulations;
- (E) The facilities are not located on Tribal lands, which means all lands within the exterior boundaries of any Indian reservation and all dependent Indian communities; and
- (F) The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in section 1.1307(b).
- (16) "Surplus space" means that portion of the usable space on a utility pole which has the necessary clearance from other pole users, as required by Federal or State orders and regulations, to allow its use by a public utility or wireless carrier for a pole attachment. "Surplus space" also includes usable space within underground conduits and ducts when the necessary clearance from other users, as required by Federal or State orders and regulations, can be achieved;
- (17) "Underground facilities" means utility and wireless telecommunications facilities located under the surface of the ground, excluding the underground foundations or supports for overhead facilities;
- (18) "Usable space" means the total distance between the top of a utility pole and the lowest possible attachment point that provides the minimum allowable vertical clearance as specified in any Federal or State orders and regulations;
- (19) "Utility easement" means any easement owned by the City and acquired, established, dedicated or devoted for public utility purposes; and
- (20) "Utility facilities" as used herein means all conduit, wires, lines, poles, pipes, cables, communication and signal lines, braces, guys, anchors, vaults, pedestals, antennas, and all other structures, equipment and appurtenances thereto owned, operated or maintained by a public utility and used to furnish utility services.
- (21) "Wireless support structure" or "support structure" means a freestanding structure that is designed to support or is capable of supporting wireless facilities, including a monopole, base station, street pole, utility pole, self-supporting (lattice) tower, guy-wire support tower and any other similar structures. Any device (attachment device) used to attach a wireless facility to an existing structure or building (attachment structure) shall be excluded from the definition of and regulations applicable to support structures.
- (22) "Wireless telecommunications carrier" or "wireless carrier" means and includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town owning, operating, or managing any facilities used to provide wireless telecommunications for hire, resale to the general public within this State;
- (23) "Wireless telecommunications" or "wireless" means the transmission of information by wire, radio, optic cable, electromagnetic, or 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, wireless telecommunications service excludes the over-the-air transmission of broadcast television or broadcast radio signals and excludes "cable services," "cable communications systems" and "CATV systems" as defined in Chapter 5.44.

XX.XX.040 Master permit and construction permit required.

- (A) It is unlawful to construct, place, maintain, or operate any pipes, ducts, utility tunnels, vaults, maintenance holes, poles, fixtures, wires, utility facilities, wireless facilities, or any other appurtenances necessary for the purpose of

providing wireless service, or to conduct any public utility business, on, over, or under the public right-of-way, without obtaining a master permit from the Council.

(B) It is unlawful to construct, repair, or maintain any pipes, ducts, utility tunnels, vaults, maintenance holes, poles, fixtures, wires, utility facilities, wireless facilities, or any other appurtenances, necessary for the purpose of providing wireless service, or to conduct any public utility business or to go upon any such public right-of-way to perform any work therein on, under, or over public right-of-way, without obtaining a construction permit from the City Engineer. The City Engineer may exempt certain activities from the requirements of this section that do not materially affect the public right-of-way; provided, however, that if the City Engineer denies an applicant's request for such an exemption, no appeal is permitted.

XX.XX.050 Optional pre-application.

An applicant may submit materials up to thirty (30) days in advance of an application for a construction permit or master permit. The information submitted along with a pre-application may include the following information:

- (1) The name and address of the applicant;
- (2) Identification of all carriers using the facility;
- (3) The type of facility proposed;
- (4) Preliminary engineering plans, specifications, and maps of the facilities to be located within the public right-of-way;
- (5) Detailed construction plans demonstrating compliance with all applicable City codes and construction specifications, including the City's Engineering Standards;
- (6) A brief description of non-confidential, nonproprietary utility or wireless telecommunications services that are or will be offered or provided by the applicant over its facilities;
- (7) A brief description of non-confidential, nonproprietary transmission medium that will be used to offer or provide such services;
- (8) An accurate map showing the location of any existing utilities and/or wireless telecommunications facilities in the City that the applicant intends to use or lease;
- (9) If installation of overhead facilities is proposed, evidence that Surplus Space is available for locating the facilities on existing utility poles along the proposed route;
- (10) The area or areas of the City the applicant desires to serve and a schedule for building out (offering service to) the entire area covered by the master permit;
- (11) Proof of compliance with the other provisions of this Chapter, including but not limited to the indemnity, insurance, and bond requirements; and/or
- (12) Information to establish that the applicant has obtained all other governmental approvals and permits to construct and operate the facilities, and to offer or provide the services, including, but not limited to, evidence that the applicant has registered with the Washington Utilities and Transportation Commission.

XX.XX.060 Construction permit application.

(A) To obtain a construction permit, the applicant must file an application with the City Engineer.

(B) A complete application must include the following information and materials:

- (1) The names, residences, and business addresses of all officers and directors of the applicant.
 - (2) Detailed construction plans demonstrating compliance with all applicable City codes and construction specifications, including the City's Engineering Standards.
 - (3) If the applicant is constructing wireless facilities on another service provider's facilities, a notarized statement that the applicant has permission to use a third party's facility(ies), or a signed agreement with the service provider to that effect.
 - (4) The location of the applicant's overhead and underground facilities in the public right-of-way along the proposed route and the area proposed to be served by cable.
 - (5) Preliminary engineering plans, specifications, and maps of the facilities to be located within the public right-of-way, in sufficient detail to identify the location and route of the proposed facilities within the public right-of-way, the location of the applicant's existing facilities within the right-of-way, if any, and the specific trees, structures, facilities, and/or obstructions, if any, that the applicant proposes to temporarily or permanently remove or relocate.
 - (6) If underground installation in existing ducts or conduits within the public right-of-way is proposed, information in sufficient detail to identify: the excess capacity currently available in such ducts or conduits before installation of the facilities; and the excess capacity, if any, that will exist in such ducts or conduits after installation of the facilities.
 - (7) If underground installation within new ducts or conduits to be constructed within the public right-of-way is proposed: the location proposed for the new ducts or conduits; and the excess capacity that will exist in such ducts or conduits after installation of the facilities.
 - (8) A preliminary construction schedule and completion date.
 - (9) A detailed statement describing the actual equipment and operational standards proposed by the applicant.
 - (10) A statement or schedule setting forth all proposed classifications of rates and charges to be set, including installation and service charges, which must remain in effect for at least twelve months after the City grants a master permit.
 - (11) Proof of compliance with the other provisions of this Chapter, including but not limited to the indemnity, insurance, and bond requirements.
 - (12) Any other reasonable information requested by the City Engineer or its designee, or required by any other provision of any other ordinance of the City.
 - (13) An application fee to be set by the City Council in its unified fee schedule to allow the City to recover the costs of reviewing the application, including the costs of any third-party review.
- (C) Applications for Small Wireless Facilities may be submitted in batches, which may encompass multiple separate applications filed at the same time, each for one or more sites, *or* a single application covering multiple sites.
- (D) Third Party Review. The City may require the applicant to submit its materials to a third-party for review, as may be reasonably necessary to determine compliance with this Chapter, such as an engineer or architect, by way of example only.

XX.XX.070 Master permit application.

- (A) To obtain a master permit, the applicant must file an application with the City clerk.
- (B) The Council must examine each complete application submitted for review and approval to determine if it complies with the applicable provisions of this chapter. Other departments that have authority over the proposed use or activity may be required to review and approve or disapprove the application based on site-specific criteria, such

as that in 19.68 AMC. The Council may inspect the public right(s)-of-way proposed for use to determine any facts which may aid in determining whether a master permit should be approved.

(C) A complete application must include the following information and materials:

- (1) The identity of the applicant, including all affiliates of the applicant who will be authorized to work in the right-of-way under the agreement;
- (2) If the applicant is constructing wireless facilities on another service provider's facilities, a notarized statement that the applicant has permission to use such facilities, or a signed agreement with the service provider to that effect.
- (3) If the application involves a Small Wireless Facility, preliminary engineering plans showing all dimensions of the wireless facility.
- (4) A brief description of non-confidential, nonproprietary utility or wireless telecommunications services that are or will be offered or provided by the applicant over its facilities;
- (5) A brief description of non-confidential, nonproprietary transmission medium that will be used to offer or provide such services;
- (6) An accurate map showing the location of any existing utilities and/or wireless telecommunications facilities in the City that the applicant intends to use or lease;
- (7) If installation of overhead facilities is proposed, evidence that Surplus Space is available for locating the facilities on existing utility poles along the proposed route;
- (6) Preliminary engineering plans, specifications, and maps of the facilities to be located within the public right-of-way, in sufficient detail to identify the location and route of the proposed facilities within the public right-of-way, the location of the applicant's existing facilities within the right-of-way, if any, and the specific trees, structures, facilities, and/or obstructions, if any, that the applicant proposes to temporarily or permanently remove or relocate.
- (7) The area or areas of the City the applicant desires to serve and a schedule for building out (offering service to) the entire area encompassed by the master permit;
- (8) Information to establish that the applicant has obtained all other governmental approvals and permits to construct and operate the facilities, and to offer or provide the services, including, but not limited to, evidence that the applicant has registered with the Washington Utilities and Transportation Commission;
- (9) Proof of compliance with the other provisions of this Chapter, including but not limited to the indemnity, insurance, and bond requirements.
- (10) An application fee to be set by the Council in its unified fee schedule which allows the City to recover its actual administrative expenses that are directly related to receiving and approving a permit and license, to inspecting plans and construction, or to the preparation of a detailed statement.

(D) Applications for Small Wireless Facilities may be submitted in batches, which may encompass up to five separate applications filed at the same time, each for one or more sites, *or* a single application covering up to five sites.

(E) Third Party Review. The City may require the applicant to submit its materials to a third-party for review, as may be reasonably necessary to determine compliance with this Chapter, such as an engineer or architect, by way of example only.

XX.XX.080 Completeness review.

(A) Completeness Review. Applications for a master permit or construction permit must be reviewed for completeness within thirty days of receipt, except for applications associated with Small Wireless Facilities, which

must be reviewed for completeness within ten days of receipt. If the application is not reviewed for completeness within the applicable timeframe, it will be deemed complete.

(B) Tolling.

(1) For applications for a master permit or construction permit for a Small Wireless Facilities, the review period resets once an applicant submits its additional materials.

(2) For all other applications deemed incomplete, the review period is tolled for up to sixty days. Once an applicant submits additional materials, the review timeframe begins to run again.

(3) If the applicant does not submit the required materials within the required timeframe, the City may deny the application.

(C) Submittal of Additional Materials.

(1) If an applicant submits additional materials, the Director must provide notice within ten (10) days as to any additional materials identified in the original notice that were not provided with the supplemental materials.

(2) Second or subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness. For second or subsequent notices of incompleteness, the review timeframe will be tolled for all applications including those pertaining to Small Wireless Facilities.

(3) If the applicant does not submit the required materials, the City may deny the application.

(D) Failure to act. If the Director fails to approve or deny a request seeking approval for either a wireless service facility permit or conditional use permit within the applicable timeframe for review, accounting for any tolling, the request is deemed granted. The deemed grant does not become effective until the applicant notifies the applicable reviewing authority in writing after the review period has expired that the application has been deemed granted.

XX.XX.090 Timeframe for review.

The timeframe for review of an application for a master permit or a construction permit begins to run when an application is submitted, not when the application is deemed complete. The timeframe for submitting and reviewing master permits and construction permits is the same, unless otherwise specified.

	Colocating Wireless Facilities	Colocating Small Wireless Facility	New Small Wireless Facility	New Wireless Facilities	Construction Permit – All Wireless Facilities	Master Permit Renewal – All Wireless Facilities
Application Submission	Master use and construction permit applications should each be submitted 90 days prior to planned use.	Master use and construction permit applications should each be submitted 60 days prior to planned use.	Master use and construction permit applications should each be submitted 90 days prior to planned use.	Master use and construction permit applications should each be submitted at least 120 days prior to planned use.	Applications for complex projects should be submitted at least 60 days prior to the planned use, and in no case less than 30 days prior to the planned use.	A Permittee may submit an application for renewal no more than 180 days and no less than 120 days before expiration of the current master permit.
Timeframe for decision (from receipt of complete application)	Written decision due within 90 days.	Written decision due within 60 days.	Written decision due within 90 days.	Written decision due within 120 days.	City Engineer must Act within a reasonable time, generally not to exceed 30 days, and in no case can he or	Written Decision due within 90 days.

	Colocating Wireless Facilities	Colocating Small Wireless Facility	New Small Wireless Facility	New Wireless Facilities	Construction Permit – All Wireless Facilities	Master Permit Renewal – All Wireless Facilities
					she exceed the timeframes for review set forth in this table.	

XX.XX.100 Construction permit approval.

(1) In the event that the City Engineer finds that the construction permit application conforms to the requirements of this chapter and applicable construction standards adopted by the City, the City Engineer must approve the construction permit, and may impose such conditions thereon as are reasonably necessary to protect the public health, welfare and safety, to mitigate any impacts resulting from the use, and to facilitate the orderly management of other utility and wireless facilities within the public right-of-way.

(2) In the event that the City Engineer denies an application for a construction permit, the decision must be in writing and set forth the reasons for said denial, and must be based on substantial evidence in the written record. The City may not deny a construction permit on the basis of a failure to obtain a master permit. Following approval by the City Engineer, construction permits will be issued by the City clerk.

(2) The City Engineer has the discretion to approve a blanket construction permit for a period of up to one year, when the applicant seeks approval to perform construction or maintenance that is of a repetitive or similar nature.

(3) In evaluating a construction permit application under this chapter, the City Engineer must, in addition to the criteria set forth in AMC XX.XX.050(2), determine whether the proposed construction is consistent with all construction standards adopted by the City.

(4) The duration of a construction permit will be for one year unless revoked or modified under the provisions of this chapter. The City Engineer must approve a construction schedule specifying the dates, times, and duration during which construction activity is permitted within the public right-of-way.

(5) The construction permit incorporates the relevant terms and conditions of this chapter by reference.

(6) The City Engineer has the power to regulate the construction and enforce construction permit conditions and the requirements of this chapter. The City Engineer must keep a record of the construction permit and the work done thereunder.

(7) A service provider adversely affected by a final action denying a construction permit may commence an action within thirty (30) days to seek relief, in any competent court of jurisdiction.

XX.XX.110 Master permit approval.

(1) In the event the Council finds that master permit application conforms to the requirements of this chapter and the criteria for approval set forth in subsection (2) of this section, the Council must approve the master permit, and may impose conditions that are reasonably necessary to protect the public health, welfare, and safety and to mitigate any impacts resulting from the use. The Council will provide the reasons for a denial in writing, supported by substantial evidence contained in the written record based on the criteria set forth below. Following approval, the applicant and the Council must enter into a written agreement setting forth the particular terms under which the applicant has been granted the right to occupy and use the public ways of the City.

(2) In evaluating a master permit application under this chapter, the Council will, consistent with Federal and State law, examine the following criteria:

- (a) Whether all requisite licenses, certificates, and authorizations from applicable Federal, State, and local agencies have been obtained by the applicant;
 - (b) The capacity of the public right-of-way to accommodate additional utility and wireless telecommunications facilities if the master permit is granted;
 - (c) The effect, if any, on public health, safety and welfare if the master permit is granted;
 - (d) The availability of reasonable alternate routes and/or locations in the right-of-way for the proposed facilities;
 - (e) Whether denial of the use of the right-of-way would materially inhibit or limit the ability of the service provider to compete in a fair and balanced regulatory environment.
 - (e) Applicable Federal, State, and local statutes, regulations, ordinances, and policies related to utility, wireless telecommunications, and other facilities, including City construction standards;
 - (f) Such other factors as may demonstrate that the grant to use the public right-of-way will serve the community interest.
- (3) The duration of a master permit is five years unless revoked or modified under the provisions of this chapter.
- (4) No master permit granted under this chapter confers any exclusive right, privilege, license, or franchise to occupy or use the public right-of-way of the City for delivery of wireless services or any other purposes. Further, no master permit may be construed as a right, title or interest in the public ways, but is the right solely to use and occupy the public right-of-ways for the limited purposes and terms stated within the grant. No master permit may be construed as a warranty of title.

XX.XX.120 Compensation to the City.

The City may fix a fair and reasonable compensation to be paid annually for the use of the right-of-way granted to the applicant under a master permit that is a reasonable approximation of the City's costs, including the costs of third-party review, if any; provided, that the City and an applicant may agree to the compensation to be paid; and provided that the compensation fixed or agreed upon is consistent with RCW 35.21.860.

XX.XX.130 Nondiscrimination.

A Permittee which purports to serve the general public must make its wireless telecommunication services available to any customer within its permitted area who requests such service, without discrimination as to the terms, conditions, rates or charges for the permittee's services; provided, however, that nothing in this title prohibits a Permittee from making reasonable classifications among differently situated customers.

XX.XX.140 Amendment of Permit.

Except as otherwise provided within a master permit agreement, a new master permit agreement and grant is required for any wireless carrier or service provider that seeks to extend the area covered by the master permit or to locate its wireless facilities in public rights-of-way in the City which are not included in a master permit previously granted under this chapter. If ordered by the city to locate or relocate its wireless telecommunications facilities in public rights-of-way not included in a previously granted master permit, the City must grant a master permit amendment without further application.

XX.XX.150 Renewal application – Master Permit.

(A) A Permittee may activate a formal process for renewal, by submitting an application for renewal, a completed master permit renewal application with the city clerk. The application must include the following:

The City of Anacortes Municipal Code is current through Ordinance _____ and legislation passed through _____, 2018.

- (1) The information required under AMC XX.XX.060;
- (2) Any information required under the master permit agreement between the City and the applicant;
- (3) All deposits or charges required under this Chapter; and
- (4) An application fee to be set by Council.

XX.XX.160 Renewal approval.

(A) The City must issue a written determination granting or denying the renewal application in whole or in part. If the renewal request is denied, the written determination must include substantial evidence of the reason(s) for denial, based on the standards set forth below. Prior to granting or denying renewal of a master permit under this Chapter, the Council must conduct a public hearing and make a decision based on the following criteria:

- (1) The continuing capacity of the public right-of-way to accommodate the applicant's existing facilities;
- (2) The applicant's compliance with the requirements of this title and the master permit agreement;
- (3) Applicable federal, state, and local wireless telecommunications laws, rules and policies; and
- (4) Such other factors that may demonstrate that the continued grant to use the public right-of-way will serve the community interest.

(B) The Council may not deny a renewal application based on violations of the master permit unless the applicant has been given notice and an opportunity to cure.

(C) Any service provider whose proposal for renewal has been denied by the City, or has been otherwise adversely affected by a failure of the City to act, may appeal such final decision or failure to act within 120 days in any Court of competent jurisdiction.

XX.XX.170 Terms of use and occupancy.

(A) The use and occupancy of public right-of-way in the City by any person constructing, maintaining or operating wireless, utility, or other facilities must conform to the terms and conditions of this chapter.

(B) Existing facilities installed or maintained by a telecommunications carrier, public utility or other entity over, under or across public right-of-way within the City in accordance with an expired franchise agreement or other City-issued permit may be operated by the wireless carrier or public utility at the locations at which such facilities exist; provided, however, that maintenance, repair, relocation, and/or expansion of such facilities are not permitted unless and until the public utility or telecommunications carrier, or other entity obtains all permits and approvals required by this chapter.

(C) All work by a wireless carrier, public utility, or other entity in the public right-of-way must comply with all construction standards and specifications adopted by the City as now exist or are hereafter amended, including but not limited to those set forth in Chapters 15.32 and 19.68 AMC.

XX.XX.180 Specifications.

(A) All work to be performed under a construction permit issued under this chapter must conform to all applicable City codes, ordinances, and standards adopted by the City. In case of any conflict, the most stringent provision applies.

(B) No wireless, utility, other facilities, or work related thereto may protrude into or over any portion of a public right-of-way opened to vehicle or pedestrian travel in such a manner as to create a risk of endangering the use of such place by vehicles or pedestrian travel. In addition, in the event the requested construction permit involves

encroachment or partial obstruction of a sidewalk or other walkway open to the public, a minimum of five feet of unobstructed sidewalk or other walkway must be maintained at all times.

(C) During any period of any relocation, construction or maintenance of its facilities within the public right-of-way, a wireless telecommunications carrier, public utility or other person must conduct their activities so as not to unreasonably interfere with the free passage of traffic or the use of adjoining property. Such person must, at all times, post and maintain proper barricades and comply with all applicable safety regulations during such period of construction as required by the ordinances of the City and the laws of the State of Washington, including RCW 39.04.180, for the construction of trench safety systems.

(D) An applicant must, within 10 business days of completion of work, submit at no cost to the City, current and accurate as-built drawings showing the location of any facilities installed or constructed within the public right-of-way under a permit issued pursuant to this chapter or otherwise. As-builts must show all of the applicant's facilities in the right-of-way including but not limited to wireless telecommunications facilities, utility facilities, power poles, guy poles and anchors, overhead transformers, pad-mounted transformers, submersible transformers, conduit, substation (with its name) pedestals, pad-mounted junction boxes, vaults, switch cabinets, and meter boxes.

XX.XX.190 Exceptions.

(A) A construction permit is not required when public utilities, wireless carriers, or City contractors are responding to emergencies that require work in the public right-of-way, such as water or sewer main breaks, gas leaks, downed power lines, or similar emergencies; provided, however, that the Council must be notified by the responding utility, carrier, or contractor verbally or in writing, on the next business day following onset of the emergency. Nothing in this section relieves a responding public utility, carrier, or contractor from the requirement of obtaining a construction permit after beginning emergency work in a public right-of-way.

(B) A construction permit fee is not required for City-sponsored capital improvement projects for water, sewer, drainage, or road construction maintenance, including associated work required by a public utility.

XX.XX.200 Security fund.

(A) Prior to commencement of any activities approved under a master permit, the Permittee must establish a permanent security fund with the City by depositing the amount of \$50,000, or such greater amount as deemed necessary by the Council, with the City in cash, an unconditional letter of credit, or other instrument acceptable to the City, which fund must be maintained at the sole expense of the Permittee so long as any of the Permittee's utility or wireless facilities are located within the public right-of-way of the City.

(B) The fund must serve as security for the full and complete performance of the terms and conditions of this chapter and master permit, including any costs, expenses, damages, or loss the City pays or incurs, including civil penalties, because of any failure attributable to the Permittee to comply with the codes, ordinances, rules, regulations, or permits of the City.

(C) The fund may be used to repair the public right-of-way, return it to its original condition, or to complete a project within the right-of-way if the Permittee ceases work mid-way through construction, or abandons its facility(ies) and appurtenances thereto.

(D) Before any sums are withdrawn from the security fund, the City must give written notice to the Permittee:

- (1) Describing the act, default or failure to be remedied, or the damages, costs or expenses which the City has incurred by reason of the Permittee's act or default;
- (2) Providing a reasonable opportunity for the Permittee to first remedy the existing or ongoing default or failure, if applicable;
- (3) Providing a reasonable opportunity for the Permittee to pay any monies due the City before the City withdraws the amount thereof from the security fund, if applicable; and

(4) That the Permittee will be given an opportunity to review the act, default or failure described in the notice with the City or his or her designee.

(E) Permittees are required to replenish the security fund within 14 days after written notice from the City that there is a deficiency in the amount of the fund.

XX.XX.210 Performance bond.

A performance bond written by a corporate surety acceptable to the City Engineer equal to at least 150 percent of the estimated cost of removing the Permittee's facilities and restoring the public right-of-way to their pre-construction condition must be deposited before the construction permit is issued. Said bond is required to remain in full force until 60 days after completion of the construction and/or improvements within the public right-of-way, and must warrant all such restoration work for a period of two years following completion and/or termination of the construction. Those Permittees performing annual work within the rights-of-way may provide an annual performance bond, in an amount approved by the City Engineer, at the beginning of each year to cover all excavations. The purpose of this bond is to guarantee the removal of partially completed and/or nonconforming facilities and to fully restore the public right-of-way to the pre-construction condition. The City Engineer may use the funds from the performance bond to complete removal and fully restore the public right-of-way to its pre-construction condition if the Permittee fails to do so.

XX.XX.220 Insurance.

Unless otherwise provided in a master permit or construction permit, each Permittee must, as a condition of the master permit and construction permit, secure and maintain the following liability insurance policies insuring both the Permittee, its agents, representatives, employees, contractors or subcontractors, and the City and its elected and appointed officers, officials, agents, employees, representatives, engineers, consultants, and volunteers as co-insureds against any claims which may arise from or in connection with the exercise of the rights, privileges, and authority granted to the Permittee under the permit(s):

(A) Comprehensive Commercial General Liability Insurance. Commercial General Liability Insurance on an "occurrence" basis including coverage for Premises and Operations Liability, Products and Completed Operations, Contractual Liability, Independent Contractors, Stop Gap/Employer's Liability, Broad Form Property Damage, Explosion, Collapse and Underground Hazards, and Personal Injury Liability. Such insurance will provide limits of not less than two million dollars (\$2,000,000) per occurrence and ten million dollars (\$10,000,000) in the aggregate. Coverage limits can be achieved with a combination of the primary and umbrella/excess policies. Products/Completed Operations Liability Insurance will be provided for a period of at least six years after completion and/or termination of construction. Any deductible or self-insured retention must be disclosed and is subject to approval of the City. The policy for the Permittee must include without limitation coverage for hazards commonly referred to as "XCU" and contain a severability of interests provision.

(B) Automobile Liability Insurance. A policy of Automobile Liability, including coverage for Permittee's owned, non-owned, leased or hired vehicles providing a minimum limit for Bodily Injury and Property Damage of five million dollars (\$5,000,000) per combined single limit each accident. The limit can be achieved with a combination of the primary and umbrella/excess policies.

(C) Workers Compensation Insurance. Statutory Worker's Compensation and Employers Liability insurance as prescribed by applicable law.

(D) City as an Additional Insured on Policies. The Commercial General Liability and Automobile Liability and Umbrella/Excess Liability insurance policies required must name the City of Anacortes as an additional insured on a primary and non-contributory basis on Forms CG 20 26 and CG 20 37 or their equivalents for a public body. Carriers furnishing insurance are required to waive all rights of subrogation against the City. The Permittee must obtain the written agreement on the part of each insurance company to notify the City at least forty-five (45) days prior to cancellation or non-renewal of any such insurance, except ten (10) days' notice of cancellation due to non-payment of premium.

(E) Evidence of Insurance. With respect to each policy, Permittee must provide the City prior to commencement of the Work, proof that it has procured the requisite insurance, including copies of any applicable policies, declaration pages, and/or endorsements. PERMITTEE IS NOT ENTITLED TO COMMENCE WORK AUTHORIZED UNDER ITS PERMIT(S) UNTIL THE CITY HAS RECEIVED AND APPROVED THE CERTIFICATE OF INSURANCE.

(F) Errors and Omissions. Permittee must maintain throughout the period of the applicable permit and for a period of six (6) years thereafter, a standard professional errors and omissions insurance policy of a form and with an insurance company satisfactory to the City. Permittee's insurance policies must incorporate a provision requiring giving written notice to the City at least sixty (60) days prior to any cancellation, non-renewal or material modification of the policies. Permittee's professional errors and omissions insurance will be in the minimum amount of \$1,000,000 including contractual liability, with all coverage retroactive to the earlier of the date of the applicable permit or the commencement of design services in relation to the permit(s).

(G) Compliance by contractors and subcontractors. Permittee is required to ensure that each of its contractors and subcontractors complies with all requirements in this Section; provided that Permittee must require its contractors and subcontractors to maintain commercially reasonable limits of insurance, given the contractor's and subcontractor's scope of work. Permittee must provide evidence of insurance of contractors and subcontractors upon request by the City.

(H) In addition, each such insurance policy must contain an endorsement which provides that the policy may not be cancelled, reduced in coverage, nor the intention not to renew be stated until 60 days after receipt by the City of a written notice to that effect. Within 30 days after receipt of such notice by the City, and in no event later than 15 days prior to the cancellation or nonrenewal, the Permittee must obtain and furnish to the City replacement insurance policies meeting the requirements of this section.

XX.XX.230 Hold harmless/indemnity.

(A) The Permittee must, to the fullest extent permitted by law, indemnify, defend and hold harmless the City, and its elected and appointed officers, officials, agents, employees, representatives, engineers, consultants, and volunteers as co-insureds (collectively the "Indemnified Parties" or individually, each an "Indemnified Party"), from and against any and all claims, liability, penalties, fines, costs, damages, losses and causes of action, arising out of or resulting from, or alleged to arise out of, relate to, or to result from the performance or non-performance of any construction performed at the instance of Permittee, or performance or non-performance of any services performed at the instance of Permittee (hereinafter singularly and collectively referred to as "Indemnity Claims"), but only to the extent directly or indirectly caused by the negligence or willful misconduct of Permittee, its contractors, subcontractors or supplier of any tier, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable. Permittee, at its sole expense, must promptly dispose of Indemnity Claims, defend all lawsuits and similar proceedings filed against an Indemnified Party on the account of Indemnity Claims, pay all awards and judgments rendered against an Indemnified Party in connection therewith, and reimburse each Indemnified Party for all reasonable expenses incurred by such Indemnified Party in connection with Indemnity Claims and lawsuits and arbitrations and similar proceedings including, but not limited to, attorneys' fees, expert witness fees, court costs, arbitration costs and all other reasonable costs (not limited to statutory costs).

(B) If Indemnity Claims are caused or alleged to be caused in part by any joint or concurrent negligent act (either active or passive) or omission by an Indemnified Party, Permittee will indemnify, defend and hold harmless such Indemnified Party, as provided above, from such Indemnity Claims to the extent such Indemnity Claims arise out of or result from the negligence or willful misconduct of Permittee or its contractors, subcontractors or suppliers of any tier, or anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, or anyone whose acts Permittee may be responsible or liable. In no event will Permittee be obligated to indemnify an Indemnified Party for Indemnity Claims which arise out of or result from the sole negligence of such Indemnified Party or its agents, servants or independent contractors who are directly responsible to such Indemnified Party, excluding Permittee.

(C) In addition, the City may require that any person, public utility, or wireless carrier accepting such a master permit or construction permit provide the City with additional indemnification, such as an indemnification from a parent company.

(D) The indemnification provided for herein does not apply to injuries to persons or damage to property caused by or resulting from the sole negligence of the City, its agents or employees.

(E) For the sole purpose of effecting the indemnification obligations herein, the Permittee, by accepting a master permit, specifically and expressly waives any immunity that may be granted it under any applicable Workers' Compensation Act, disability benefit acts or other employee benefit acts.

XX.XX.240 Inspections.

All work performed within public right-of-way is subject to periodic inspection by the Council to assure compliance with any conditions attached to the permit, the requirements of this chapter, and the requirements of any applicable City code or standard.

XX.XX.250 Revocation of master permits and construction permits.

(A) Following a notice of violation and opportunity to cure, the Council may revoke or suspend any approval issued under this chapter for cause, in accordance with existing tariff or applicable State law whenever:

- (1) The work does not proceed in accordance with the plans as approved or the conditions of approval, is not in compliance with the requirements of this chapter, other City ordinances, resolutions, or State law;
- (2) The service provider fails to provide adequate service or otherwise fails to comply with the terms of its master permit or construction permit;
- (3) The service provider has made a misrepresentation of material fact in applying for such approval;
- (4) The Council determines that inadequate measures are being taken to protect the public, adjoining property, public right-of-way, or wireless telecommunications, utility or other facilities in such public right-of-way, or that any excavation or fill endangers or will endanger the public, adjoining property, public right-of-way, or wireless telecommunications or utility facilities in such public right-of-way.

(B) Upon suspension or revocation of an approval under this chapter, all permit-related activities of the public right-of-way must cease, except as authorized or directed by the Council.

XX.XX.260 Correction and discontinuance of a Master Permit.

(A) Whenever the Council determines that any condition on any public right-of-way is in violation of a master permit or any other provision of this chapter related thereto, or exists without a master permit, the Council may order the correction or discontinuance of such condition or any activity causing such condition.

(B) The Council also has all powers and remedies available under State law and this chapter, to secure the correction or discontinuance of any condition specified in this section.

(C) The Council is authorized to use any or all of the following methods in ordering correction or discontinuance of any such conditions or activities as it determines appropriate:

- (1) Serving of oral or written directives to Permittee or other responsible person requesting immediate correction or discontinuance of the specified condition;
- (2) Service of a written notice of violation, ordering correction or discontinuance of a specific condition or activity within thirty (30) days

- (3) Service of a written notice to remove an object or facility within twenty-four (24) hours and summary removal if the object or thing is a hazard to public safety, with notice of such removal to the owner, if known;
- (4) Revocation of previously granted master permit(s) where Permittee or other responsible person has failed or refused to comply with requirements imposed by the City related to such permits; or
- (5) Issuance of an order to immediately stop work until authorization is received from the City to proceed.

(D) Any utility or wireless facility, or any other object or thing which occupies any public right-of-way without a master permit or in violation of the master permit conditions is a nuisance both public and private.

(E) All expenses incurred by the Council, including attorney's fees and legal expenses, in abating the condition or any portion thereof constitutes a civil debt owing to the Council jointly and severally by such persons who have been given notice or who own the object or thing or placed it in the public right-of-way, which debt is collectible in the same manner as any other civil debt.

XX.XX.270 Correction and discontinuance of a Construction Permit.

(A) Whenever the City Engineer determines that any condition on any public right-of-way is in violation of a construction permit or any other provision of this chapter related thereto, or exists without a construction permit, the City Engineer may order the correction or discontinuance of such condition or any activity causing such condition.

(B) The City Engineer also has all powers and remedies available under State law and this chapter, to secure the correction or discontinuance of any condition specified in this section.

(C) The City Engineer is authorized to use any or all of the following methods in ordering correction or discontinuance of any such conditions or activities as it determines appropriate:

- (1) Serving of oral or written directives to Permittee or other responsible person requesting immediate correction or discontinuance of the specified condition;
- (2) Service of a written notice of violation, ordering correction or discontinuance of a specific condition or activity within thirty (30) days;
- (3) Service of a written notice to remove an object or facility within twenty-four (24) hours and summary removal if the object or thing is a hazard to public safety, with notice of such removal to the owner, if known;
- (4) Revocation of previously granted construction permit(s) where Permittee or other responsible person has failed or refused to comply with requirements imposed related to such permits; or
- (5) Issuance of an order to immediately stop work until authorization is received from the City to proceed.

(D) Any utility or wireless facility, or any other object or thing which occupies any public right-of-way without a construction permit or in violation of construction permit conditions is a nuisance both public and private.

(E) All expenses incurred by the City Engineer, including attorney's fees and legal expenses, in abating the condition or any portion thereof constitutes a civil debt owing to the City Engineer jointly and severally by such persons who have been given notice or who own the object or thing or placed it in the public right-of-way, which debt is collectible in the same manner as any other civil debt.

XX.XX.280 Removal.

Any person accepting a master permit or construction permit pursuant to this chapter for the installation of any utility or wireless carriers must remove such facilities when they are no longer required, or if the master or construction permit has been revoked as provided in this chapter. Such removal must occur within 90 days of receiving notice from the Council ordering such removal. Unless otherwise approved by the City in writing, no person is permitted to abandon utility or wireless facilities within a public right-of-way, and then only under such conditions as may be prescribed by the Council.

XX.XX.290 Displacement for public use.

(A) A wireless carrier, public utility, or other person under order of the Council must, upon a minimum 60 days' written notice, move or adjust its underground or overhead facilities located within the public right-of-way which interfere with any public improvement authorized or ordered by the City. The relocation must be done at the expense of the telecommunications carrier, public utility, or other person, subject to the exceptions in RCW 35.99.060(d) and existing tariffs, which may require the City to pay for displacement in certain circumstances. The actual number of days must be specified by the Council in the Council's order.

(B) When a public improvement is required to accommodate or allow development or other activity by a party other than the City, then a wireless telecommunications carrier, public utility or other person which moves or adjusts its facilities is entitled to recover its associated costs and expenses from such other party.

(C) Such persons must indemnify, hold harmless, and pay the costs of defending the City against claims or liabilities for delays on public improvement projects caused by their failure to relocate their facilities in a timely manner unless caused by circumstances beyond their control.

XX.XX.300 Additional ducts or conduits.

Any person constructing underground ducts or conduits pursuant to this chapter must, upon request, provide the City with additional ducts for its use. Such additional ducts or conduits must be of a size and configuration specified by the City and be dedicated to the City. The City has the right to use the ducts and conduits for any purpose, including but not limited to leasing them to other entities, subject to the following provisions.

(A) The City must enter into a contract with the service provider consistent with RCW 80.36.150, and the incremental costs of adding the ducts and conduits under this section will be borne by the City. If the City makes the additional duct or conduit and related access structures available to any other entity for the purposes of providing wireless services for hire, sale, or resale to the general public, the rates to be charged, as set forth in the contract with the entity that constructed the conduit or duct, must recover at least the fully allocated costs of the service provider. The service provider must state both contract rates in the contract.

(B) Except as otherwise agreed by the City and the service provider, the City agrees that he requested additional duct or conduit space and related access structures will not be used by the City to provide wireless service for hire, sale, or resale to the general public.

(C) The City will not require that the additional duct or conduit space be connected to the access structures and vaults of the service provider.

(D) The value of the additional duct or conduit requested by the City will not be considered a public works construction contract.

(E) This section does not apply to the provision of an institutional network by a cable television provider under federal law.

XX.XX.310 Joint use of poles.

(A) All wireless support structures permitted pursuant to the terms of this chapter or otherwise located within the City of Anacortes must be made available for use by the owner or initial user thereof, together with as many other wireless service providers as can be technically collocated thereon.

(B) Nothing contained within this chapter prevents the owner of such poles from charging a reasonable pole attachment fee that does not exceed the fair market value for the space occupied by said collocated facilities; except that if the owner is the City, it may not charge more than the reasonable approximation of its reasonable costs.

XX.XX.320 City use for noncommercial government communication.

Any person erecting or maintaining poles within public right-of-way allows the City the right, free of charge, to attach, maintain and operate traffic and traffic safety signals, as noncommercial governmental communication and signals, wires and/or fixtures within available surplus space on the poles erected and so maintained.

XX.XX.330 Appearance.

Any person erecting or maintaining poles under authority of this chapter must ensure that its poles are maintained in a manner that does not significantly distract from the visual appearance of the pole. Such maintenance may include cleaning, replacement, painting or repainting of the pole. Wooden utility poles are not required to be painted.

XX.XX.340 Moving of building(s) and/or equipment.

Any person maintaining overhead wireless or utility facilities in public right-of-way must, upon seven days' notice from the Council, disconnect or move said facilities to allow for the moving of building(s) and/or equipment across or along any such public right-of-way; provided, however, that the advance notice may be reduced to 24 hours if the facilities are below the minimum clearance set by law or regulation or in the case of an emergency. The cost of moving such facilities must be in accordance with existing tariffs or applicable State law, and borne as follows: (1) by the owner of the facilities if: (a) the wires, cables or appurtenances are below the minimum vertical clearance required by State law, City ordinance, or rules of the Council, (b) above the surface of the public right-of-way, or (c) no adjustment would be necessary if the minimum clearance had been maintained; or (2) by the person desiring to move the building(s) and/or equipment under all other circumstances.

XX.XX.350 Billings and collections.

The Council, jointly with the Finance Director, may establish procedures pertaining to the billing and collection of fees and charges adopted pursuant to this chapter.

XX.XX.360 Liability.

The Council and other employees charged with the enforcement and administration of this chapter, acting for the City in good faith and without malice in the discharge of their duties, do not thereby render themselves liable personally for damages that may accrue to persons or property as a result of an act required or by reason of an act or omission in the discharge of such duties.

XX.XX.370 Tree trimming.

Any wireless carrier or public utility required by State statute or regulation to trim or remove trees which may interfere with their facilities must ensure that their tree trimming activities protect the appearance, integrity and health of the trees to the extent reasonably possible. The wireless carrier or public utility must prepare and maintain a tree trimming schedule to ensure compliance with this provision and to avoid exigent circumstances where tree cutting, trimming or removal is necessary to protect the public safety or continuity of service without the regard for the appearance, integrity or health of the trees that planned maintenance would otherwise allow. The wireless carrier or public utility must submit the schedule to the City Engineer. Except where exigent circumstances do not permit, the wireless carrier or public utility must give the owner the property on which the trees are located at least five days' advance written notice of the tree trimming. Tree trimming on any City streets must comply with the standards developed by the City's street tree advisory committee.

XX.XX.380 Underground facilities.

(A) The undergrounding requirements of this section apply where the wireless telecommunications carrier, public utility, or other person's facilities consist of cable or any other facilities which are capable of being placed underground. This section does not apply to antennas or other facilities, which are required to remain above-ground, in order to be functional.

(B) In any area of the City in which there are no aerial facilities other than antennas or other facilities required to remain above-ground in order to be functional or otherwise for the provision of wireless services, or in any public right-of-way in which all wireless telecommunications wires and cables, and electric power wires, cables, 15,000 volts and lower, and other aerial facilities capable of undergrounding have been placed underground, no person is permitted to erect poles or to run or suspend wires, cables or other facilities thereon, but must lay such wires, cables or other facilities underground in the manner required by the City pursuant to this section, and Chapters 15.32 and 19.68 AMC, if applicable.

(C) If utility or street improvement projects are anticipated within the same public right-of-way within 12 months of a Permittee's proposed construction, the City may permit interim installation of above-ground facilities. In the event that the City does not require the undergrounding of such facilities at the time of initial installation, the City may, at any time in the future, require the conversion of such above-ground and/or aerial facilities to underground installation at the carrier, utility, or other person's expense, with exceptions as set forth in RCW 35.99.060(d).

(D) The City must allow new electric power lines and cables operating above 15,000 volts to be constructed above-ground when location within the City right-of-way is approved by the City Engineer.

(E) Whenever a service provider or public utility undertakes an undergrounding project in any area of the City, it must underground their above-ground facilities in the manner specified by the City, concurrently and together with the other affected carriers, utilities, and other persons in the affected area. The location of any such relocated and underground facilities must be approved by the Council. Such service provider must underground their facilities at no cost to the City, except as provided in RCW 35.99.060(d).

(F) In the event that the City undertakes any public improvement which would otherwise require, in the discretion of the Council, the relocation of carrier, utility, or other person's above-ground facilities, the Council may, by written notice to such persons, direct that any such facilities be converted to underground facilities. Any such conversion must be done subject to and in accordance with applicable schedules and tariffs on file with the WUTC or such other regulatory agency having jurisdiction.

XX.XX.390 Joint trenching.

Recognizing that trenching and excavation within public right-of-way can significantly degrade the quality and longevity of street surfacing and seriously inconvenience the public, all Permittees must afford other wireless carriers, public utilities, and the City an opportunity to share in the use of their excavations and trenches within public right-of-way. In the event that the City, a wireless carrier, or a public utility desires to share in a Permittee's excavation, it must provide a written request to do so. Joint use of excavations are subject to the following conditions:

(A) Such joint use may not unreasonably delay the work of the party causing the excavation to be made;

(B) Any party desiring to share in an excavation may be required to pay the fair and reasonable pro rata cost of said excavation. Such joint use must be arranged and accomplished on terms and conditions satisfactory to both parties; and

(C) Either party may deny such request for safety reasons.

XX.XX.400 Notice of tariff changes.

A Permittee must, when making application for any changes in tariffs affecting the provisions of this chapter or any approval issued hereunder, notify the City in writing of the application and provide the Council with a copy of the submitted application. The Permittees must further provide the Council with a copy of any actual approved tariff change affecting any approval issued pursuant to this chapter.

XX.XX.410 One-call locator.

All carriers, utilities, Permittees, and other persons must, before commencing any construction within a public right-of-way, comply with all of the requirements set forth in Chapter 19.122 RCW, the one-call locator service.

XX.XX.420 Violation – Penalties.

(A) No person may violate or fail to comply with this chapter.

(B) A violation of or failure to comply with any provision of this chapter is a civil infraction subject to the enforcement provisions of Chapter 1.24 AMC.

(C) A violation or failure to comply with any provision of this chapter, including any order of the Council authorized by this chapter, is, in addition to any other remedies, grounds for the Council to revoke the underlying permit issued to the Permittee, if any, and grounds for the denial of any additional permits under this chapter until the Permittee is in full compliance with the provisions of this chapter.

(D) Violation of a stop-work order issued pursuant to AMC XX.XX.250 or 260 constitutes a gross misdemeanor, punishable by not more than 90 days in jail and a fine not exceeding \$1,000, or both.



January 16, 2019

Via Email c/o Darcy Swetnam, City Attorney
darcys@cityofanacortes.org

Anacortes WA Planning Commission
Re: Anacortes WA Wireless Code Ordinance

Dear Commissioners,

Thank you for the opportunity to provide feedback on the wireless code update. Verizon appreciates the chance to provide information about the enormous increase in consumer demand for data capacity and cell service, as well as input on the technical requirements for the new small cell technology. Verizon supports the general direction and language of the draft code and is appreciative of the effort by staff to address the needs of the wireless industry. Because this is a permanent code and will significantly impact the delivery of wireless service to the residents, businesses and visitors to the city of Anacortes, Verizon would request an opportunity to meet with staff and industry representatives to go through the requested changes before the Commission makes its recommendation to Council.

This new technology is vital to address the coverage and capacity needs of Verizon's customers. More people are using more wireless devices to do more things than ever before, like streaming video and uploading images. In fact, wireless data usage tripled from 2013 to 2015 and is forecast to multiply seven-fold from 2015 to 2019.

Verizon is working to stay ahead of the demand by adding fiber optic capacity and small cells to connect people where they need it most. Small cell antennas are usually mounted on existing utility and street light poles. The low visual profile of small cells makes them an excellent solution for delivering capacity and coverage to residential neighborhoods. Small cells will also deliver connections for smart communities services to boost the flow and safety of vehicle traffic, manage resources like light, power and water and improve the quality of life of Verizon's customers. Moreover, this technology is key to preparing Verizon's network infrastructure so that it is capable of offering 5G wireless connections at speeds up to 100 times faster than today's wired broadband services.

January 16, 2019

Page 2

In reviewing the draft, there are some provisions where Verizon has concerns that the ordinance does not reflect the recent changes in federal law and the technical requirements of this needed infrastructure:

1. 19.68.030. (5) Definitions--the definition is colocation is inconsistent with the definition in the FCC Order that took effect this week. Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, Declaratory Ruling and Third Report and Order (September 26, 2018) ("Order") Verizon requests that the language from the Order be used.
2. 19.68.050 and 060--These sections contain additional definitions. Verizon requests that, for clarity, these sections be deleted and the FCC's definition of "substantial change" be added as subsection (23) to 19.68.050.
3. 19.68.090 and 19.68.190 require a conditional use permit for all small wireless facilities in residential zones. This involves a Type 3 process before the hearing examiner, with public notice. The permits for a small wireless facility must be processed within 60 days for a colocation and 90 days for a new pole, including appeals. There is insufficient time for a conditional use permit process which requires notice and hearing. Verizon requests that all small wireless facilities be processed administratively, in order to meet the federal shot clocks.
4. 19.68.120(B) requires a showing of need for the small wireless facility. The Order, at Paragraphs 35-37, says that such a showing may not be required. Verizon requests that this section be deleted.
5. 19.68.200 General (A)(2) Verizon requests an exception to this for small wireless facilities, as colocation is not possible and requiring an engineering certification for each pole is unduly burdensome.
6. 19.68.200 Appearance and Screening (A)(2) Verizon requests deleting this requirement, as it is unclear what is being requested.

Thank you for the opportunity to comment and we look forward to continuing to work with the city to develop a code that preserves the look and feel of your community, while providing an efficient, workable and federally compliant process to deliver the service your residents, visitors and businesses have come to expect. A Verizon Wireless representative will be at your meeting to provide testimony, answer questions and provide information, as needed.

Sincerely,



Kim Allen

Wireless Policy Group, LLC on behalf of Verizon Wireless

January 16, 2019

City of Anacortes Planning Commission
904 6th Street
P.O. Box 547
Anacortes, WA 98221

VIA EMAIL

Re: Public Hearing, January 16, 2019, Wireless Telecommunications Draft Regulations

Dear Planning Commission Members:

On behalf of T-Mobile, we are submitting these written comments on the proposed Wireless Telecommunications Draft Regulations. We appreciate the opportunity to comment on these proposed changes.

Regarding any wireless facility code update, T-Mobile has general concerns that (a) the code allow reasonable opportunities to site macro facilities to ensure that primary coverage meeting customer needs is able to be provided to all areas; (b) that facility upgrades that qualify for treatment as Eligible Facilities requests are expeditiously identified and allowed as required by federal law; (c) that a clear path for locating Small Wireless Facilities (small cells) in the public right of way on existing electrical utility poles and City street lights is made available, and that the process requirements and timeframes for approval of small cell applications are compliant with federal law, including the recent FCC September 2018 Order; and (d) that federal shot clocks for timely processing of wireless facility applications will be met.

The proposed draft Anacortes ordinance appears to be broadly aimed at covering these areas of concern. However, with respect to the details of some provisions, and as to the path for small cells, T-Mobile believes there is still work to be done on the ordinance draft. A few examples of areas of concern with the draft are:

1. Definitions. The proposed regulations contain a number of definitions that are complex and potentially confusing, with some potential discrepancies between the proposed definitions and federal law. For example, the definition of “Colocation” in Chapter 19.68 is divided into two tracks, one for Eligible Facilities Requests, and one for Small Wireless facilities and other wireless facilities. This latter definition is very complex, with multiple parts, a

4829-6315-4309v.1 0048172-000795

characteristic that raises concerns about whether the definition can be efficiently and correctly applied by applicants and staff working on applications.

In addition, although industry commented at the recent Planning Commission public meeting on the need to synchronize the “colocation” definition with federal law, the definition still seems to need some attention in this area, as under federal law “colocation” means placing a wireless facility on an existing structure *without* any requirement that there be an existing antenna on the structure; but proposed 19.68.030 (5) does not comply with federal law in this respect.¹ Synchronizing this aspect of the definition with federal law is important for proper application of the shot clocks established by federal law; this affects proposed 19.68.150, regarding colocation of small wireless facilities as well.

As another example, the definition of “wireless support structure” in 19.68.030 (29) is quite different (practically opposite) the definition of the same term in the definitions section of the right of way master use permit chapter. This creates confusion in understanding and administering the provisions of the two chapters.

2. Small Wireless Facilities. Small Wireless Facilities (“SWF”) are addressed in both Chapter 19.68 and in the proposed right of way master use permit chapter. There is no clear statement in either chapter as to whether SWF in the public right of way are subject to both chapters. Assuming that both chapters will apply, there are concerns about discrepancies or ambiguities in the definitions applicable in each chapter, see above. Additionally, the structure of the regulations as applied to SWF is not as clear as it could be as to what types of structures SWF will be allowed on, for example, electrical utility poles, city poles, or potentially new purpose built poles. Industry commented at the public meeting that separating SWF regulations from (a) macro regulations and (b) Eligible Facilities Request regulations would be extremely helpful. Most jurisdictions have separate sections to address these different types of facilities.

We note that in 19.68.120, concerning permit review criteria, there is still a requirement that a new SWF application provide a justification based on significant gap, new services, densification or other service justification for the application. This is not consistent with the FCC September Order, as was commented at the public meeting.

¹ In its final rule to implement the September 2018 Order, the FCC stated: “64. The Commission takes this opportunity to clarify that for purposes of the Section 332 shot clocks, attachment of facilities to existing structures constitutes collocation, regardless of whether the structure or the location has previously been zoned for wireless facilities. As the Commission stated in 2009, “an application is a request for collocation if it does not involve a ‘substantial increase in the size of a tower’ as defined in the Nationwide Programmatic Agreement (NPA) for the Collocation of Wireless Antennas.” The definition of “[c]ollocation” in the NPA provides for the “mounting or installation of an antenna on an existing tower, building or structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes, whether or not there is an existing antenna on the structure.”

3. Conditional Use Criteria.

In 19.68.130 (2), among the conditional use approval criteria, we note a requirement that a macro facility demonstrate compatibility with the height and mass of existing buildings in the area. Because macro facilities typically are taller than their surroundings in order to provide necessary primary coverage, this particular criterion may be too stringent.

Small Wireless Facility Information

Small Wireless Facilities (SWF” or “small cells”) are a particular type of wireless facility installation that are intended primarily to address network capacity needs and management of network traffic, particularly in areas of high demand or urban density. Unlike the traditional macro cell (tower) wireless facility which is designed to provide primary coverage to a defined geographical area, small cells are designed to work with macro sites to manage heavy wireless traffic in order to provide optimal network functionality and to ensure that wireless customers have access to the high quality and reliable wireless service they have come to expect.

In order to ensure that all wireless communications users have access to an optimal network, it is particularly important that regulations for permitting small cell deployment be flexible enough to accommodate a range of aesthetic solutions, and to allow for technological evolution. Each wireless carrier has small cell designs that are customized according to the carrier’s network frequency and design and its anticipated capacity needs. Further, all carriers’ technologies are continually evolving. Thus small cell design standards should avoid inadvertently forcing carriers to choose specific technologies or equipment, effectively discriminating among carrier technologies in violation of federal neutrality requirements.

For assistance in better understanding T-Mobile’s small cell equipment, we are submitting the attached informational packet with this letter to better inform the Planning Commission as to the form factor and typical integrated appearance of T-Mobile SWF equipment. T-Mobile’s SWF integrates antennas and equipment into a single unified enclosure which is compatible with a variety of street and utility poles, as illustrated in the packet.

Request for Additional Stakeholder Meeting(s) with Staff

The comments above are not exhaustive, but rather more illustrative of lingering issues, including structural issues, with the proposed regulations. The complexity of the regulations, particularly since this is a complete replacement for existing regulations, is a concern given the relatively short timeframes that have been provided for review and analysis of the draft prior to the public hearing. T-Mobile would reiterate earlier requests from industry representatives for a stakeholder meeting to be held with staff in order to work specifically on structural and other issues that remain with the proposed regulations. This approach has been successfully used in

January 16, 2019

Page 4

other jurisdictions to address complex drafting issues such as the ones presented with this Anacortes draft.

Thus, we would urge the Planning Commission to give direction to staff to have a continued dialogue with wireless service providers in the form of one or more stakeholder meetings, so that issues of common concern can be articulated to staff, and complex drafting issues can be better discussed.

Very truly yours,

Davis Wright Tremaine LLP



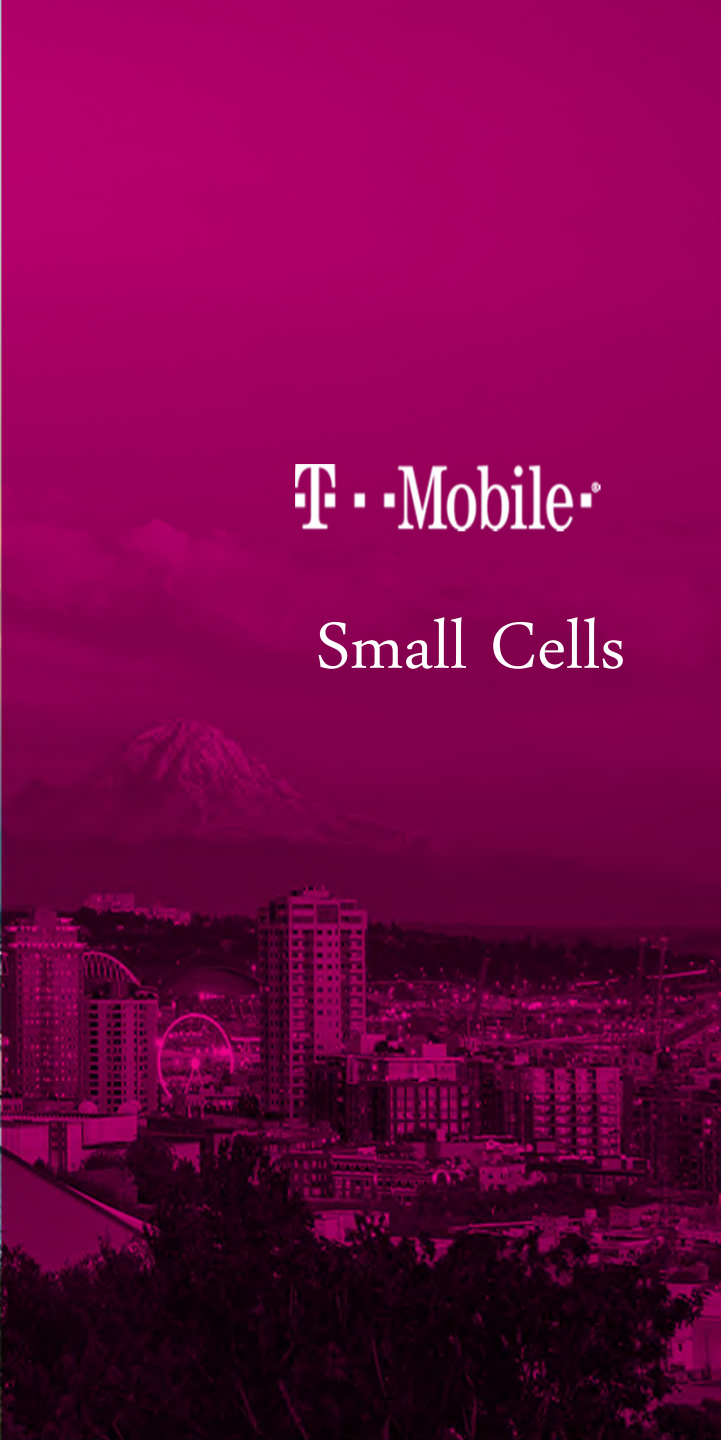
Linda White Atkins

cc: Don Measamer
Darcy Swetnam



T-Mobile

Small Cells



T-Mobile as a Company

**72.6
million**

Total
customers as
of Q4 2017

50,000+

employees
nationwide
(5,000+ in
Seattle metro)

19

straight
quarters 1
million plus net
customer
additions

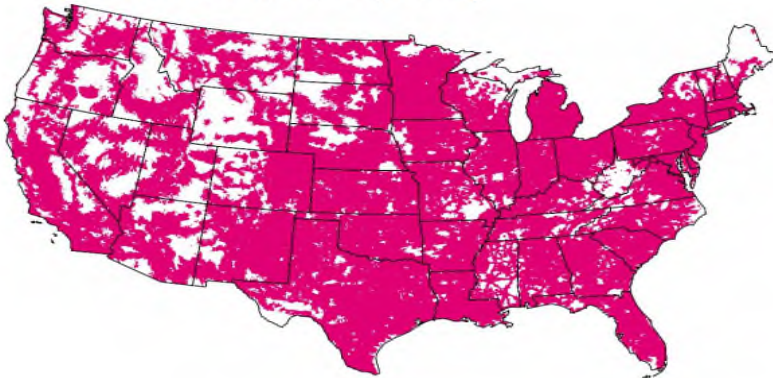
1,500

new T-Mobile
branded stores
in 2017

1,300

new MetroPCS
branded stores
in 2017

T-Mobile Coverage Map
(as of December 31, 2017)



**322 million LTE
POPs**

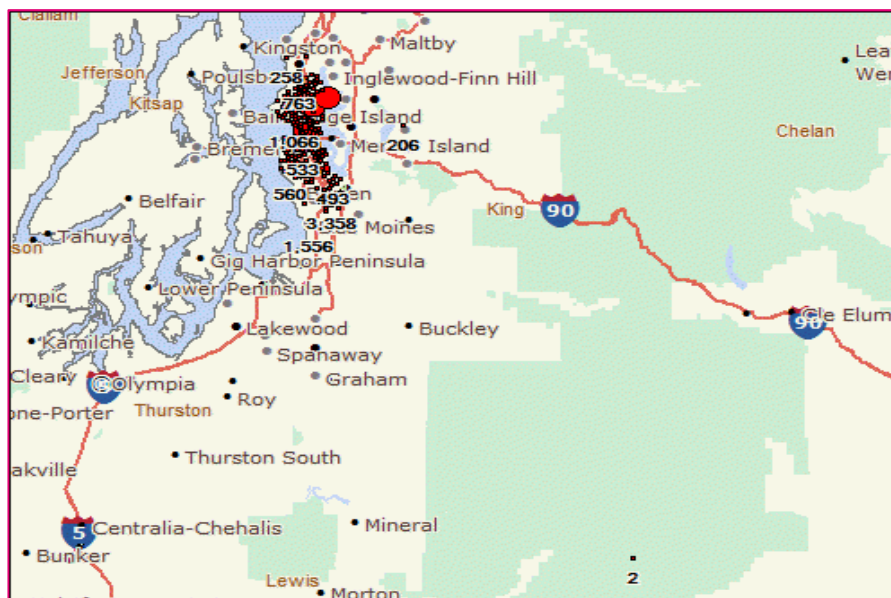


Wireless Infrastructure is Critical

- > 50% of households **wireless only**
- 70% of phone calls are initiated from a **mobile phone**
- 80% of adults use smartphones
- 70% of time spent on digital media is on a **mobile device**
- YOY growth in data usage is at least **1.5 X**



273,539 calls to T-Mobile's Network (2017-2018)

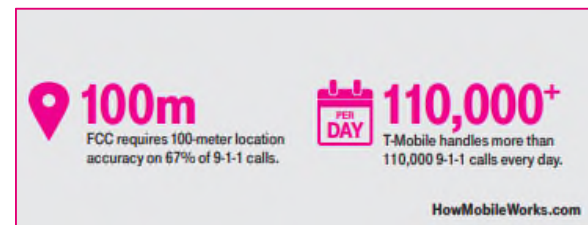


per month

E911 Calls by Site

- 31,000
- 15,500
- 3,100

Sites



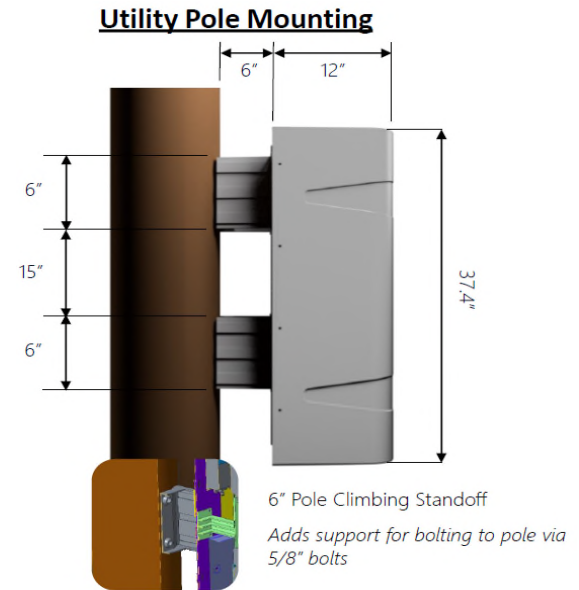
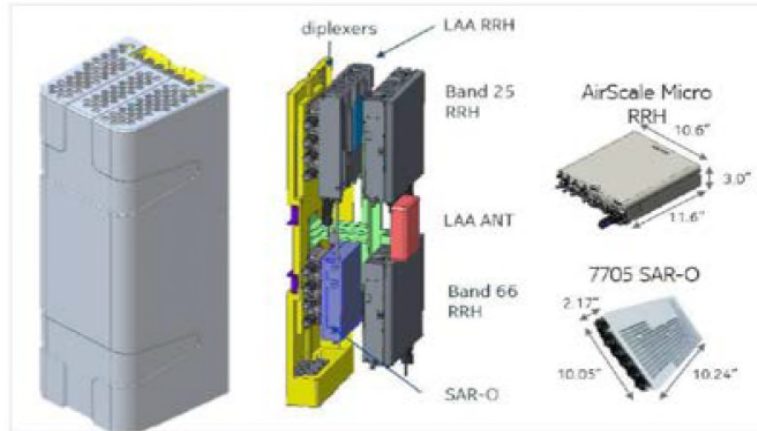
ENHANCED 9-1-1 LOCATION ACCURACY:



- Network requirements to meet these demands
 - **COVERAGE** – Rural, Suburban & Urban
 - **SPECTRUM** – Foundation of a wireless network
 - **CAPACITY** – Constant upgrading of technologies, software, hardware, & infrastructure
 - **DENSIFICATION** – Essential for 4G and 5G
- Local siting policies should consider
 - **ACCESS** – particularly in the right of way
 - **FLEXIBILITY** – allow for different types of designs by each carrier and future innovation
 - **STREAMLINING PROCESSES** – by exempting small cells from zoning review
 - **TIMEFRAMES** – provide predictable and timely permitting
 - **FEES** – require reasonable and non-discriminatory fees



T-Mobile's Small Cell Shroud



- Sleek design
- Creates uniformity
- Antennas and radios in close proximity for improved function (faster data speeds)
- Can blend with existing infrastructure



Las Vegas Installation

T-Mobile
NATIONAL DEVELOPMENT

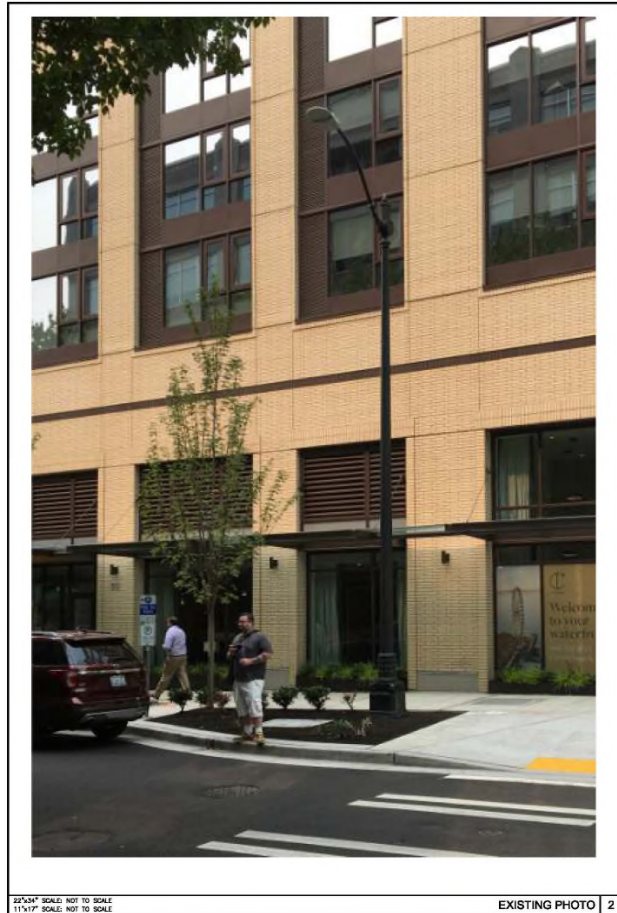


Seattle Photo Sims

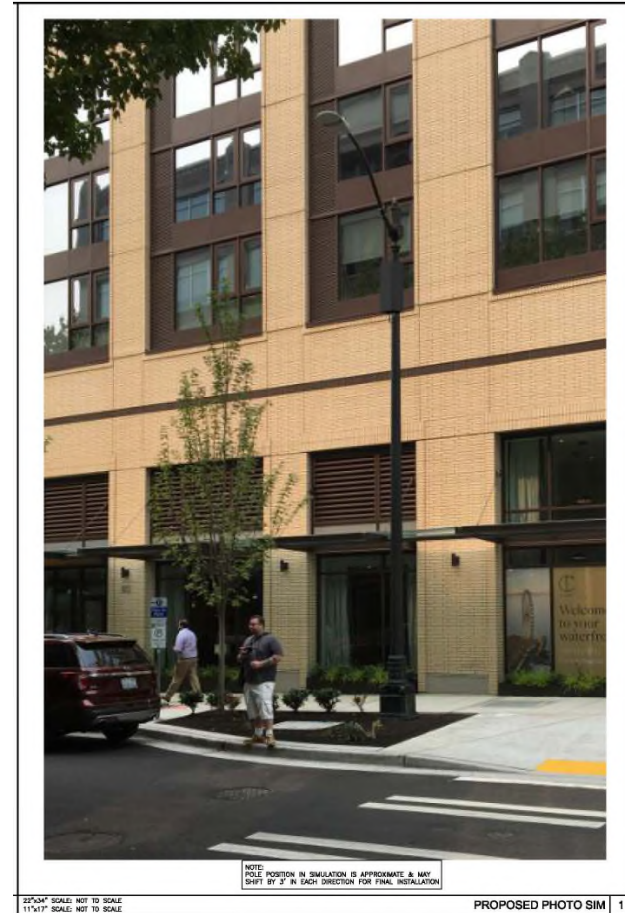
(Proposed)

T-Mobile
NATIONAL DEVELOPMENT

Existing



Proposed

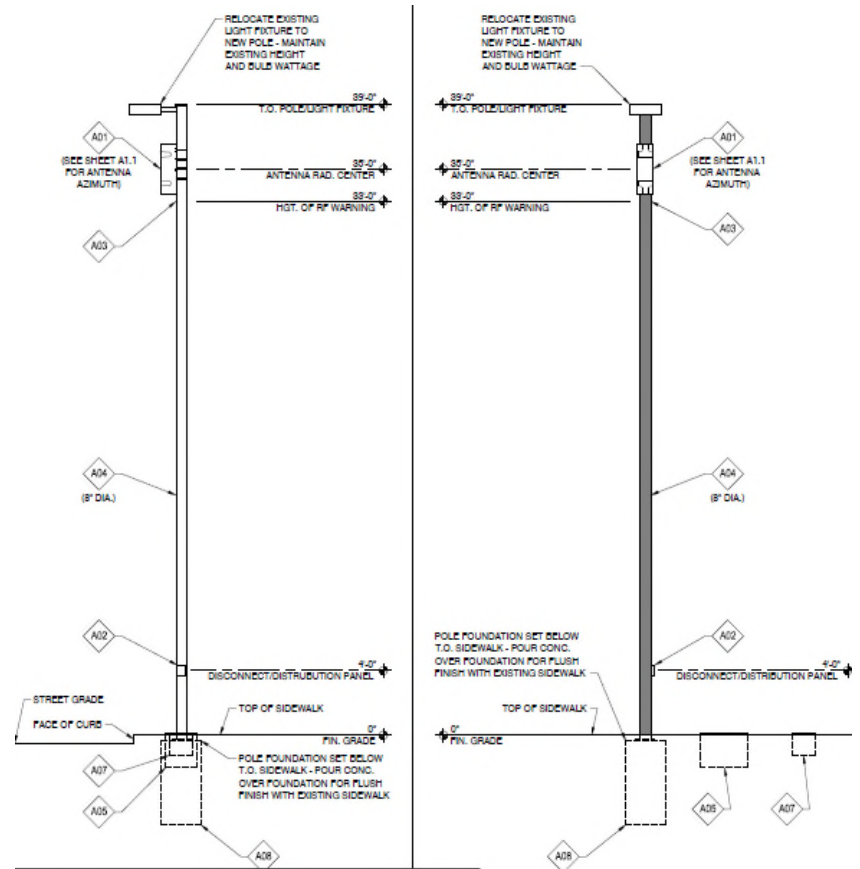


Bellevue Photo Sims

(Proposed)

Existing

Proposed



Issaquah Photo Sims

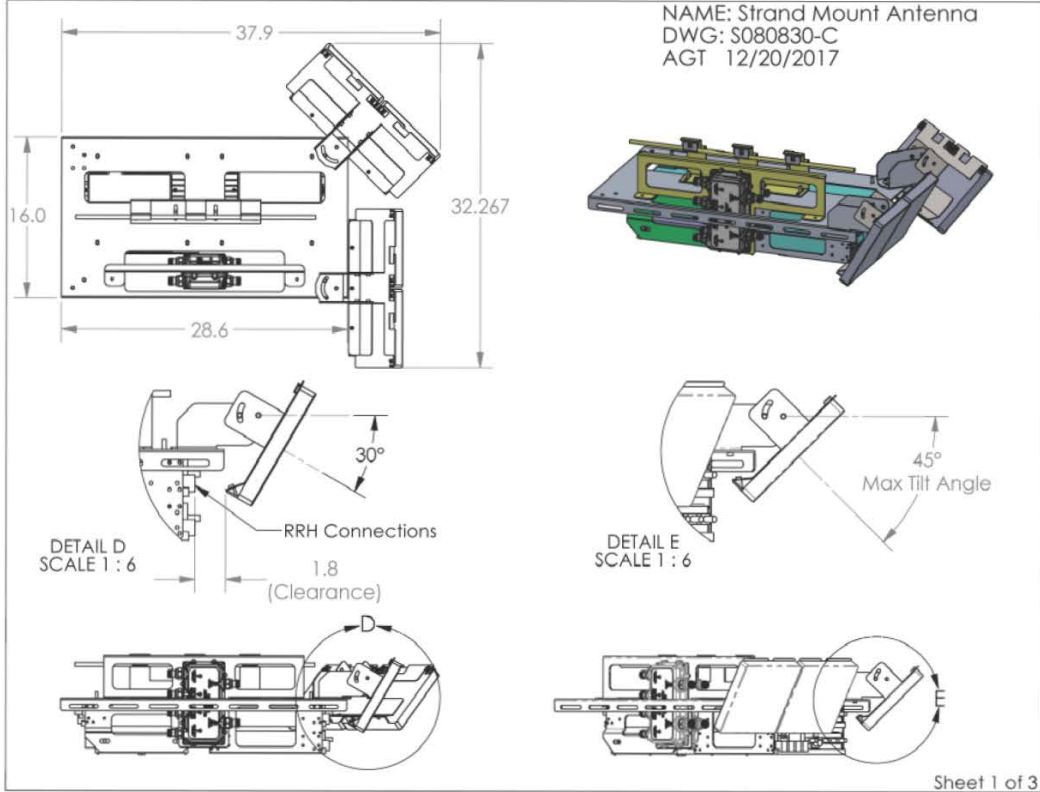
(Proposed)



T-Mobile's Strand-Mount Solution

W:\Antennas\Strand Mount Antenna\S080830\

NAME: Strand Mount Antenna
DWG: S080830-C
AGT 12/20/2017



Salt Lake City Installation

T-Mobile
NATIONAL DEVELOPMENT





January 30, 2019

Via Email c/o Darcy Swetnam, City Attorney
darcys@cityofanacortes.org

Anacortes WA Planning Commission
Re: Anacortes WA Wireless Code Ordinance

Dear Commissioners,

Thank you for the opportunity to provide continued feedback on the wireless code update. In reviewing the most recent draft, there are some provisions where Verizon has continuing concerns that the ordinance does not reflect the recent changes in federal law and the technical requirements of this needed infrastructure:

1. 19.68.050 and 060--These sections contain additional definitions. Verizon requests that, for clarity, these sections be deleted and the FCC's definition of "substantial change" be added as subsection (23) to 19.68.050.
2. 19.68.080(11) Eligible Facilities Request applications requires copies of the original permits for the tower. The last version also allowed use of later modification permits, as these documents also have the terms and conditions of the original permit and are more readily available for older towers. Verizon requests this language be restored.
3. 19.68.090 and 19.68.190 require a conditional use permit for all small wireless facilities in residential zones. This involves a Type 3 process before the hearing examiner, with public notice and a required community meeting before the hearing which would start the shot clock. Type 3 permits also have an appeal to the City Council. The permits for a small wireless facility must be processed within 60 days for a colocation and 90 days for a new pole, including appeals. There is insufficient time for a conditional use permit process which requires notice and hearing. Verizon requests that all small wireless facilities be processed administratively, in order to meet the federal shot clocks.
4. 19.68.190 Table--The table is internally inconsistent. Attachment of a SWF to any of the existing structures in the 1st column does not warrant the full CUP process, as discussed above. It is also not consistent with the row below that allows SWF's in all zones with a WSF.

January 30, 2019
Page 2

5. 19.68.120(B) requires a showing of need for the small wireless facility. The Order, at Paragraphs 35-40, says that such a showing may not be required. Verizon requests that this section be deleted.
6. 19.68.200 General (A)(2) Verizon requests an exception to this for small wireless facilities, as colocation is not possible and requiring an engineering certification for each pole to assert that is unduly burdensome.
7. 19.68.200 Appearance and Screening, Landscaping, Setbacks-- Verizon requests deleting these requirements for SWF's in the ROW, as they are traditional tower regulations that would materially inhibit, or in the case of a 20' setback from lot lines, prohibit SWF's in the ROW.
8. 5.38.200-Security Fund Verizon requests that this fund balance be refunded when the agreement expires, and all facilities have been removed.
9. 5.38.220-Insurance Verizon requests an option to self insure.

Thank you for the opportunity to comment and we look forward to continuing to work with the city to develop a code that preserves the look and feel of your community, while providing an efficient, workable and federally compliant process to deliver the service your residents, visitors and businesses have come to expect. I will be at your meeting to provide testimony, answer questions and provide information, as needed.

Sincerely,



Kim Allen
Wireless Policy Group, LLC on behalf of Verizon Wireless



Planning Commission Agenda Bill

Meeting Date: 1/30/2019 **Agenda Item:** [Click here to enter text.](#)

Subject: Wireless Code Updates: Public Hearing

Staff Contact: Darcy Swetnam, Don Measamer

Approved for Submittal to PC by	
	Laurie Gere, Mayor
x	Don Measamer, PCED Director
	Darcy Swetnam, City Attorney

Action Type	
x	Public Hearing
	Staff Report
	Discussion

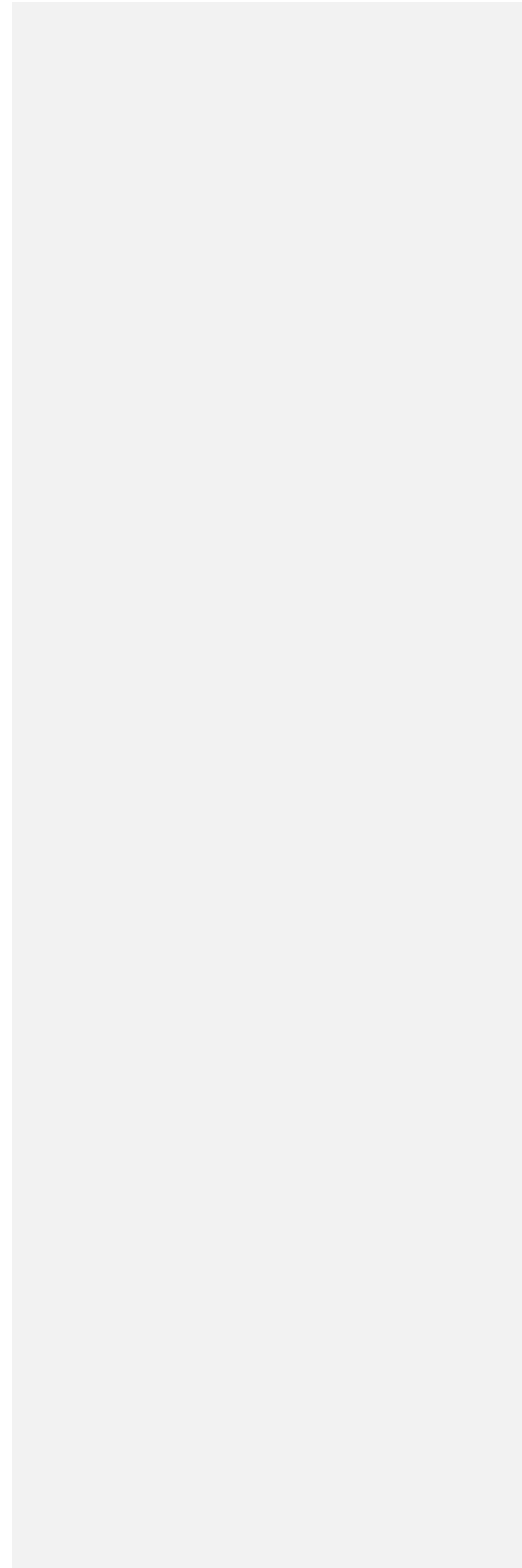
Summary Statement: The draft wireless service facilities and utility and telecommunication ROW use regulations have been revised based on additional public comment and feedback received at the January 16, 2019 public hearing. Upon closing the public hearing, staff recommends the Planning Commission make a motion to recommend approval of the draft regulations to City Council. A draft recommendation with findings of fact per AMC 19.16.080(C)(3) is forthcoming for the Planning Commission's review.

Background: Council adopted Ordinance 3010 on August 28, 2017, which placed a moratorium on new applications for telecommunications facilities and franchise agreements within the City rights-of-way for telecommunication purposes to allow time to rewrite these sections of the Anacortes Municipal Code. The initial six-month moratorium was extended for an additional six months on February 20, 2018, per Ordinance 3020. The moratorium will expire on February 28, 2019. Staff have worked with outside counsel to ensure the proposed draft complies with federal and state law and anticipates applications for small cell deployment in City rights-of-way.

Recommended Motion: I move to recommend to the City Council approval of draft AMC Ch. 19.68 Wireless Service Facilities and AMC 5.38 Public Utility and Telecommunications Right-of-Way Use.

Attachments:

- Revised DRAFT Ch. 19.68 Wireless Service Facilities
- Revised DRAFT Ch. 5.38 Public Utility and Telecommunications Right of Way Use



Chapter 19.68

WIRELESS SERVICE FACILITIES

Sections:

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19.68.010 Purpose.

The purposes of this chapter are as follows:

- (1) Establish development regulations consistent with the City's Comprehensive Plan;
- (2) Protect property values and promote tourism through protection of scenic vistas of the mountains, tree-covered hillsides, the waterfront, and tourist-related zones and areas;
- (3) Facilitate the use of public property and structures for wireless service facilities to reduce the impact of such facilities upon residential and other property;
- (4) Maintain the quality of life associated with the aesthetic character of the City's surroundings;
- (5) Provide adequate sites for locating wireless service facilities in areas where the adverse impact on the community is minimal;
- (6) Provide facilities and infrastructure to provide wireless communications service to City residents, businesses, and others when in Anacortes;
- (7) Encourage optimal colocation and sharing of new and existing facilities, and minimize the total number of towers throughout the community;
- (8) Encourage use of most appropriate technology and prompt removal of outdated or abandoned wireless service facilities;
- (9) Encourage the location of wireless service facilities upon alternative support structures;
- (10) Require that the design of wireless service facilities incorporate camouflage, disguise, screening and concealment technology so that such facilities blend into their surroundings;
- (11) Avoid the potential damage to adjacent properties from tower failure by engineering and careful siting of tower structure;
- (12) Enhance the ability of the providers of wireless services to provide such services to the community quickly, effectively, and efficiently; and
- (13) Provide a level, nondiscriminatory competitive environment and thereby encouraging increased competition among providers of functionally equivalent wireless services.

19.68.020 Applicability.

Except as otherwise provided herein, the placement of any wireless service facility at any location within the City is subject to the provisions of this chapter. The standards and process requirements of this chapter supersede all other review process and approval criteria, setback, height or landscaping requirements of this title. Except as provided herein, all wireless telecommunication service facilities must comply with the provisions of this chapter.

19.68.030 Definitions.

- (1) "Antenna" means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.
- (2) "Base station" means: a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a "Tower" or any equipment associated with a Tower.

The Anacortes Municipal Code is current through Ordinance____ and legislation passed through_____[Date].

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

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

(C) The term includes any structure other than a tower that supports or houses equipment 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 such support.

(D) The term does not include any structure that does not support or house equipment for wireless telecommunications services.

(3) "Camouflage" means a palette of techniques used to disguise, hide and conceal a wireless service facility from public view by blending its appearance into elements of the visual background. The term connotes the use of paint, landscaping, building materials and artificial screens in patterns that merge with the elements in the background environment.

(4) "Colocation" for the purposes of Eligible Facilities Requests means the placement or installation of wireless facilities on existing structures that include a wireless facility or a wireless support structure, including water towers and other buildings or structures. The term includes the placement, replacement, or modification of wireless facilities within an approved equipment compound.

(5) "Colocation" for the purpose of applications to site Small Wireless Facilities and other wireless facilities, excluding Eligible Facilities Requests, means

(a) Mounting or installing an antenna facility on a pre-existing structure, and/or

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

(6) "Director" means the Director of Planning, Community, and Economic Development.

(7) "Electrical transmission tower" means a structure that physically supports high voltage overhead power lines. The term does not include a utility pole.

(8) "Eligible Facilities Request" or "EFR". Any request for modification of an existing tower or base station that does not substantially change the physical dimension of such tower or base station, involving:

(i) Colocation of new transmission equipment;

(ii) Removal of transmission equipment; or

(iii) Replacement of transmission equipment.

(9) "Eligible Support Structure." Any tower or base station, provided that it exists at the time the relevant EFR application is filed with the state or local government.

(10) "Equipment Cabinet" means an enclosure that is mounted above base flood elevation or placed on a concrete slab that contains improvements, personal property, and facilities to operate its wireless services including: radio receivers, transmitters, related facilities, and/or related cables and utility lines, location-based power sources, the electrical meter and any other necessary equipment.

(11) "Equipment Shelter" means an enclosed structure, shed or box at the base of a mount to store improvements, personal property, and facilities to operate its wireless services including: radio receivers, transmitters, related facilities, and/or cabinets, related cables and utility lines, location-based power sources, the electrical meter and any other necessary equipment.

(12) "Existing." Any tower or base station is existing for purposes of this chapter if it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not permitted when it was built, but was lawfully constructed, is existing for purposes of this chapter.

(13) "Facilities" means all of the towers, equipment, fixtures, antennas, equipment cabinets, equipment shelters, and other appurtenances necessary to furnish and deliver wireless services, including but not limited to utility, monopoles, and street poles with cross arms or without cross arms, wires, lines, conduits, cables, communication and signal lines and equipment, braces, guys, anchors, vaults, and all attachments, appurtenances, and appliances necessary or incidental to the distribution and use of wireless services. Facilities include "Small Wireless Facilities" as defined below.

(14) "FCC" or "Federal Communications Commission" means the federal agency, or its lawful successor, authorized to regulate and oversee wireless telecommunications carriers, services and providers.

(15) "Lattice tower" means a type of mount that is self-supporting with multiple legs and cross bracing of structural steel.

(16) "Monopole" means a type of mount that is self-supporting with a single shaft of wood, steel or concrete and a platform or racks for panel antennas arrayed at the top.

(17) "Public street" means any highway, street, road, alley or other public way for motor vehicle travel within the city and under the jurisdiction and control of the city which has been acquired, established, dedicated or devoted to street purposes.

(18) "Right(s)-of-way" means all public streets and associated 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, sidewalks, bikeways and horse trails, whether improved or unimproved, including any air rights, subsurface rights or easements related thereto.

(19) "Service provider" means every corporation, company, association, joint stock association, firm, partnership, person, city, town, or other legal entity owning, operating, or managing any facilities used to provide and providing wireless telecommunications services for hire, sale, or resale to the general public. Service provider includes the legal successor to any such corporation, company, association, joint stock association, firm, partnership, person, city, town, or other legal entity.

(20) "Site" means the current boundaries of the leased or owned property surrounding the facility and any access or utility easements currently related to the site, and for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.

(21) "Small Wireless Facility" encompasses facilities that meet the following conditions:

(A) The facilities—

(1) are mounted on structures 50 feet or less in height including their antennas,

(2) are mounted on structures no more than 10 percent taller than other adjacent structures, or

(3) 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;

(B) Each antenna associated with the deployment, excluding associated antenna equipment, is no more than three cubic feet in volume;

(C) 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;

(D) The facilities do not require antenna structure registration under Federal law;

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(E) The facilities are not located on Tribal lands, means all lands within the exterior boundaries of any Indian reservation and all dependent Indian communities; and

(F) The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified under Federal law pertaining to wireless facilities.

(22) "Stealththing" means designing facilities to be architecturally incorporated into the surrounding community's environs while minimizing aesthetic impacts. Examples of stealththing include, but are not limited to, steeples, windmills, water towers, flag poles, light poles, or chimneys.

(23) "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

(24) "Transmission equipment" means equipment that disseminates information by wire, radio, optic cable, electromagnetic, or similar means for any FCC-licensed or authorized wireless telecommunication 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 telecommunications 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.

(25) "Wireless telecommunications service" or "wireless service" means the transmission of information by wire, radio, optic cable, electromagnetic, or 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, wireless telecommunications service excludes the over-the-air transmission of broadcast television or broadcast radio signals and excludes "cable services," "cable communications systems" and "CATV systems" as defined in Chapter 5.44.

(26) "Tower" means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio, and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

(27) "Utility pole" means a pole privately owned or installed by a utility company for the purpose of electrical transmission.

(28) "Wireless" means communications using radio frequency or optical emissions to complete one or more communications paths in whole or in part among originating and receiving points without other tangible physical connection, including without limitation, radio and unguided optical waves, and the apparatus used for such transmission.

(29) "Wireless support structure" means a freestanding structure that is designed to support or is capable of supporting wireless facilities. The term does not include a utility pole, monopole, street pole, or tower.

19.68.040 Permit required.

(A) New Facilities. A wireless service facility (WSF) permit or wireless conditional wireless use permit (WCUP) is required prior to the site preparation, construction, or installation of any new wireless service facility. The permit required in each zone is specified in AMC 19.68.

(B) Colocating Facilities. A wireless service facility (WSF) permit or conditional wireless use permit (WCUP) is required in every zone prior to the colocation of any wireless service facility and is required for modifications that qualify as a Substantial Change. Colocations involving modifications under subsection (C) below are exempt from this requirement.

(C) Non-Substantial Change. A modification to an existing facility that involves the addition, removal, and/or replacement of transmission equipment that meets the criteria for a Non-Substantial Change as set forth in 19.68.060

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must submit an Eligible Facility Request application. A WSF or WCUP will not be required for these types of modifications.

(D) Substantial Change. A modification to an existing facility that involves the addition, removal, and/or replacement of transmission equipment that is a Substantial Change as defined in 19.68.050 is subject to the requirements for new facilities or colocations as applicable.

(E) No wireless service facility permit may be issued under this chapter unless the applicant demonstrates compliance with the terms, conditions and performance standards set forth in this chapter. Any WCUP must also meet the criteria for said use permits set forth in Section 19.68.130.

(F) A building permit is also required for any new wireless facility or collocating facility.

19.68.050 Substantial Change.

(A) "Substantial Change" for purposes of this Chapter means a modification to an existing facility that meets any of the following criteria.

Criteria 1:

(1) For towers outside of public rights-of-way, if the modification increases the height of the tower by the greater of: (i) more than 10%, or (ii) by the height of one additional antenna array, with separation from the nearest existing antenna not to exceed twenty feet; or

(2) For those towers in the rights-of-way and for all base stations, if the modification it increases the height of the tower or base station by the greater of: (i) 10% or (ii) 10 feet.

Criteria 2:

(1) For towers outside of public rights-of-way, if the modification involves adding an appurtenance to the body of the tower that protrudes from the edge of the tower the greater of: (i) 20 feet, or (ii) the width of the tower structure at the level of the appurtenance; or

(2) For other eligible support structures, if the modification protrudes from the edge of the structure more than 6 feet;

Criteria 3:

(1) For any eligible wireless support structure, if the installation includes more than the standard number of new equipment cabinets, not to exceed four; or

(2) For towers in the public rights-of-way and base stations, if the modification 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.

Criterion 4:

For any eligible support structure, if the modification entails any excavation or deployment outside the current site;

Criterion 5:

For any eligible support structure, if the modification defeats the existing concealment elements of the tower, base station, or any other wireless support structure.

Criterion 6:

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For any eligible support structure, if the modification violates any of the conditions of approval (besides modification allowed under criteria #1-5 associated with prior approval(s)).

19.68.060 Non-Substantial Change.

(A) "Non-substantial Change" means a modification that meets all of the following criteria:

Criteria 1:

- (1) For towers outside of public rights-of-way, if the modification does not increase the height of the tower by the greater of: (i) more than 10%, or (ii) by the height of one additional antenna array, with separation from the nearest existing antenna not to exceed twenty feet; or
- (2) For those towers in the rights-of-way and for all base stations, if the modification does not increase the height of the tower or base station by the lesser of: (i) 10% or (ii) 10 feet.

Criteria 2:

- (1) For towers outside of public rights-of-way, if the modification does not protrude from the edge of the tower by the greater of: (i) 20 feet, or (ii) the width of the tower structure at the level of the appurtenance; or
- (2) For those towers in the rights-of-way and for all base stations, if the modification does not protrude from the edge of the structure more than 6 feet;

Criteria 3:

- (1) For any eligible support structure, if the installation includes new equipment cabinets, the modification does not include the installation of more than 4 equipment cabinets; or
- (2) For towers in the public rights-of-way and base stations, if the modification does not involve the installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the tower, and does not involve the installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the tower.

Criterion 4:

For any eligible support structure, if the modification does not entail any excavation or deployment outside the current site

Criterion 5:

For any eligible support structure, if the modification does not defeat the existing concealment elements of the tower or base station or other wireless support structure.

Criterion 6:

For any eligible support structure, if the modification does not violate any of the conditions of approval (besides modification allowed under criteria #1-5 associated with prior approval(s)).

19.68.070 Optional Pre-application.

An optional pre-application may be submitted up to thirty (30) days prior to the submission of an Eligible Facilities Request application, or a permit application associated with a Small Wireless Facility or other wireless facility. The information submitted along with a pre-application may include the following information:

- (1) The name and address of the applicant;

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- (2) Identification of all carriers using the facility;
- (3) The type of facility proposed;
- (4) If the applicant is not the owner or person in control of the eligible support structure or site, an attestation that the owner or person in control of the eligible support structure and/or site has consented to the proposed facility modification. If the eligible support structure is to be located within a public right-of-way, the applicant must also attest that the applicant has authorization to install, maintain, and operate transmission equipment in, under and above the public right-of-way.
- (5) A stamped report by a state of Washington registered professional engineer demonstrating compliance with existing structural, electrical, and safety codes, and describing the general structural capacity of the eligible facility, small wireless facility, or other wireless facility.
- (6) Detailed site plan and drawings.
- (7) Dimensioned elevation drawings of the existing tower or structure showing the existing and proposed antennas, and equipment structures (at 1/8" = 1' or comparable scale).
- (8) Copies of the land use or building permit approval that authorized the original installation of the tower or wireless facilities on the structure;
- (9) If new equipment cabinets, generators, or any other ground equipment components are being proposed, an assessment of noise that shows compliance with City and/or Federal noise standards.
- (10) A description of compliance with the applicable visibility and performance standards set forth in section 19.68.200.
- (11) A stamped report by a state of Washington registered professional engineer demonstrating compliance with radio-frequency emissions standards.

19.68.080 Eligible Facilities Request applications.

- (A) For the purposes of this section, a complete application includes:
 - (1) The name and address of the applicant;
 - (2) Identification of all carriers using the facility;
 - (3) An assertion that the proposed facilities modification is subject to review under Section 6409 of the Spectrum Act.
 - (4) If the applicant is not the owner or person in control of the eligible support structure or site, an attestation that the owner or person in control of the eligible support structure and/or site has consented to the proposed facility modification. If the eligible support structure is to be located within a public right-of-way, the applicant must also attest that the applicant has authorization to install, maintain, and operate transmission equipment in, under and above the public right-of-way.
 - (5) If the proposed modification will alter the exterior dimensions or appearance of the eligible support structure, the applicant shall include a detailed visual simulation depicting how the eligible support structure will appear after the proposed modification is complete, and particularly, how concealment or stealth will be extended with the modification. The visual simulation shall depict to scale the eligible support structure in relation to the trees, landscaping and other structures adjacent to, or in the immediate vicinity of, the eligible support structure.
 - (6) If the applicant proposes a modification to a tower, an attestation that the proposed modifications will comply with existing structural, electrical, and safety codes, and a description of the general structural capacity of the tower with the proposed modification.

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(7) If the applicant proposes a modification to a base station, an attestation that the proposed modifications will comply with existing structural, electrical, and safety codes.

(8) If the applicant proposes a modification requiring alteration to the eligible support structure, excavation, installation of new equipment cabinets, or other activities impacting or altering the land, existing structures, fencing or landscaping, the applicant must submit a detailed site plan and drawings, showing the point of true north, and an appropriate scale depicting:

- (i) the location, elevation, and dimensions of the existing eligible support structure;
- (ii) the location, elevation, and dimensions of the existing transmission equipment;
- (iii) the location, elevation and dimensions of the transmission equipment, if any, proposed to be collocated or that will replace existing transmission equipment;
- (iv) the location, elevation and dimensions of any proposed new equipment cabinets and the intended use of each;
- (v) any proposed modification to the eligible support structure;
- (vi) the location of existing structures on the site, including fencing, screening, trees, and other significant site features; and
- (vii) the location of any areas where excavation is proposed showing the elevations, depths, and width of the proposed excavation and materials and dimensions of the equipment to be placed in the area excavated.

(9) If excavation or deployment is proposed outside the current site of the tower or base station, a description of the boundaries of the site together with a scale drawing based on an accurate traverse, with angular and lineal dimensions showing the tower or base station with respect to the site. The city may require a survey by a land surveyor licensed in the state of Washington when, in the judgment of the approval authority, a survey is reasonably necessary to verify the boundaries of the site.

(10) If the applicant proposes a modification that will protrude from the edge of a non-tower eligible support structure, record drawings, as-built plans, or the equivalent, showing at a minimum the edge of the eligible support structure at the location of the proposed modification.

(11) Copies of the land use or building permit approval that authorized the original installation of the tower or wireless facilities on the structure, or any subsequent approval(s) granting modification to the tower or wireless facilities on the structure, if available.

(12) If new equipment cabinets, generators, or any other ground equipment components are being proposed, an assessment of noise that shows compliance with City and/or Federal noise standards.

(13) A stamped report by a state of Washington registered professional engineer demonstrating compliance with Federal radio-frequency emissions standards for wireless facilities.

(B) Waiver of Submittal Requirement. The approval authority may waive any submittal requirement upon determination that the required submittal, or part thereof, is not reasonably related to the non-substantial change criteria. A waiver, to be effective, must be in writing and signed by the approval authority.

(C) Eligible facilities for review under this section include Non-Substantial Changes to the physical dimensions of the base structure or tower, involving (i) collocation of new transmission equipment; (ii) removal of transmission equipment; or (iii) replacement of transmission structure.

(D) Within the applicable timeframe for review set forth in Section 19.68.120, the City must approve the application unless it determines that the application involves a Substantial Change. If the City determines that the application involves a Substantial Change, the applicant must submit the appropriate Permit application required, if any, under the requirements in Section 19.68.080.

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19.68.090 Permit application – Small Wireless Facility.

(A) Application. A complete application for a wireless service facility permit or wireless conditional use permit must include the following information and materials on a form provided by the Director. Applications for Small Wireless Facilities may be submitted in batches of applications, which may encompass up to five separate applications filed at the same time, each for one or more sites, *or* a single application covering up to five sites, unless the City agrees to a larger number based upon its capacity to review additional applications. For the purposes of this section, a complete application includes:

- (1) The name and address of the applicant;
- (2) Identification of all carriers using the facility;
- (3) If the applicant is not the owner or person in control of the eligible support structure or site, an attestation that the owner or person in control of the eligible support structure and/or site has consented to the proposed facility modification. If the eligible support structure is to be located within a public right-of-way, the applicant must also attest that the applicant has authorization to install, maintain, and operate transmission equipment in, under and above the public right-of-way.
- (4) An attestation that the Permittee will comply with existing structural, electrical, and safety codes, and a description of the general structural capacity of the new small wireless facility or the facility upon which the small wireless facility is to be colocated.
- (5) A description of compliance with: the applicable visibility and performance standards set forth in section 19.68.200. This includes, but is not limited to:
 - (a) A scaled Site plan clearly indicating the location, type and height of the proposed facility, or colocation, on-site land uses and zoning, adjacent land uses and zoning, comprehensive plan classification of the Site, proposed means of access, setbacks from property lines, spacing between tower(s) and other wireless facilities, elevation drawings of the proposed tower and any other structures, topography of the site, and proposed parking;
 - (b) If the proposed Small Wireless Facility siting involves a colocation that will alter the exterior dimensions or appearance of an existing facility, applicant shall include a detailed visual simulation depicting how the existing facility will appear after the proposed modification is complete, and particularly, how concealment or stealth will be extended, if applicable. The visual simulation shall depict to scale the existing facility with any colocation in relation to the trees, landscaping and other structures adjacent to, or in the immediate vicinity of, the eligible support structure.
 - (c) Legal description of the parent tract and leased parcel (if applicable);
 - (d) If new equipment cabinets, generators, or any other ground equipment components are being proposed:
 - (i) an assessment of noise that shows compliance with City and/or Federal noise standards;
 - (ii) a description of the method of concealment of equipment components, such as: whether such components will be located within an existing building, within an architecturally compatible addition to an existing building, or within a new building which is architecturally compatible with other buildings on the site and adjoining properties; located underground; or within an equipment cabinet or shelter;
 - (iii) if equipment is proposed to be concealed within an equipment cabinet or shelter that will be located above ground, a description of the landscaping and screening, if technically feasible.
 - (e) Any engineering report(s) required to show feasibility of meeting the applicable criteria in this section as applicable;
- (6) A stamped report by a state of Washington registered professional engineer or an assessment demonstrating compliance with Federal radio-frequency emissions standards applicable to wireless facilities.

(B) Waiver of Submittal Requirement. The approval authority may waive any submittal requirement upon determination that the required submittal, or part thereof, would materially inhibit wireless service. A waiver, to be effective, must be in writing and signed by the approval authority.

(C) Fee. Every application for a small wireless service facility permit or wireless conditional use permit must be accompanied by an application fee which will be set by the City Council in its unified fee schedule, to reimburse the City for the costs of reviewing the application, including any third-party review required by the City, and fees equal to the a reasonable approximation of the objectively reasonable costs for the attachment to or use of property owned or controlled by the City.

19.68.100 Permit application – all other Wireless Facilities.

(A) Application. A complete application for a wireless service facility permit or wireless conditional use permit for wireless facilities other than Small Wireless Facilities and Eligible Support Structures or EFRs must include the following information and materials on a form provided by the Director. For the purposes of this section, a complete application includes:

- (1) The name and address of the applicant;
- (2) Identification of all carriers using the facility;
- (3) If the applicant is not the owner or person in control of the eligible support structure or site, an attestation that the owner or person in control of the eligible support structure and/or site has consented to the proposed facility modification. If the eligible support structure is to be located within a public right-of-way, the applicant must also attest that the applicant has authorization to install, maintain, and operate transmission equipment in, under and above the public right-of-way.
- (4) A description of compliance with: the applicable visibility and performance standards set forth in section 19.68.200. This includes, but is not limited to:
 - (a) A scaled Site plan clearly indicating the location, type and height of the proposed facility, or colocation, on-site land uses and zoning, adjacent land uses and zoning, comprehensive plan classification of the Site, proposed means of access, setbacks from property lines, spacing between tower(s) and other structures, elevation drawings of the proposed tower and any other structures, topography of the site, and proposed parking;
 - (b) Legal description of the parent tract and leased parcel;
 - (c) A landscape plan showing specific landscape materials;
 - (d) Method of fencing, the finished color and/or the method of camouflage and illumination.
- (5) A description of compliance with the additional requirements in this Chapter for collocating and/or for conditional uses, if applicable.
- (6) If new equipment cabinets, generators, or any other ground equipment components are being proposed:(i) an assessment of noise that shows compliance with City and/or Federal noise standards.
- (7) A stamped report by a state of Washington registered professional engineer for an assessment demonstrating compliance with radio-frequency emissions standards as set forth in Section 19.68.240.

(B) New facilities. In addition to the application materials delineated in subsection (A) above, an application for a new wireless facility must provide:

- (1) A notarized statement by the applicant as to whether construction of a new facility will accommodate collocating of additional antennas for future users.

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- (2) An explanation of how the proposed new facility at the proposed location is necessary to do one of the following: fill a significant gap in service, to introduce new services, to densify a network, or to otherwise improve service capabilities.
- (3) A description of the suitability of the use of existing facilities, including towers or other structures to provide the services to be provided through the use of the proposed new facility.
- (4) Any other engineering report(s) required to show feasibility of meeting the applicable criteria in subsections (A) and/or (B) as applicable;
- (C) Third Party Review. The City may require the applicant to submit its materials to a third-party for review, as may be reasonably necessary to determine compliance with this Chapter, such as an engineer or architect, by way of example only.
- (D) Fee. Every application for a wireless service facility permit or wireless conditional use permit must be accompanied by an application fee which will be set by the City Council in its unified fee schedule, to reimburse the City for the costs of reviewing the application, including any third-party review required by the City, and fees equal to the a reasonable approximation of the objectively reasonable costs for the attachment to or use of property owned or controlled by the City.

19.68.110 Permit approval process.

- (A) Wireless service facility permit (WSF). The review process for wireless service facility permit applications is that for a Type 1 (Administrative Ministerial Action) as delineated in Section 19.20.030 AMC.
- (B) Wireless conditional use permit (WCUP). The review process for wireless conditional use permit applications is that for a Type 3-HE review, delineated in Section 19.20.030 AMC. The criteria for a conditional use permit as set forth in other provisions of the City's code does not apply.
- (C) This permit approval process does not apply to Eligible Facility Requests.

19.68.120 Permit review – general criteria.

- (A) In evaluating a permit application under this Chapter, the decision-maker must examine the following criteria:
- (1) Whether all requisite licenses, certificates, and authorizations from applicable Federal, State, and local agencies have been obtained by the applicant;
- (2) Whether the applicant has shown that its proposed facility or colocation meets the standards and criteria set forth in this Chapter, including the visibility and performance criteria set forth in Section 19.68.200;
- (3) Whether the applicant has shown that its proposed facility meets any additional requirements in this Chapter for collocating and/or conditional uses, if applicable.
- (B) For a new wireless facility ~~or a new Small Wireless Facility~~, whether it is necessary to fill a significant gap in service, to introduce new services, to densify a network, or to otherwise improve service capabilities.
- (C) Decision. After considering all information submitted, and the record on file and from any hearing, the decision-maker will decide whether to grant, deny, or grant the permit with conditions, and must issue a written decision containing findings of fact supported by substantial evidence, based on the criteria above.
- (D) Issued permit. Any wireless service facility permit that is issued under this Chapter must contain the location, nature, and extent of approved use, together with all conditions that are imposed. A copy of the permit will be kept on file and reviewed annually by the administrating City official. If, at any time, the use no longer complies with the stated conditions, the owner will be declared in violation of this chapter.

The Anacortes Municipal Code is current through Ordinance____and legislation passed through_____[Date].

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19.68.130 Permit review – supplemental criteria for conditional uses.

(A) In addition to the general criteria for approval uses set forth in this Chapter, the following criteria apply to all permits denominated as conditional uses:

(1) The applicant must demonstrate that visual, noise, and other impacts associated with the proposed facility have been minimized to the maximum extent possible using existing concealment technology, site design, noise abatement techniques, concealment, disguise, camouflage, and/or the use of architecturally compatible improvements to existing structures where permitted, and/or underground placement of ancillary equipment. In evaluating the site design, consideration will be given to whether the facility will blend into the surrounding topography, tree coverage, foliage, and other natural features and whether locating the facility in alternative locations upon the subject property, or reasonably available properties, would better conceal the facility through use of existing natural and built features;

(2) The applicant must demonstrate compatibility of the proposed structure with the height and mass of existing buildings in the area.

(3) The applicant must demonstrate that the design of the proposed facility complies with the purpose and intent of this chapter, including, but not limited to, the visibility and performance standards set forth in AMC 19.68.200 which most closely match the proposed facility;

(4) The applicant must demonstrate that alternative locations, including other colocations and alternative support structures, are not available for the proposed facility;

(5) The applicant must demonstrate that the proposed facility is not in conflict with the health and safety of the community;

(6) The applicant must demonstrate that the proposed facility will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts on such facilities.

(B) In evaluating any proposed wireless service facility denominated as a conditional use, the Director may, at the expense of the applicant, retain an outside consultant to review the technical, design and other materials submitted by the applicant in conjunction with the proposal.

19.68.140 Completeness review.

(A) Completeness Review. Applications must be reviewed for completeness within thirty days of receipt, except for applications to site Small Wireless Facilities, which must be reviewed for completeness within ten days of receipt. If the application is not reviewed for completeness within the applicable timeframe, it will be deemed complete.

(B) Tolling. For applications to site Small Wireless Facilities, the review period resets once an applicant submits its additional materials. For all other applications deemed incomplete, the review period is tolled for up to sixty days. Once an applicant submits additional materials, the review timeframe begins to run again. If the applicant does not submit the required materials, the City may deny the application.

(C) Submittal of Additional Materials. If an applicant submits additional materials, the Director must provide notice within ten (10) days as to any additional materials identified in the original notice that were not provided with the supplemental materials. Second or subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness. For second or subsequent notices of incompleteness, the review timeframe will be tolled for all applications including for siting Small Wireless Facilities. If the applicant does not submit the required materials, the City may deny the application.

(D) Failure to act. If the decision-maker fails to approve or deny a request seeking approval for either a wireless service facility permit or conditional use permit within the applicable timeframe for review, accounting for any tolling, the request is deemed granted. The deemed grant does not become effective until the applicant notifies the

applicable reviewing authority in writing after the review period has expired that the application has been deemed granted.

19.68.150 Timeframe for review.

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The timeframe for review of an application for a wireless facility permit or wireless conditional use permit begins to run when an application is submitted, not when the application is deemed complete.

	Modifications that are not Substantial.	Colocating Wireless Facilities	New Wireless Facility	Colocating Small Wireless Facilities	New Small Wireless Facility
Timeframe	Approval required within sixty (60) days from receipt of submission of application	Written decision due within ninety (90) days from submission of application	Written decision due within one hundred and fifty (150) days from submission of application.	Written decision due within sixty (60) days from submission of application	Written decision due within ninety (90) days from submission of application.
Notes	If the City finds that the application involves a Substantial Change, the City may process the application as one for a new facility or deny the application.	This provision does not apply to Small Wireless Facilities.	This provision does not apply to Small Wireless Facilities.		

19.68.160 Construction.

(A) Construction within two years. Construction or substantial progress toward construction of a facility for which a permit has been issued pursuant to this chapter must be undertaken within two years after approval of the permit. Substantial progress toward construction includes, but is not limited to: the letting of bids, making of contracts, and purchase of materials involved in development.

(B) Tolling. In determining whether the two-year period has run, time during which litigation has been pending related to the construction of the facility must not be included.

(C) Extension and termination. The city may, at its discretion, extend the two-year period for a reasonable time, based on factors including the inability to expeditiously obtain other required governmental permits prior to the commencement of construction. If a facility for which a permit has been granted has not been completed within three years after the approval of a permit the City must review the permit upon the expiration of three years, and upon a showing of good cause for the delay, either (a) extend the permit for one year; or (b) terminate the permit.

19.68.170 Appeals.

Appeals may be commenced on an action by the decision-maker on a permit application, within thirty (30) days of such act or failure to act, in any court of competent jurisdiction. This section supersedes the City's administrative appeal process set forth in Section 19.20.210.

19.68.180 Prohibited Locations.

(A) Lattice and guyed wire towers are not permitted in any zoning district.

(B) Commercial advertising including billboards and business identification signs may not be used as alternative antenna support structures.

19.68.190 Permitted locations.

New wireless service facilities, which includes new Small Wireless Facilities are permitted as follows, with the type of permit indicated. For those facilities located within a "right-of-way", a master permit and construction permit for such use is required under the provisions of Chapter XX.XX. The zones referred to below are defined in the City's general zoning code.

Type of Facility	Residential Zones (R1, R2, R2A, R3, R3A, R4, R4A, OT)	Mixed Use Zones (CBD, C, MMU, CM, CM2, P)	Industrial Zones (LM, LM1, MS, HM, I, AZ)
Monopole	Permitted with WCUP	Permitted with WSF, except permitted with WCUP in P and except not permitted in CBD	Permitted with WSF
Utility Poles	Permitted with WCUP	Permitted with WSF, except permitted with WCUP in P, and except not permitted in CBD	Permitted with WSF
Electric Transmission Towers	Permitted with WSF, except permitted with WCUP in OT.	Permitted with WSF, except permitted with WCUP in P and except not permitted in CBD	Permitted with WSF
Water Tank Mounted	Permitted with WSF, except permitted with WCUP in OT	Permitted with WSF	Permitted with WSF
Playfield, Ballfield and Stadium Light Mounted Facilities	Permitted with WCUP	Permitted with WSF	Permitted with WSF
Building Attached	Permitted with WSF, only on buildings with nonresidential uses, and except permitted with WCUP in OT	Permitted with WSF	Permitted with WSF
Stealth Support Structure	Permitted with WSF, except permitted with WCUP in OT	Permitted with WSF, except permitted with WCUP in P	Permitted with WSF
Small Wireless Facility	Permitted with WSF	Permitted with WSF	Permitted with WSF
Other Types Not Listed	Permitted with WCUP	Permitted with WCUP	Permitted with WCUP

Commented [KA6]: Does this include SWF's on utility poles? Attachment of a SWF to any of the existing structures in the 1st column does not warrant the full CUP process. It is also not consistent with the row below that allows SWF's in all zones with a WSF.

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19.68.200 Visibility and performance standards.

All wireless service facilities locating within Anacortes must comply with the following standards:

(A) Standards for all types of facilities:

General	1. All portions of the facility must be the minimum size necessary to support operation of the facility, as certified by the provider's licensed engineer. Where multiple facilities are proposed to be located in close proximity, they may be required to be consolidated in one equipment housing structure. 2. Owners and operators must provide information regarding the opportunity for the co-location of facilities. Provision for future co-location may be required if technically feasible and where opportunities for smaller facilities with fewer impacts are limited due to topography, lack of existing above ground structures or other circumstances. To determine feasibility, the applicant must submit an engineer's report regarding the feasibility of co-location.
Antennas (including Small Wireless Facilities)	1. In general, an antenna array must either be flush mounted within 12 inches of the support structure, or within 12 inches of the face of the building it is attached to; or be contained in a canister that is a continuation of the support structure and is centered on top of the support structure; or be placed pursuant to the City's adopted design standards, subject to the concealment requirements below. 2. All antennas or arrays must be a color and material that matches the support structure. 3. Roof-mounted installation is permitted when the City's adopted design and the Appearance and Screening requirements below have been met. The antennas, mounting brackets and any concealment structures are exempt from the height limit of the underlying zone to the extent that the total height of such facilities does not increase the overall building height by 18 feet, or 50 percent of the original building height, whichever is less.
Equipment Cabinets, Shelters, and Undergrounding	1. All equipment necessary for the operation of the facility must be concealed, either within an existing building, within an architecturally compatible addition to an existing building, or within a new building which is architecturally compatible with other buildings on the site and adjoining properties; or located underground with exceptions as stated in Chapter AMC 15.32, and excepting equipment cabinets and shelters, which may be located above ground, and landscaped and screened pursuant to the City's typical landscaping requirements. 2. This section does not apply to antennas or other facilities that are required to remain above-ground in order to be functional, or if it would otherwise materially inhibit wireless service. 3. Underground shelters are not allowed where such shelters would interfere with existing uses of public land including, but not limited to, public rights-of-way. Equipment enclosures less than or equal to five cubic feet, with no single dimension over three feet, may be mounted directly on a street pole. These dimension limitations do not apply to Small Wireless Facilities. 4. Equipment cabinets and shelters are permitted upon abutting private property and may be located within public rights-of-way, pursuant to the applicable requirements and obtaining the appropriate permits specified in Chapter AMC XX.XX. 5. The size of equipment cabinets and shelters must be minimized to the greatest extent possible. 6. Prefabricated concrete and metal structures for equipment enclosures are not permitted unless treated with a facade giving the appearance of masonry or wood siding and are compatible with the existing neighborhood and surrounding setting.
Appearance and Screening	The following standards must be met to ensure the facility minimizes its visual impact: 1. Design and configurations must be compatible with the existing neighborhood, blend in with the surrounding setting, and/or are screened from surrounding uses and properties. 2. Design and configurations must minimize visual intrusion of the facility on surrounding uses and properties. Such techniques may include, for example: containing transmission and power cables and other conduit within any support structure, locating facilities underground, or otherwise screening the facility; minimizing the lateral projection of antenna arrays to the greatest extent technically feasible; and integrating antenna arrays into the design of any structure to

	which they are attached. The applicant must submit an engineer's report regarding the feasibility of the lateral projection of antenna arrays. 3. <u>New macro facility towers</u> on private property must be screened through the use of mature trees that are a minimum of 20 feet tall and planted to screen at least 80 percent of the area around the facility, if technically feasible. 4. For stealth supported structures, the structure must be designed to resemble an object that would be commonly found in the area, including, but not limited to, a flagpole, a clock or bell tower, a tree that is a native conifer species, or a silo. Antennas, to the maximum extent feasible, must be concealed by the stealth support structure, or must not be easily recognized. To determine feasibility, the applicant must submit an engineer's report regarding the feasibility of concealing the antennas.
Noise	Noise reduction measures must comply with the City and/or Federal noise regulations, whichever demonstrates the least amount of noise impact for the nearest residential dwelling(s) at any time of day or night, as measured from the closest point from the exterior of the dwelling to the wireless facility. Such requirements are exempt during testing of alternative power sources (i.e., power generators or similar emergency power sources).
Landscaping	1. Facilities <u>other than SWF's</u> and/or equipment cabinets must be surrounded with a minimum of four feet wide landscaping, in the applicable zones set forth in the City's general zoning provisions, if technically feasible. 2. Towers must be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from properties used for residences. In some cases, natural growth around the property perimeter may provide a sufficient buffer. 3. Existing mature tree growth and natural land forms on the site must be preserved to the maximum extent possible.
Setbacks	1. In residential zones, towers, antennas, monopoles, and other wireless facilities and equipment pertaining thereto must not be closer than the greater of 20' or 100% of the tower height from the adjoining lot line. 2. In non-residential zones, facilities must comply with the setback requirements set forth in the applicable zoning code, Chapter 17 AMC, and meet or exceed the City or Federal noise regulations, whichever demonstrates the least amount of noise impact for the nearest residential dwelling(s), as measured from the closest point from the exterior of the dwelling to the facility. 3. The setback may be reduced if the applicant uses noise abatement techniques, such as decorative noise walls, to achieve equivalent or greater reduction of visual and noise impacts from the facility. 4. For co-locations, new equipment associated with the facility must be placed no closer to existing residential uses than any existing equipment enclosure on the subject property. 5. <u>These setback requirements do not apply to SWF's in the ROW.</u>
Spacing	1. In residential zones, towers and their antennas must not be closer than 200' or 100% of the tower height from the nearest residential dwelling(s), as measured from the closest point from the exterior of the dwelling to the facility. 2. In non-residential zones, there are no spacing requirements. 3. The minimum spacing requirements herein will not apply if they have the effect of materially inhibiting wireless service.

Commented [KA7]: What is required here? Is this for when more than 12 inches is needed?

Commented [KA8]: The term "facilities" includes SWF's and collocated wireless facilities which would not need the type of screening here, typically limited to new towers.

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Commented [KA9]: This type of landscaping is typically required for macro sites but, as originally worded, could apply to pole mounted SWF cabinets.

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Commented [KA10]: The setbacks would effectively eliminate all ROW sites for SWF's if required to set back 20 feet from the lot line.

(B) Standards for specific types of facilities:

New Monopoles (including Small Wireless Facilities) and Stealth Wireless Support	Any wireless service provider which proposes to construct a new monopole or stealth supported facility must provide, as part of its permit application, written findings from a qualified engineer which demonstrate that: 1. Either there are no other facilities reasonably available for colocation; or 2. Any existing facilities reasonably available are not technologically suitable for use by the applicant; and 3. The proposed monopole has been designed in a manner that will allow for the colocation of at least one additional antenna array on the structure, if technically feasible.
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Structures	4. The height of the monopole may not exceed 120 feet or the height of similar structures permitted in the zone within which it is located, whichever is greater.
Colocating Monopoles or Utility Poles Within Public Rights-of-Way	1. More than one facility may be colocated on any monopole, subject to the permits and technical feasibility. 2. Monopoles located within public rights-of-way must be located a minimum of 500 feet apart; a shorter distance may be approved if the applicant submits an engineering analysis and equipment specifications that demonstrate the reduced distance is necessary to provide adequate coverage and/or capacity. 3. Where a utility located upon a monopole requires vertical separation between its facilities and the antenna(s), the structure/pole and antenna may be raised or replaced with a taller structure to accommodate the minimum separation requirement, not to exceed 20 feet in the public right-of-way. Any additions must be constructed of similar materials, and have surface treatments which match the color and texture of the original facility.
Electric Transmission Towers or Utility Poles Outside Public Rights-of-Way	Where a utility located upon the support structure (such as electric transmission tower) requires vertical separation between its facilities and the antenna(s), the structure/pole and antenna may be raised by a mount or replaced with a taller structure to accommodate the minimum separation requirement, not to exceed 30 feet. Any additions must be constructed of similar materials, and have surface treatments which match the color and texture of the original facility.
Playfield, Ballfield and Stadium Light Mounted Facilities	Only one facility is permitted on any playfield, ballfield, or stadium light. Where lighted signs and illuminated areas are permitted, such illuminating devices must be shaded and directed so as not to be visible from any residentially zoned property.
Building Attached	The equipment for roof-mounted antennas within the OT zone must be located within the same building on which the antennas are located. This provision will not apply to Small Wireless Facilities if it has the effect of materially inhibiting the provision of service.

19.68.210 Requirements for colocations.

(A) All wireless facilities colocating within the City of Anacortes must meet the following standards. This section does not apply to Eligible Facilities Requests.

(B) Colocations (as defined in Section 19.68.030(5)) are permitted on existing monopoles and stealth support structure facilities, so long as the colocation maintains the appearance of the existing structure, and do not interfere with the City's placement of cameras or other public safety uses.

(C) The height of the existing facility may be increased by the minimum vertical separation necessary between the facilities, not to exceed 20 feet; except for towers and utility poles outside public rights-of-way, the height of which may be increased by up to 30 feet to accommodate the minimum separation requirement. The height of the existing facility with all increases in height due to colocations may not exceed the general height limitation for similar structures or buildings within the zone in which it is permitted or 120 feet, whichever is greater.

(D) Existing monopoles and antenna support structures may be replaced to accommodate colocation. Monopoles and stealth support structures must, to the maximum extent feasible, be located within 20 feet of the existing structure within the public right-of-way, or within 30 feet of the existing structure outside of the public right-of-way, and maintain the design of the original structure, including any stealth or camouflage components. To determine feasibility, the applicant must submit an engineer's report regarding the feasibility of a proposed replacement.

(E) All antenna support structures permitted pursuant to the terms of this chapter or otherwise located within the City of Anacortes must be made available for use by the owner or initial user thereof, together with as many other wireless service providers as can be technically colocated thereon. The owner of an antenna support structure may charge a reasonable fee for the colocation of additional facilities upon said structure which does not exceed the fair

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market value for the space occupied by said colocated facilities. If the City is the owner, it may not charge a fee that exceeds a reasonable approximation of the objectively reasonable costs associated with siting a Small Wireless Facility on the antenna support structure.

(F) Colocating facilities must meet all other visibility and performance standards in Section 19.68.200.

19.68.220 Requirements for Non-Substantial Changes.

All modifications to wireless service facilities to the existing facility, including Small Wireless Facilities, that are Non-Substantial, must comply with the following standards:

(A) No modification may violate the City or Federal noise regulations. A noise study must be submitted with any modification to antennas or equipment, other than like for like replacements.

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(B) No modification may violate the Federal radio-frequency emission standards.

(C) No modification may violate setback or other lot coverage or height requirements in this Chapter.

19.68.230 Maintenance of facilities.

The owner and/or operator of all wireless service facilities must maintain their facilities in a good and safe condition and in a manner which complies with all applicable Federal, State, and local requirements.

19.68.240 Testing of facilities required – Radio-frequency (RF) emissions.

(A) All wireless service facilities must comply with applicable Federal Communications Commission (FCC) regulations regarding radio-frequency emissions. All tests must be performed by or under the supervision of a professional engineer competent to perform such testing and interpret the data gathered.

(B) Reports or similar support documents must be submitted for all facilities confirming compliance with all applicable FCC regulations. Compliance reports are required when requested by the Director.

(C) If at any time radio-frequency emission tests show that a facility exceeds any of the standards established by the FCC, the owner or operator thereof must immediately discontinue use of the facility and notify the Director. Use of such facilities may not resume until the owner or operator demonstrates that corrections have been completed which reduce the radio-frequency emissions to levels permitted by the FCC.

19.68.250 Testing of facilities required – Noise emissions.

(A) The owner or operator of a wireless service facility must conduct tests necessary to demonstrate compliance with all applicable local regulations regarding the noise emissions of the facility when notified in writing by the Director that a noise complaint has been received regarding the facility. All such tests must be performed by or under the supervision of a licensed environmental noise consultant competent to perform such tests and interpret the data gathered.

(B) When such a report is required, a report, certified by a licensed environmental noise consultant, setting forth the observed noise levels at the property line of the property upon which the facility is located must be submitted. The report must account for background noise and other noise sources and demonstrate the noise levels emitted by the facility, including any air conditioning or ventilation equipment contained therein. Such report must address standards set forth within noise reduction measures within noise provisions in Section 17.54.010 AMC or the standards set forth with the Federal Interagency Committee on Urban Noise, whichever demonstrates the least amount of noise impact for the nearest residential dwelling(s), at any time of day or night, as measured from the closest point from the exterior of the dwelling to the wireless facility.

(C) The Director may retain a technical expert in environmental noise measurement to verify the noise measurements and certification. The cost of such a technical expert must be borne by the owner or operator of the facility, if said facility fails to comply with applicable State or local noise standards.

(D) This section does not apply during the testing of alternative power sources (i.e., power generators).

19.68.260 Security fencing.

All wireless service facilities must be protected from unauthorized entry. The perimeter of all wireless service facilities, other than small wireless facilities in the ROW, which include an antenna support structure must be secured with security fencing which does not exceed seven feet in height. Wireless service facilities that do not include an antenna support structure must be protected from unauthorized entry through appropriate means approved by the Director or his or her designee on a case-by-case basis consistent with the purpose of protecting the public health, safety, and welfare.

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19.68.270 Abandonment of facilities.

Any antenna support structure that has had no antennas mounted upon it for a period of six months, or if the antennas mounted thereon are not operated for a period of six months, will be considered abandoned, and the owner thereof must remove such structure and any accompanying equipment and enclosure within 90 days after receipt of a notice from the Director to do so. The Director may extend this time period to a maximum of six additional months. The owner or operator of all wireless service facilities must, when requested by the Hearing Examiner, submit a written report, signed under penalty of perjury, which demonstrates whether or not there has been a cessation in use of the facility for a period of six months during the prior year. If a facility and associated equipment are not removed within 90 days after receipt of a notice from the Hearing Examiner requiring said removal, the Hearing Examiner may seek and obtain a court order directing such removal and imposing a lien upon the real property upon which such wireless service facility is situated in an amount equal to the cost of removal. In the event that more than one wireless service provider is using the antenna support structure, the antenna support structure will not be considered abandoned until all such users cease using the structure as provided in this section.

19.68.280 Signs.

Except as approved as part of a plan to conceal, disguise, or camouflage a wireless service facility, no signs, symbols, flags, banners, or similar devices must be placed on, attached to, painted, or inscribed upon any antenna support structure or alternative antenna support structure. Notwithstanding the foregoing, an applicant and/or land owner may place not more than four signs measuring 12 by 18 inches upon or near a wireless service facility which:

- (A) state that trespassers will be prosecuted;
- (B) list the names and telephone numbers of persons to be contacted in the event of an emergency;
- (C) identify the applicant and/or land owner or person responsible for operating the wireless facility; and/or
- (D) contain information necessary and convenient for the person operating the wireless service facility to identify the wireless service facility.

Nothing in this section may be construed to prohibit the placement of safety or warning signs upon any portion of the wireless service facility which are required by law or which are designed to apprise emergency response personnel and the employees and agents of wireless service providers of particular hazards associated with equipment located upon the wireless service facility.

19.68.290 Lighting standards.

Except as specifically required by Federal Aviation Administration (FAA) or FCC regulations, antenna support structures cannot be illuminated. However, equipment enclosures may be illuminated for security reasons when compatible with the surrounding neighborhood.

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19.68.300 SEPA.

Integration of environmental review. An application for a wireless service facility permit or wireless conditional use permit that is subject to the State Environmental Policy Act (SEPA) must be reviewed per AMC Chapter 18.04 concurrently with the review of the permit reviewed under this Chapter, except where exempted by that chapter. If there is a conflict between this Chapter and development regulations in other Chapters, the provisions of this Chapter will apply.

Chapter 5.38

PUBLIC UTILITY AND TELECOMMUNICATIONS

RIGHT-OF-WAY USE*

Sections:

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5.38.010 Purpose.

The purpose of this chapter is to provide for the regulation of the use of public right-of-way by any business, service, or person which is engaged in supplying the public with some commodity or service which is of public consequence and need, such as public and private utilities, wireless telecommunications or transportation service.

5.38.020 Applicability.

The provisions of this chapter apply to all public utility and wireless carriers which occupy, use, construct, or maintain utility or telecommunications facilities within public right-of-way of the City.

To the extent the provision of any current franchise or other written agreement with a public utility or wireless carrier conflicts with any provision of this chapter, the applicable provision of the franchise or other written agreement prevails.

5.38.030 Definitions.

For the purposes of this chapter, the following terms, phrases, and words have the meanings set forth below unless the context clearly indicates otherwise. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

(1) "Act" means a decision to grant, condition, or deny the use condition, or deny a permit, which may be subject to administrative appeal, or a notification to the applicant in writing of the amount of time that will be required to make the decision and the reasons for this time period.

(2) "Base station" means: a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a "Tower" or any equipment associated with a Tower.

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

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

(C) The term includes any structure other than a tower that supports or houses equipment 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 such support.

(D) The term does not include any structure that does not support or house equipment for wireless telecommunications services.

(3) "City Engineer" means the City Engineer of the City of Anacortes, Washington acting in his or her official capacity, and his or her designee(s).

(4) "Complex project" means a construction project involving, by way of example only: adding, installing, or relocating numerous conduits, wires, lines, poles, pipes, cables, communication and signal lines, braces, guys, anchors, vaults, pedestals, antennas, and/or other structures, equipment and appurtenances to a public utility or wireless facility; navigating intricate or complicated facility or land ownership issues; determining whether significant environmental impact(s) exist; and/or the analysis of highly technical structural or engineering information or reports.

(5) "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 or property from natural consequences, such as storms, earthquakes, riots or wars.

(6) "Facilities" means all of the towers, equipment, fixtures, antennas, equipment cabinets, equipment shelters, and other appurtenances necessary to furnish and deliver wireless services, including but not limited to utility, monopoles, and street poles with cross arms or without cross arms, wires, lines, conduits, cables, communication and signal lines and equipment, braces, guys, anchors, vaults, and all attachments, appurtenances, and appliances necessary or incidental to the distribution and use of wireless services. Facilities include "Small Wireless Facilities" as defined below.

(7) "Master permit" means the agreement whereby the City of Anacortes may grant general permission to a service provider to enter, use, and occupy the right-of-way for the purpose of locating facilities. This definition is not intended to limit, alter, or change the extent of the existing authority of the City of Anacortes to require a franchise, nor does it change the status of a service provider asserting an existing statewide grant based on a predecessor telephone or telegraph company's existence at the time of the adoption of the Washington State Constitution to occupy the right-of-way. A master permit does not include cable television franchises or permits.

(8) "Overhead facilities" means utility poles, utility facilities and wireless facilities located above the surface of the ground, including the underground supports and foundations for such facilities.

(9) "Permittee" means the public utility, service provider, or other person authorized under a master permit or construction permit under the provisions of this Chapter.

(10) "Person" means and includes corporations, companies, associations, joint stock companies or associations, firms, partnerships, limited liability companies and individuals and includes their lessors, trustees and receivers.

(11) "Public improvement" as used herein, means all work, construction, alterations, repair or improvements within public right-of-way, executed at the cost or under contract of the City, or caused to be performed by any person or entity as a condition or requirement of an approval or permit for zoning, land use, construction, or development if dedicated or required to be dedicated to the public use, benefit or enjoyment.

(12) "Public right-of-way" means any highway, street, alley, other public right-of-way, or easement for motor vehicle under the jurisdiction and control of the City which has been acquired, established, dedicated or devoted to such purposes, but only to the extent of the City's right, title, interest or authority to grant a permit to occupy and use such streets and easements for wireless and utility facilities.

(13) "Public utility" as used herein, means a company or entity engaged in any business or service regularly supplying the public with some commodity or service which is a public need and consequence, such as natural gas, electricity, water or sanitary sewer, including any business subject to regulation as to rates and service by the Utilities and Transportation Commission under the provisions of RCW Title 81.

(14) "Service provider" means every corporation, company, association, joint stock association, firm, partnership, person, city, or town owning, operating, or managing any facilities used to provide and providing wireless service for hire, sale, or resale to the general public. Service provider includes the legal successor to any such corporation, company, association, joint stock association, firm, partnership, person, city, or town.

(15) "Small Wireless Facility" encompasses facilities that meet the following conditions:

(A) The facilities—

- (1) are mounted on structures 50 feet or less in height including their antennas as defined in section 1.1320(d), or
- (2) are mounted on structures no more than 10 percent taller than other adjacent structures, or
- (3) 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;

- (B) 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;
- (C) 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;
- (D) The facilities do not require antenna structure registration under Federal regulations;
- (E) The facilities are not located on Tribal lands, which means all lands within the exterior boundaries of any Indian reservation and all dependent Indian communities; and
- (F) The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in section 1.1307(b).
- (16) "Surplus space" means that portion of the usable space on a utility pole which has the necessary clearance from other pole users, as required by Federal or State orders and regulations, to allow its use by a public utility or wireless carrier for a pole attachment. "Surplus space" also includes usable space within underground conduits and ducts when the necessary clearance from other users, as required by Federal or State orders and regulations, can be achieved;
- (17) "Underground facilities" means utility and wireless telecommunications facilities located under the surface of the ground, excluding the underground foundations or supports for overhead facilities;
- (18) "Usable space" means the total distance between the top of a utility pole and the lowest possible attachment point that provides the minimum allowable vertical clearance as specified in any Federal or State orders and regulations;
- (19) "Utility easement" means any easement owned by the City and acquired, established, dedicated or devoted for public utility purposes; and
- (20) "Utility facilities" as used herein means all conduit, wires, lines, poles, pipes, cables, communication and signal lines, braces, guys, anchors, vaults, pedestals, antennas, and all other structures, equipment and appurtenances thereto owned, operated or maintained by a public utility and used to furnish utility services.
- (21) "Wireless support structure" or "support structure" means a freestanding structure that is designed to support or is capable of supporting wireless facilities. The term does not include a utility pole, monopole, street pole, or tower.
- (22) "Wireless telecommunications carrier" or "wireless carrier" means and includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town owning, operating, or managing any facilities used to provide wireless telecommunications for hire, resale to the general public within this State;
- (23) "Wireless telecommunications" or "wireless" means the transmission of information by wire, radio, optic cable, electromagnetic, or 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, wireless telecommunications service excludes the over-the-air transmission of broadcast television or broadcast radio signals and excludes "cable services," "cable communications systems" and "CATV systems" as defined in Chapter 5.44.

5.38.040 Master permit and construction permit required.

- (A) It is unlawful to construct, place, maintain, or operate any pipes, ducts, utility tunnels, vaults, maintenance holes, poles, fixtures, wires, utility facilities, wireless facilities, or any other appurtenances necessary for the purpose of providing wireless service, or to conduct any public utility business, on, over, or under the public right-of-way, without obtaining a master permit from the Council.

(B) It is unlawful to construct, repair, or maintain any pipes, ducts, utility tunnels, vaults, maintenance holes, poles, fixtures, wires, utility facilities, wireless facilities, or any other appurtenances, necessary for the purpose of providing wireless service, or to conduct any public utility business or to go upon any such public right-of-way to perform any work therein on, under, or over public right-of-way, without obtaining a construction permit from the City Engineer. The City Engineer may exempt certain activities from the requirements of this section that do not materially affect the public right-of-way; provided, however, that if the City Engineer denies an applicant's request for such an exemption, no appeal is permitted.

5.38.050 Optional pre-application.

An applicant may submit materials up to thirty (30) days in advance of an application for a construction permit or master permit. The information submitted along with a pre-application may include the following information:

- (1) The name and address of the applicant;
- (2) Identification of all carriers using the facility;
- (3) The type of facility proposed;
- (4) Preliminary engineering plans, specifications, and maps of the facilities to be located within the public right-of-way;
- (5) Detailed construction plans demonstrating compliance with all applicable City codes and construction specifications, including the City's Engineering Standards;
- (6) A brief description of non-confidential, nonproprietary utility or wireless telecommunications services that are or will be offered or provided by the applicant over its facilities;
- (7) A brief description of non-confidential, nonproprietary transmission medium that will be used to offer or provide such services;
- (8) An accurate map showing the location of any existing utilities and/or wireless telecommunications facilities in the City that the applicant intends to use or lease;
- (9) If installation of overhead facilities is proposed, evidence that Surplus Space is available for locating the facilities on existing utility poles along the proposed route;
- (10) The area or areas of the City the applicant desires to serve and a schedule for building out (offering service to) the entire area covered by the master permit;
- (11) Proof of compliance with the other provisions of this Chapter, including but not limited to the indemnity, insurance, and bond requirements; and/or
- (12) Information to establish that the applicant has obtained all other governmental approvals and permits to construct and operate the facilities, and to offer or provide the services, including, but not limited to, evidence that the applicant has registered with the Washington Utilities and Transportation Commission.

5.38.060 Construction permit application.

(A) To obtain a construction permit, the applicant must file an application with the City Engineer.

(B) A complete application must include the following information and materials:

- (1) The names, residences, and business addresses of all officers and directors of the applicant.

- (2) Detailed construction plans demonstrating compliance with all applicable City codes and construction specifications, including the City's Engineering Standards.
- (3) If the applicant is constructing wireless facilities on another service provider's facilities, a notarized statement that the applicant has permission to use a third party's facility(ies), or a signed agreement with the service provider to that effect.
- (4) The location of the applicant's overhead and underground facilities in the public right-of-way along the proposed route and the area proposed to be served by cable.
- (5) Preliminary engineering plans, specifications, and maps of the facilities to be located within the public right-of-way, in sufficient detail to identify the location and route of the proposed facilities within the public right-of-way, the location of the applicant's existing facilities within the right-of-way, if any, and the specific trees, structures, facilities, and/or obstructions, if any, that the applicant proposes to temporarily or permanently remove or relocate.
- (6) If underground installation in existing ducts or conduits within the public right-of-way is proposed, information in sufficient detail to identify: the excess capacity currently available in such ducts or conduits before installation of the facilities; and the excess capacity, if any, that will exist in such ducts or conduits after installation of the facilities.
- (7) If underground installation within new ducts or conduits to be constructed within the public right-of-way is proposed: the location proposed for the new ducts or conduits; and the excess capacity that will exist in such ducts or conduits after installation of the facilities.
- (8) A preliminary construction schedule and completion date.
- (9) A detailed statement describing the actual equipment and operational standards proposed by the applicant.
- (10) A statement or schedule setting forth all proposed classifications of rates and charges to be set, including installation and service charges, which must remain in effect for at least twelve months after the City grants a master permit.
- (11) Proof of compliance with the other provisions of this Chapter, including but not limited to the indemnity, insurance, and bond requirements.
- (12) Any other reasonable information requested by the City Engineer or its designee, or required by any other provision of any other ordinance of the City.
- (13) An application fee to be set by the City Council in its unified fee schedule to allow the City to recover the costs of reviewing the application, including the costs of any third-party review.
- (C) Applications for Small Wireless Facilities may be submitted in batches, which may encompass up to five separate applications filed at the same time, each for one or more sites, *or* a single application covering up to five sites, unless the City agrees to a larger number based upon its capacity to review additional applications.
- (D) Third Party Review. The City may require the applicant to submit its materials to a third-party for review, as may be reasonably necessary to determine compliance with this Chapter, such as an engineer or architect, by way of example only.

5.38.070 Master permit application.

- (A) To obtain a master permit, the applicant must file an application with the City clerk.
- (B) The Council must examine each complete application submitted for review and approval to determine if it complies with the applicable provisions of this chapter. Other departments that have authority over the proposed use or activity may be required to review and approve or disapprove the application based on site-specific criteria, such

as that in 19.68 AMC. The Council may inspect the public right(s)-of-way proposed for use to determine any facts which may aid in determining whether a master permit should be approved.

(C) A complete application must include the following information and materials:

- (1) The identity of the applicant, including all affiliates of the applicant who will be authorized to work in the right-of-way under the agreement;
- (2) If the applicant is constructing wireless facilities on another service provider's facilities, a notarized statement that the applicant has permission to use such facilities, or a signed agreement with the service provider to that effect.
- (3) If the application involves a Small Wireless Facility, preliminary engineering plans showing all dimensions of the wireless facility.
- (4) A brief description of non-confidential, nonproprietary utility or wireless telecommunications services that are or will be offered or provided by the applicant over its facilities;
- (5) A brief description of non-confidential, nonproprietary transmission medium that will be used to offer or provide such services;
- (6) An accurate map showing the location of any existing utilities and/or wireless telecommunications facilities in the City that the applicant intends to use or lease;
- (7) If installation of overhead facilities is proposed, evidence that Surplus Space is available for locating the facilities on existing utility poles along the proposed route;
- (6) Preliminary engineering plans, specifications, and maps of the facilities to be located within the public right-of-way, in sufficient detail to identify the location and route of the proposed facilities within the public right-of-way, the location of the applicant's existing facilities within the right-of-way, if any, and the specific trees, structures, facilities, and/or obstructions, if any, that the applicant proposes to temporarily or permanently remove or relocate.
- (7) The area or areas of the City the applicant desires to serve and a schedule for building out (offering service to) the entire area encompassed by the master permit;
- (8) Information to establish that the applicant has obtained all other governmental approvals and permits to construct and operate the facilities, and to offer or provide the services, including, but not limited to, evidence that the applicant has registered with the Washington Utilities and Transportation Commission;
- (9) Proof of compliance with the other provisions of this Chapter, including but not limited to the indemnity, insurance, and bond requirements.
- (10) An application fee to be set by the Council in its unified fee schedule which allows the City to recover its actual administrative expenses that are directly related to receiving and approving a permit and license, to inspecting plans and construction, or to the preparation of a detailed statement.

~~(D)~~ Applications for Small Wireless Facilities may be submitted in batches, which may encompass up to five separate applications filed at the same time, each for one or more sites, *or* a single application covering up to five sites, unless the City agrees to a larger number based upon its capacity to review additional applications.

(E) Third Party Review. The City may require the applicant to submit its materials to a third-party for review, as may be reasonably necessary to determine compliance with this Chapter, such as an engineer or architect, by way of example only.

5.38.080 Completeness review.

(A) Completeness Review. Applications for a master permit or construction permit must be reviewed for completeness within thirty days of receipt, except for applications associated with Small Wireless Facilities, which

The City of Anacortes Municipal Code is current through Ordinance _____ and legislation passed through _____, 2018.

Commented [KA11]: The FCC Order has no limit on the number of batches that may be submitted. Contract staff can be added to process larger batches, if needed. That cost can be passed on to the applicant to make the review cost neutral to the city.

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must be reviewed for completeness within ten days of receipt. If the application is not reviewed for completeness within the applicable timeframe, it will be deemed complete.

(B) Tolling.

(1) For applications for a master permit or construction permit for a Small Wireless Facilities, the review period resets once an applicant submits its additional materials.

(2) For all other applications deemed incomplete, the review period is tolled for up to sixty days. Once an applicant submits additional materials, the review timeframe begins to run again.

(3) If the applicant does not submit the required materials within the required timeframe, the City may deny the application.

(C) Submittal of Additional Materials.

(1) If an applicant submits additional materials, the Director must provide notice within ten (10) days as to any additional materials identified in the original notice that were not provided with the supplemental materials.

(2) Second or subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness. For second or subsequent notices of incompleteness, the review timeframe will be tolled for all applications including those pertaining to Small Wireless Facilities.

(3) If the applicant does not submit the required materials, the City may deny the application.

(D) Failure to act. If the Director fails to approve or deny a request seeking approval for either a wireless service facility permit or conditional use permit within the applicable timeframe for review, accounting for any tolling, the request is deemed granted. The deemed grant does not become effective until the applicant notifies the applicable reviewing authority in writing after the review period has expired that the application has been deemed granted.

5.38.090 Timeframe for review.

The timeframe for review of an application for a master permit or a construction permit begins to run when an application is submitted, not when the application is deemed complete. The timeframe for submitting and reviewing master permits and construction permits is the same, unless otherwise specified.

	Colocating Wireless Facilities	Colocating Small Wireless Facility	New Small Wireless Facility	New Wireless Facilities	Construction Permit – All Wireless Facilities	Master Permit Renewal – All Wireless Facilities
Application Submission	Master use and construction permit applications should each be submitted 90 days prior to planned use.	Master use and construction permit applications should each be submitted 60 days prior to planned use.	Master use and construction permit applications should each be submitted 90 days prior to planned use.	Master use and construction permit applications should each be submitted at least 120 days prior to planned use.	Applications for complex projects should be submitted at least 60 days prior to the planned use, and in no case less than 30 days prior to the planned use.	A Permittee may submit an application for renewal no more than 180 days and no less than 120 days before expiration of the current master permit.
Timeframe for decision (from receipt of complete application)	Written decision due within 90 days.	Written decision due within 60 days.	Written decision due within 90 days.	Written decision due within 120 days.	City Engineer must Act within a reasonable time, generally not to exceed 30 days, and in no case can he or	Written Decision due within 90 days.

	Colocating Wireless Facilities	Colocating Small Wireless Facility	New Small Wireless Facility	New Wireless Facilities	Construction Permit – All Wireless Facilities	Master Permit Renewal – All Wireless Facilities
					she exceed the timeframes for review set forth in this table.	

5.38.100 Construction permit approval.

(1) The City Engineer shall review construction permits as follows:

Optional Pre-Application Meeting	Yes
Notice of Application	No
Comment Period	None
Recommendation By	None
Pre-Decision Open-Record Hearing	No
Closed-Record Decision Hearing	No
Decision By	City Engineer
Notice of Decision	No

(2) In the event that the City Engineer finds that the construction permit application conforms to the requirements of this chapter and applicable construction standards adopted by the City, the City Engineer must approve the construction permit, and may impose such conditions thereon as are reasonably necessary to protect the public health, welfare and safety, to mitigate any impacts resulting from the use, and to facilitate the orderly management of other utility and wireless facilities within the public right-of-way.

(3) In the event that the City Engineer denies an application for a construction permit, the decision must be in writing and set forth the reasons for said denial, and must be based on substantial evidence in the written record. The City may not deny a construction permit on the basis of a failure to obtain a master permit. Following approval by the City Engineer, construction permits will be issued by the City clerk.

(4) The City Engineer has the discretion to approve a blanket construction permit for a period of up to one year, when the applicant seeks approval to perform construction or maintenance that is of a repetitive or similar nature.

(5) In evaluating a construction permit application under this chapter, the City Engineer must, in addition to the criteria set forth in AMC XX.XX.050(2), determine whether the proposed construction is consistent with all construction standards adopted by the City.

(6) The duration of a construction permit will be for one year unless revoked or modified under the provisions of this chapter. The City Engineer must approve a construction schedule specifying the dates, times, and duration during which construction activity is permitted within the public right-of-way.

(7) The construction permit incorporates the relevant terms and conditions of this chapter by reference.

(8) The City Engineer has the power to regulate the construction and enforce construction permit conditions and the requirements of this chapter. The City Engineer must keep a record of the construction permit and the work done thereunder.

(9) A service provider adversely affected by a final action denying a construction permit may commence an action within thirty (30) days to seek relief, in any competent court of jurisdiction.

5.38.110 Master permit approval.

(1) The City Council shall review the master permit application as follows:

Optional Pre-Application Meeting	Yes
Notice of Application	Yes
Comment Period	14 days
Recommendation By	None
Pre-Decision Open-Record Hearing	Yes, before City Council
Closed-Record Decision Hearing	No
Decision By	City Council
Notice of Decision	Yes

(2) In the event the Council finds that master permit application conforms to the requirements of this chapter and the criteria for approval set forth in subsection (2) of this section, the Council must approve the master permit, and may impose conditions that are reasonably necessary to protect the public health, welfare, and safety and to mitigate any impacts resulting from the use. The Council will provide the reasons for a denial in writing, supported by substantial evidence contained in the written record based on the criteria set forth below. Following approval, the applicant and the Council must enter into a written agreement setting forth the particular terms under which the applicant has been granted the right to occupy and use the public ways of the City.

(3) In evaluating a master permit application under this chapter, the Council will, consistent with Federal and State law, examine the following criteria:

- (a) Whether all requisite licenses, certificates, and authorizations from applicable Federal, State, and local agencies have been obtained by the applicant;
- (b) The capacity of the public right-of-way to accommodate additional utility and wireless telecommunications facilities if the master permit is granted;
- (c) The effect, if any, on public health, safety and welfare if the master permit is granted;
- (d) The availability of reasonable alternate routes and/or locations in the right-of-way for the proposed facilities;
- (e) Whether denial of the use of the right-of-way would materially inhibit or limit the ability of the service provider to compete in a fair and balanced regulatory environment.
- (e) Applicable Federal, State, and local statutes, regulations, ordinances, and policies related to utility, wireless telecommunications, and other facilities, including City construction standards;

(f) Such other factors as may demonstrate that the grant to use the public right-of-way will serve the community interest.

(4) The duration of a master permit is five years unless revoked or modified under the provisions of this chapter.

(5) No master permit granted under this chapter confers any exclusive right, privilege, license, or franchise to occupy or use the public right-of-way of the City for delivery of wireless services or any other purposes. Further, no master permit may be construed as a right, title or interest in the public ways, but is the right solely to use and occupy the public right-of-ways for the limited purposes and terms stated within the grant. No master permit may be construed as a warranty of title.

5.38.120 Compensation to the City.

The City may fix a fair and reasonable compensation to be paid annually for the use of the right-of-way granted to the applicant under a master permit that is a reasonable approximation of the City's costs, including the costs of third-party review, if any; provided, that the City and an applicant may agree to the compensation to be paid; and provided that the compensation fixed or agreed upon is consistent with RCW 35.21.860.

5.38.130 Nondiscrimination.

A Permittee which purports to serve the general public must make its wireless telecommunication services available to any customer within its permitted area who requests such service, without discrimination as to the terms, conditions, rates or charges for the permittee's services; provided, however, that nothing in this title prohibits a Permittee from making reasonable classifications among differently situated customers.

5.38.140 Amendment of Permit.

Except as otherwise provided within a master permit agreement, a new master permit agreement and grant is required for any wireless carrier or service provider that seeks to extend the area covered by the master permit or to locate its wireless facilities in public rights-of-way in the City which are not included in a master permit previously granted under this chapter. If ordered by the city to locate or relocate its wireless telecommunications facilities in public rights-of-way not included in a previously granted master permit, the City must grant a master permit amendment without further application.

5.38.150 Renewal application – Master Permit.

(A) A Permittee may activate a formal process for renewal, by submitting an application for renewal, a completed master permit renewal application with the city clerk. The application must include the following:

- (1) The information required under AMC XX.XX.060;
- (2) Any information required under the master permit agreement between the City and the applicant;
- (3) All deposits or charges required under this Chapter; and
- (4) An application fee to be set by Council.

5.38.160 Renewal approval.

(A) The City must issue a written determination granting or denying the renewal application in whole or in part. If the renewal request is denied, the written determination must include substantial evidence of the reason(s) for denial, based on the standards set forth below. Prior to granting or denying renewal of a master permit under this Chapter, the Council must conduct a public hearing and make a decision based on the following criteria:

- (1) The continuing capacity of the public right-of-way to accommodate the applicant's existing facilities;
- (2) The applicant's compliance with the requirements of this title and the master permit agreement;
- (3) Applicable federal, state, and local wireless telecommunications laws, rules and policies; and
- (4) Such other factors that may demonstrate that the continued grant to use the public right-of-way will serve the community interest.

(B) The Council may not deny a renewal application based on violations of the master permit unless the applicant has been given notice and an opportunity to cure.

(C) Any service provider whose proposal for renewal has been denied by the City, or has been otherwise adversely affected by a failure of the City to act, may appeal such final decision or failure to act within 120 days in any Court of competent jurisdiction.

5.38.170 Terms of use and occupancy.

(A) The use and occupancy of public right-of-way in the City by any person constructing, maintaining or operating wireless, utility, or other facilities must conform to the terms and conditions of this chapter.

(B) Existing facilities installed or maintained by a telecommunications carrier, public utility or other entity over, under or across public right-of-way within the City in accordance with an expired franchise agreement or other City-issued permit may be operated by the wireless carrier or public utility at the locations at which such facilities exist; provided, however, that maintenance, repair, relocation, and/or expansion of such facilities are not permitted unless and until the public utility or telecommunications carrier, or other entity obtains all permits and approvals required by this chapter.

(C) All work by a wireless carrier, public utility, or other entity in the public right-of-way must comply with all construction standards and specifications adopted by the City as now exist or are hereafter amended, including but not limited to those set forth in Chapters 15.32 and 19.68 AMC.

5.38.180 Specifications.

(A) All work to be performed under a construction permit issued under this chapter must conform to all applicable City codes, ordinances, and standards adopted by the City. In case of any conflict, the most stringent provision applies.

(B) No wireless, utility, other facilities, or work related thereto may protrude into or over any portion of a public right-of-way opened to vehicle or pedestrian travel in such a manner as to create a risk of endangering the use of such place by vehicles or pedestrian travel. In addition, in the event the requested construction permit involves encroachment or partial obstruction of a sidewalk or other walkway open to the public, a minimum of five feet of unobstructed sidewalk or other walkway must be maintained at all times.

(C) During any period of any relocation, construction or maintenance of its facilities within the public right-of-way, a wireless telecommunications carrier, public utility or other person must conduct their activities so as not to unreasonably interfere with the free passage of traffic or the use of adjoining property. Such person must, at all times, post and maintain proper barricades and comply with all applicable safety regulations during such period of construction as required by the ordinances of the City and the laws of the State of Washington, including RCW 39.04.180, for the construction of trench safety systems.

(D) An applicant must, within 10 business days of completion of work, submit at no cost to the City, current and accurate as-built drawings showing the location of any facilities installed or constructed within the public right-of-way under a permit issued pursuant to this chapter or otherwise. As-builts must show all of the applicant's facilities in the right-of-way including but not limited to wireless telecommunications facilities, utility facilities, power poles,

guy poles and anchors, overhead transformers, pad-mounted transformers, submersible transformers, conduit, substation (with its name) pedestals, pad-mounted junction boxes, vaults, switch cabinets, and meter boxes.

5.38.190 Exceptions.

(A) A construction permit is not required when public utilities, wireless carriers, or City contractors are responding to emergencies that require work in the public right-of-way, such as water or sewer main breaks, gas leaks, downed power lines, or similar emergencies; provided, however, that the Council must be notified by the responding utility, carrier, or contractor verbally or in writing, on the next business day following onset of the emergency. Nothing in this section relieves a responding public utility, carrier, or contractor from the requirement of obtaining a construction permit after beginning emergency work in a public right-of-way.

(B) A construction permit fee is not required for City-sponsored capital improvement projects for water, sewer, drainage, or road construction maintenance, including associated work required by a public utility.

5.38.200 Security fund.

(A) Prior to commencement of any activities approved under a master permit, the Permittee must establish a permanent security fund with the City by depositing the amount of \$50,000, or such greater amount as deemed necessary by the Council, with the City in cash, an unconditional letter of credit, or other instrument acceptable to the City, which fund must be maintained at the sole expense of the Permittee so long as any of the Permittee's utility or wireless facilities are located within the public right-of-way of the City.

(B) The fund must serve as security for the full and complete performance of the terms and conditions of this chapter and master permit, including any costs, expenses, damages, or loss the City pays or incurs, including civil penalties, because of any failure attributable to the Permittee to comply with the codes, ordinances, rules, regulations, or permits of the City.

(C) The fund may be used to repair the public right-of-way, return it to its original condition, or to complete a project within the right-of-way if the Permittee ceases work mid-way through construction, or abandons its facility(ies) and appurtenances thereto.

(D) Before any sums are withdrawn from the security fund, the City must give written notice to the Permittee:

(1) Describing the act, default or failure to be remedied, or the damages, costs or expenses which the City has incurred by reason of the Permittee's act or default;

(2) Providing a reasonable opportunity for the Permittee to first remedy the existing or ongoing default or failure, if applicable;

(3) Providing a reasonable opportunity for the Permittee to pay any monies due the City before the City withdraws the amount thereof from the security fund, if applicable; and

(4) That the Permittee will be given an opportunity to review the act, default or failure described in the notice with the City or his or her designee.

(E) Permittees are required to replenish the security fund within 14 days after written notice from the City that there is a deficiency in the amount of the fund.

(F)

(G) Upon Permittee's removal of all facilities from the right of way and expiration of the agreement, permits and/or licenses, the city shall refund the balance remaining in this fund, including any accrued interest, to the Permittee within 14 days.

(H)

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Commented [KA12]: Allowing the city to retain the balance of these funds would be an unearned windfall.

5.38.210 Performance bond.

A performance bond written by a corporate surety acceptable to the City Engineer equal to at least 150 percent of

The City of Anacortes Municipal Code is current through Ordinance _____ and legislation passed through _____, 2018.

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TELECOMMUNICATIONS RIGHT-OF-WAY USE*

the estimated cost of removing the Permittee's facilities and restoring the public right-of-way to their pre-construction condition must be deposited before the construction permit is issued. Said bond is required to remain in full force until 60 days after completion of the construction and/or improvements within the public right-of-way, and

The City of Anacortes Municipal Code is current through Ordinance and legislation passed through _____, 2018.

must warrant all such restoration work for a period of two years following completion and/or termination of the construction. Those Permittees performing annual work within the rights-of-way may provide an annual performance bond, in an amount approved by the City Engineer, at the beginning of each year to cover all excavations. The purpose of this bond is to guarantee the removal of partially completed and/or nonconforming facilities and to fully restore the public right-of-way to the pre-construction condition. The City Engineer may use the funds from the performance bond to complete removal and fully restore the public right-of-way to its pre-construction condition if the Permittee fails to do so.

5.38.220 Insurance.

Commented [KA13]: Request the option to self insure.

Unless otherwise provided in a master permit or construction permit, each Permittee must, as a condition of the master permit and construction permit, secure and maintain the following liability insurance policies insuring both the Permittee, its agents, representatives, employees, contractors or subcontractors, and the City and its elected and appointed officers, officials, agents, employees, representatives, engineers, consultants, and volunteers as co-insureds against any claims which may arise from or in connection with the exercise of the rights, privileges, and authority granted to the Permittee under the permit(s):

(A) Comprehensive Commercial General Liability Insurance. Commercial General Liability Insurance on an "occurrence" basis including coverage for Premises and Operations Liability, Products and Completed Operations, Contractual Liability, Independent Contractors, Stop Gap/Employer's Liability, Broad Form Property Damage, Explosion, Collapse and Underground Hazards, and Personal Injury Liability. Such insurance will provide limits of not less than two million dollars (\$2,000,000) per occurrence and ten million dollars (\$10,000,000) in the aggregate. Coverage limits can be achieved with a combination of the primary and umbrella/excess policies. Products/Completed Operations Liability Insurance will be provided for a period of at least six years after completion and/or termination of construction. Any deductible or self-insured retention must be disclosed and is subject to approval of the City. The policy for the Permittee must include without limitation coverage for hazards commonly referred to as "XCU" and contain a severability of interests provision.

(B) Automobile Liability Insurance. A policy of Automobile Liability, including coverage for Permittee's owned, non-owned, leased or hired vehicles providing a minimum limit for Bodily Injury and Property Damage of five million dollars (\$5,000,000) per combined single limit each accident. The limit can be achieved with a combination of the primary and umbrella/excess policies.

(C) Workers Compensation Insurance. Statutory Worker's Compensation and Employers Liability insurance as prescribed by applicable law.

(D) City as an Additional Insured on Policies. The Commercial General Liability and Automobile Liability and Umbrella/Excess Liability insurance policies required must name the City of Anacortes as an additional insured on a primary and non-contributory basis on Forms CG 20 26 and CG 20 37 or their equivalents for a public body. Carriers furnishing insurance are required to waive all rights of subrogation against the City. The Permittee must obtain the written agreement on the part of each insurance company to notify the City at least forty-five (45) days prior to cancellation or non-renewal of any such insurance, except ten (10) days' notice of cancellation due to non-payment of premium.

(E) Evidence of Insurance. With respect to each policy, Permittee must provide the City prior to commencement of the Work, proof that it has procured the requisite insurance, including copies of any applicable policies, declaration pages, and/or endorsements. PERMITTEE IS NOT ENTITLED TO COMMENCE WORK AUTHORIZED UNDER ITS PERMIT(S) UNTIL THE CITY HAS RECEIVED AND APPROVED THE CERTIFICATE OF INSURANCE.

(F) Errors and Omissions. Permittee must maintain throughout the period of the applicable permit and for a period of six (6) years thereafter, a standard professional errors and omissions insurance policy of a form and with an insurance company satisfactory to the City. Permittee's insurance policies must incorporate a provision requiring giving written notice to the City at least sixty (60) days prior to any cancellation, non-renewal or material modification of the policies. Permittee's professional errors and omissions insurance will be in the minimum

amount of \$1,000,000 including contractual liability, with all coverage retroactive to the earlier of the date of the applicable permit or the commencement of design services in relation to the permit(s).

(G) Compliance by contractors and subcontractors. Permittee is required to ensure that each of its contractors and subcontractors complies with all requirements in this Section; provided that Permittee must require its contractors and subcontractors to maintain commercially reasonable limits of insurance, given the contractor's and subcontractor's scope of work. Permittee must provide evidence of insurance of contractors and subcontractors upon request by the City.

(H) In addition, each such insurance policy must contain an endorsement which provides that the policy may not be cancelled, reduced in coverage, nor the intention not to renew be stated until 60 days after receipt by the City of a written notice to that effect. Within 30 days after receipt of such notice by the City, and in no event later than 15 days prior to the cancellation or nonrenewal, the Permittee must obtain and furnish to the City replacement insurance policies meeting the requirements of this section.

5.38.230 Hold harmless/indemnity.

(A) The Permittee must, to the fullest extent permitted by law, indemnify, defend and hold harmless the City, and its elected and appointed officers, officials, agents, employees, representatives, engineers, consultants, and volunteers as co-insureds (collectively the "Indemnified Parties" or individually, each an "Indemnified Party"), from and against any and all claims, liability, penalties, fines, costs, damages, losses and causes of action, arising out of or resulting from, or alleged to arise out of, relate to, or to result from the performance or non-performance of any construction performed at the instance of Permittee, or performance or non-performance of any services performed at the instance of Permittee (hereinafter singularly and collectively referred to as "Indemnity Claims"), but only to the extent directly or indirectly caused by the negligence or willful misconduct of Permittee, its contractors, subcontractors or supplier of any tier, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable. Permittee, at its sole expense, must promptly dispose of Indemnity Claims, defend all lawsuits and similar proceedings filed against an Indemnified Party on the account of Indemnity Claims, pay all awards and judgments rendered against an Indemnified Party in connection therewith, and reimburse each Indemnified Party for all reasonable expenses incurred by such Indemnified Party in connection with Indemnity Claims and lawsuits and arbitrations and similar proceedings including, but not limited to, attorneys' fees, expert witness fees, court costs, arbitration costs and all other reasonable costs (not limited to statutory costs).

(B) If Indemnity Claims are caused or alleged to be caused in part by any joint or concurrent negligent act (either active or passive) or omission by an Indemnified Party, Permittee will indemnify, defend and hold harmless such Indemnified Party, as provided above, from such Indemnity Claims to the extent such Indemnity Claims arise out of or result from the negligence or willful misconduct of Permittee or its contractors, subcontractors or suppliers of any tier, or anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, or anyone whose acts Permittee may be responsible or liable. In no event will Permittee be obligated to indemnify an Indemnified Party for Indemnity Claims which arise out of or result from the sole negligence of such Indemnified Party or its agents, servants or independent contractors who are directly responsible to such Indemnified Party, excluding Permittee.

(C) In addition, the City may require that any person, public utility, or wireless carrier accepting such a master permit or construction permit provide the City with additional indemnification, such as an indemnification from a parent company.

(D) The indemnification provided for herein does not apply to injuries to persons or damage to property caused by or resulting from the sole negligence of the City, its agents or employees.

(E) For the sole purpose of effecting the indemnification obligations herein, the Permittee, by accepting a master permit, specifically and expressly waives any immunity that may be granted it under any applicable Workers' Compensation Act, disability benefit acts or other employee benefit acts.

5.38.240 Inspections.

All work performed within public right-of-way is subject to periodic inspection by the Council to assure compliance with any conditions attached to the permit, the requirements of this chapter, and the requirements of any applicable City code or standard.

5.38.250 Revocation of master permits and construction permits.

(A) Following a notice of violation and opportunity to cure, the Council may revoke or suspend any approval issued under this chapter for cause, in accordance with existing tariff or applicable State law whenever:

- (1) The work does not proceed in accordance with the plans as approved or the conditions of approval, is not in compliance with the requirements of this chapter, other City ordinances, resolutions, or State law;
- (2) The service provider fails to provide adequate service or otherwise fails to comply with the terms of its master permit or construction permit;
- (3) The service provider has made a misrepresentation of material fact in applying for such approval;
- (4) The Council determines that inadequate measures are being taken to protect the public, adjoining property, public right-of-way, or wireless telecommunications, utility or other facilities in such public right-of-way, or that any excavation or fill endangers or will endanger the public, adjoining property, public right-of-way, or wireless telecommunications or utility facilities in such public right-of-way.

(B) Upon suspension or revocation of an approval under this chapter, all permit-related activities of the public right-of-way must cease, except as authorized or directed by the Council.

5.38.260 Correction and discontinuance of a Master Permit.

(A) Whenever the Council determines that any condition on any public right-of-way is in violation of a master permit or any other provision of this chapter related thereto, or exists without a master permit, the Council may order the correction or discontinuance of such condition or any activity causing such condition.

(B) The Council also has all powers and remedies available under State law and this chapter, to secure the correction or discontinuance of any condition specified in this section.

(C) The Council is authorized to use any or all of the following methods in ordering correction or discontinuance of any such conditions or activities as it determines appropriate:

- (1) Serving of oral or written directives to Permittee or other responsible person requesting immediate correction or discontinuance of the specified condition;
- (2) Service of a written notice of violation, ordering correction or discontinuance of a specific condition or activity within thirty (30) days
- (3) Service of a written notice to remove an object or facility within twenty-four (24) hours and summary removal if the object or thing is a hazard to public safety, with notice of such removal to the owner, if known;
- (4) Revocation of previously granted master permit(s) where Permittee or other responsible person has failed or refused to comply with requirements imposed by the City related to such permits; or
- (5) Issuance of an order to immediately stop work until authorization is received from the City to proceed.

(D) Any utility or wireless facility, or any other object or thing which occupies any public right-of-way without a master permit or in violation of the master permit conditions is a nuisance both public and private.

(E) All expenses incurred by the Council, including attorney's fees and legal expenses, in abating the condition or any portion thereof constitutes a civil debt owing to the Council jointly and severally by such persons who have

been given notice or who own the object or thing or placed it in the public right-of-way, which debt is collectible in the same manner as any other civil debt.

5.38.270 Correction and discontinuance of a Construction Permit.

(A) Whenever the City Engineer determines that any condition on any public right-of-way is in violation of a construction permit or any other provision of this chapter related thereto, or exists without a construction permit, the City Engineer may order the correction or discontinuance of such condition or any activity causing such condition.

(B) The City Engineer also has all powers and remedies available under State law and this chapter, to secure the correction or discontinuance of any condition specified in this section.

(C) The City Engineer is authorized to use any or all of the following methods in ordering correction or discontinuance of any such conditions or activities as it determines appropriate:

- (1) Serving of oral or written directives to Permittee or other responsible person requesting immediate correction or discontinuance of the specified condition;
- (2) Service of a written notice of violation, ordering correction or discontinuance of a specific condition or activity within thirty (30) days;
- (3) Service of a written notice to remove an object or facility within twenty-four (24) hours and summary removal if the object or thing is a hazard to public safety, with notice of such removal to the owner, if known;
- (4) Revocation of previously granted construction permit(s) where Permittee or other responsible person has failed or refused to comply with requirements imposed related to such permits; or
- (5) Issuance of an order to immediately stop work until authorization is received from the City to proceed.

(D) Any utility or wireless facility, or any other object or thing which occupies any public right-of-way without a construction permit or in violation of construction permit conditions is a nuisance both public and private.

(E) All expenses incurred by the City Engineer, including attorney's fees and legal expenses, in abating the condition or any portion thereof constitutes a civil debt owing to the City Engineer jointly and severally by such persons who have been given notice or who own the object or thing or placed it in the public right-of-way, which debt is collectible in the same manner as any other civil debt.

5.38.280 Removal.

Any person accepting a master permit or construction permit pursuant to this chapter for the installation of any utility or wireless carriers must remove such facilities when they are no longer required, or if the master or construction permit has been revoked as provided in this chapter. Such removal must occur within 90 days of receiving notice from the Council ordering such removal. Unless otherwise approved by the City in writing, no person is permitted to abandon utility or wireless facilities within a public right-of-way, and then only under such conditions as may be prescribed by the Council.

5.38.290 Displacement for public use.

(A) A wireless carrier, public utility, or other person under order of the Council must, upon a minimum 60 days' written notice, move or adjust its underground or overhead facilities located within the public right-of-way which interfere with any public improvement authorized or ordered by the City. The relocation must be done at the expense of the telecommunications carrier, public utility, or other person, subject to the exceptions in RCW 35.99.060(d) and existing tariffs, which may require the City to pay for displacement in certain circumstances. The actual number of days must be specified by the Council in the Council's order.

(B) When a public improvement is required to accommodate or allow development or other activity by a party other than the City, then a wireless telecommunications carrier, public utility or other person which moves or adjusts its facilities is entitled to recover its associated costs and expenses from such other party.

(C) Such persons must indemnify, hold harmless, and pay the costs of defending the City against claims or liabilities for delays on public improvement projects caused by their failure to relocate their facilities in a timely manner unless caused by circumstances beyond their control.

5.38.300 Additional ducts or conduits.

Any person constructing underground ducts or conduits pursuant to this chapter must, upon request, provide the City with additional ducts for its use. Such additional ducts or conduits must be of a size and configuration specified by the City and be dedicated to the City. The City has the right to use the ducts and conduits for any purpose, including but not limited to leasing them to other entities, subject to the following provisions.

(A) The City must enter into a contract with the service provider consistent with RCW 80.36.150, and the incremental costs of adding the ducts and conduits under this section will be borne by the City. If the City makes the additional duct or conduit and related access structures available to any other entity for the purposes of providing wireless services for hire, sale, or resale to the general public, the rates to be charged, as set forth in the contract with the entity that constructed the conduit or duct, must recover at least the fully allocated costs of the service provider. The service provider must state both contract rates in the contract.

(B) Except as otherwise agreed by the City and the service provider, the City agrees that he requested additional duct or conduit space and related access structures will not be used by the City to provide wireless service for hire, sale, or resale to the general public.

(C) The City will not require that the additional duct or conduit space be connected to the access structures and vaults of the service provider.

(D) The value of the additional duct or conduit requested by the City will not be considered a public works construction contract.

(E) This section does not apply to the provision of an institutional network by a cable television provider under federal law.

5.38.310 Joint use of poles.

(A) All wireless facilities permitted pursuant to the terms of this chapter or otherwise located within the City of Anacortes must be made available for use by the owner or initial user thereof, together with as many other wireless service providers as can be technically collocated thereon.

(B) Nothing contained within this chapter prevents the owner of such poles from charging a reasonable pole attachment fee that does not exceed the fair market value for the space occupied by said collocated facilities; except that if the owner is the City, it may not charge more than the reasonable approximation of its reasonable costs.

5.38.320 City use for noncommercial government communication.

Any person erecting or maintaining poles within public right-of-way allows the City the right, free of charge, to attach, maintain and operate traffic and traffic safety signals, as noncommercial governmental communication and signals, wires and/or fixtures within available surplus space on the poles erected and so maintained.

5.38.330 Appearance.

Any person erecting or maintaining poles under authority of this chapter must ensure that its poles are maintained in a manner that does not significantly distract from the visual appearance of the pole. Such maintenance may include cleaning, replacement, painting or repainting of the pole. Wooden utility poles are not required to be painted.

5.38.340 Moving of building(s) and/or equipment.

Any person maintaining overhead wireless or utility facilities in public right-of-way must, upon seven days' notice from the Council, disconnect or move said facilities to allow for the moving of building(s) and/or equipment across or along any such public right-of-way; provided, however, that the advance notice may be reduced to 24 hours if the facilities are below the minimum clearance set by law or regulation or in the case of an emergency. The cost of moving such facilities must be in accordance with existing tariffs or applicable State law, and borne as follows:

(1) by the owner of the facilities if: (a) the wires, cables or appurtenances are below the minimum vertical clearance required by State law, City ordinance, or rules of the Council, (b) above the surface of the public right-of-way, or (c) no adjustment would be necessary if the minimum clearance had been maintained; or (2) by the person desiring to move the building(s) and/or equipment under all other circumstances.

5.38.350 Billings and collections.

The Council, jointly with the Finance Director, may establish procedures pertaining to the billing and collection of fees and charges adopted pursuant to this chapter.

5.38.360 Liability.

The Council and other employees charged with the enforcement and administration of this chapter, acting for the City in good faith and without malice in the discharge of their duties, do not thereby render themselves liable personally for damages that may accrue to persons or property as a result of an act required or by reason of an act or omission in the discharge of such duties.

5.28.370 Tree trimming.

Any wireless carrier or public utility required by State statute or regulation to trim or remove trees which may interfere with their facilities must ensure that their tree trimming activities protect the appearance, integrity and health of the trees to the extent reasonably possible. The wireless carrier or public utility must prepare and maintain a tree trimming schedule to ensure compliance with this provision and to avoid exigent circumstances where tree cutting, trimming or removal is necessary to protect the public safety or continuity of service without the regard for the appearance, integrity or health of the trees that planned maintenance would otherwise allow. The wireless carrier or public utility must submit the schedule to the City Engineer. Except where exigent circumstances do not permit, the wireless carrier or public utility must give the owner the property on which the trees are located at least five days' advance written notice of the tree trimming. Tree trimming on any City streets must comply with the standards developed by the City's street tree advisory committee.

5.38.380 Underground facilities.

(A) The undergrounding requirements of this section apply where the wireless telecommunications carrier, public utility, or other person's facilities consist of cable or any other facilities which are capable of being placed underground. This section does not apply to antennas or other facilities, which are required to remain above-ground, in order to be functional.

(B) In any area of the City in which there are no aerial facilities other than antennas or other facilities required to remain above-ground in order to be functional or otherwise for the provision of wireless services, or in any public right-of-way in which all wireless telecommunications wires and cables, and electric power wires, cables, 15,000 volts and lower, and other aerial facilities capable of undergrounding have been placed underground, no person is permitted to erect poles or to run or suspend wires, cables or other facilities thereon, but must lay such wires, cables or other facilities underground in the manner required by the City pursuant to this section, and Chapters 15.32 and 19.68 AMC, if applicable.

(C) If utility or street improvement projects are anticipated within the same public right-of-way within 12 months of a Permittee's proposed construction, the City may permit interim installation of above-ground facilities. In the event that the City does not require the undergrounding of such facilities at the time of initial installation, the City may, at any time in the future, require the conversion of such above-ground and/or aerial facilities to underground installation at the carrier, utility, or other person's expense, with exceptions as set forth in RCW 35.99.060(d).

(D) The City must allow new electric power lines and cables operating above 15,000 volts to be constructed above-ground when location within the City right-of-way is approved by the City Engineer.

(E) Whenever a service provider or public utility undertakes an undergrounding project in any area of the City, it must underground their above-ground facilities in the manner specified by the City, concurrently and together with the other affected carriers, utilities, and other persons in the affected area. The location of any such relocated and underground facilities must be approved by the Council. Such service provider must underground their facilities at no cost to the City, except as provided in RCW 35.99.060(d).

(F) In the event that the City undertakes any public improvement which would otherwise require, in the discretion of the Council, the relocation of carrier, utility, or other person's above-ground facilities, the Council may, by written notice to such persons, direct that any such facilities be converted to underground facilities. Any such conversion must be done subject to and in accordance with applicable schedules and tariffs on file with the WUTC or such other regulatory agency having jurisdiction.

5.38.390 Joint trenching.

Recognizing that trenching and excavation within public right-of-way can significantly degrade the quality and longevity of street surfacing and seriously inconvenience the public, all Permittees must afford other wireless carriers, public utilities, and the City an opportunity to share in the use of their excavations and trenches within public right-of-way. In the event that the City, a wireless carrier, or a public utility desires to share in a Permittee's excavation, it must provide a written request to do so. Joint use of excavations are subject to the following conditions:

(A) Such joint use may not unreasonably delay the work of the party causing the excavation to be made;

(B) Any party desiring to share in an excavation may be required to pay the fair and reasonable pro rata cost of said excavation. Such joint use must be arranged and accomplished on terms and conditions satisfactory to both parties; and

(C) Either party may deny such request for safety reasons.

5.38.400 Notice of tariff changes.

A Permittee must, when making application for any changes in tariffs affecting the provisions of this chapter or any approval issued hereunder, notify the City in writing of the application and provide the Council with a copy of the submitted application. The Permittees must further provide the Council with a copy of any actual approved tariff change affecting any approval issued pursuant to this chapter.

5.38.410 One-call locator.

All carriers, utilities, Permittees, and other persons must, before commencing any construction within a public right-of-way, comply with all of the requirements set forth in Chapter 19.122 RCW, the one-call locator service.

5.38.420 Violation – Penalties.

(A) No person may violate or fail to comply with this chapter.

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Chapter 5.38 PUBLIC UTILITY AND WIRELESS
TELECOMMUNICATIONS RIGHT-OF-WAY USE*

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(B) A violation of or failure to comply with any provision of this chapter is a civil infraction subject to the enforcement provisions of Chapter 1.24 AMC.

(C) A violation or failure to comply with any provision of this chapter, including any order of the Council authorized by this chapter, is, in addition to any other remedies, grounds for the Council to revoke the underlying permit issued to the Permittee, if any, and grounds for the denial of any additional permits under this chapter until the Permittee is in full compliance with the provisions of this chapter.

(D) Violation of a stop-work order issued pursuant to AMC XX.XX.250 or 260 constitutes a gross misdemeanor, punishable by not more than 90 days in jail and a fine not exceeding \$1,000, or both.

Grage, Libby

Subject: FW: T-Mobile Comments, Anacortes Planning Commission Continued Public Hearing on Wireless Telecommunications Draft Regulations, January 30, 2019

Attachments: T-Mobile redline pages, Anacortes Planning Commission 1-30-2019.pdf

From: Atkins, Linda [<mailto:lindaatkins@dwt.com>]

Sent: Wednesday, January 30, 2019 4:40 PM

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Cc: Tacy Hass <Tacy.Hass@foster.com>

Subject: RE: T-Mobile Comments, Anacortes Planning Commission Continued Public Hearing on Wireless Telecommunications Draft Regulations, January 30, 2019

Attached on behalf of T-Mobile in redline format are some additional recommended changes to the proposed Wireless Telecommunications Draft Regulations.

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Our mission is to maintain and improve the quality of life reflecting community expectations through a focus on public participation and employees-mayor-council teamwork.



Planning Commission

**Municipal Building Council Chambers
904 Sixth Street**

**January 30, 2019
5:00 p.m.**

PRELIMINARY AGENDA

1. **Roll Call**
2. **Continued Public Hearing: Wireless Telecommunications Draft Regulations**

Draft Regulations

The City of Anacortes encourages people with disabilities to participate in public meetings. For assistance with special needs, please contact the City Clerk at 360-299-1960 in advance of the meeting.

Chapter 19.68

WIRELESS SERVICE FACILITIES

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- (5) A description of compliance with the additional requirements in this Chapter for collocating and/or for conditional uses, if applicable.
- (6) If new equipment cabinets, generators, or any other ground equipment components are being proposed: (i) an assessment of noise that shows compliance with City and/or Federal noise standards.
- (7) A stamped report by a state of Washington registered professional engineer demonstrating compliance with radio-frequency emissions standards as set forth in Section 19.68.240.
- (B) New facilities. In addition to the application materials delineated in subsection (A) above, an application for a new wireless facility must provide:
- (1) A notarized statement by the applicant as to whether construction of a new facility will accommodate collocating of additional antennas for future users.
- (2) An explanation of how the proposed new facility at the proposed location is necessary to do one of the following: fill a significant gap in service, to introduce new services, to densify a network, or to otherwise improve service capabilities.
- (3) A description of the suitability of the use of existing facilities, including towers or other structures to provide the services to be provided through the use of the proposed new facility.
- (4) Any other engineering report(s) required to show feasibility of meeting the applicable criteria in subsections (A) and/or (B) as applicable;
- (A) Third Party Review. The City may require the applicant to submit its materials to a third-party for review, as may be reasonably necessary to determine compliance with this Chapter, such as an engineer or architect, by way of example only.
- (C) Fee. Every application for a wireless service facility permit or wireless conditional use permit must be accompanied by an application fee which will be set by the City Council in its unified fee schedule, to reimburse the City for the costs of reviewing the application, including any third-party review required by the City, and fees equal to the a reasonable approximation of the objectively reasonable costs for the attachment to or use of property owned or controlled by the City.

19.68.110 Permit approval process.

- (A) Wireless service facility permit (WSF). The review process for wireless service facility permit applications is that for a Type 1 (Administrative Ministerial Action) as delineated in Section 19.20.030 AMC.
- (B) Wireless conditional use permit (WCUP). The review process for wireless conditional use permit applications is that for a Type 3-HE review, delineated in Section 19.20.030 AMC. The criteria for a conditional use permit as set forth in other provisions of the City's code does not apply.
- (C) This permit approval process does not apply to Eligible Facility Requests.

19.68.120 Permit review — general criteria.

- (A) In evaluating a permit application under this Chapter, the decision-maker must examine the following criteria:
- (1) Whether all requisite licenses, certificates, and authorizations from applicable Federal, State, and local agencies have been obtained by the applicant;
- (2) Whether the applicant has shown that its proposed facility or colocation meets the standards and criteria set forth in this Chapter, including the visibility and performance criteria set forth in Section 19.68.200;
- (3) Whether the applicant has shown that its proposed facility meets any additional requirements in this Chapter for collocating and/or conditional uses, if applicable.
- (B) For a new wireless facility ~~or excluding a new Small Wireless Facility~~, whether it is necessary to fill a significant gap in service, to introduce new services, to densify a network, or to otherwise improve service capabilities.

Commented [LA1]: FCC Order prohibits requiring a service justification for a SWF.

(C) Decision. After considering all information submitted, and the record on file and from any hearing, the decision-maker will decide whether to grant, deny, or grant the permit with conditions, and must issue a written decision containing findings of fact supported by substantial evidence, based on the criteria above.

(D) Issued permit. Any wireless service facility permit that is issued under this Chapter must contain the location, nature, and extent of approved use, together with all conditions that are imposed. A copy of the permit will be kept on file and reviewed annually by the administering City official. If, at any time, the use no longer complies with the stated conditions, the owner will be declared in violation of this chapter.

19.68.130 Permit review — supplemental criteria for conditional uses.

(A) In addition to the general criteria for approval uses set forth in this Chapter, the following criteria apply to all permits denominated as conditional uses:

(1) The applicant must demonstrate that visual, noise, and other impacts associated with the proposed facility have been minimized to the maximum extent possible using existing concealment technology, site design, noise abatement techniques, concealment, disguise, camouflage, and/or the use of architecturally compatible improvements to existing structures where permitted, and/or underground placement of ancillary equipment. In evaluating the site design, consideration will be given to whether the facility will blend into the surrounding topography, tree coverage, foliage, and other natural features and whether locating the facility in alternative locations upon the subject property, or reasonably available properties, would better conceal the facility through use of existing natural and built features;

(2) To the extent technically feasible, the applicant must demonstrate compatibility of the proposed structure with the height and mass of existing buildings in the area.

(3) The applicant must demonstrate that the design of the proposed facility complies with the purpose and intent of this chapter, including, but not limited to, the visibility and performance standards set forth in AMC 19.68.200 which most closely match the proposed facility;

(4) The applicant must demonstrate that alternative locations, including other colocations and alternative support structures, are not available for the proposed facility;

(5) The applicant must demonstrate that the proposed facility is not in conflict with the health and safety of the community;

(6) The applicant must demonstrate that the proposed facility will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts on such facilities.

(B) In evaluating any proposed wireless service facility denominated as a conditional use, the Director may, at the expense of the applicant, retain an outside consultant to review the technical, design and other materials submitted by the applicant in conjunction with the proposal.

19.68.140 Completeness review.

(A) Completeness Review. Applications must be reviewed for completeness within thirty days of receipt, except for applications to site Small Wireless Facilities, which must be reviewed for completeness within ten days of receipt. If the application is not reviewed for completeness within the applicable timeframe, it will be deemed complete.

(B) Tolling. For applications to site Small Wireless Facilities, the review period resets once an applicant submits its additional materials. For all other applications deemed incomplete, the review period is tolled for up to sixty days. Once an applicant submits additional materials, the review timeframe begins to run again. If the applicant does not submit the required materials, the City may deny the application.

(C) Submittal of Additional Materials. If an applicant submits additional materials, the Director must provide notice within ten (10) days as to any additional materials identified in the original notice that were not provided with the supplemental materials. Second or subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness. For second or subsequent notices of incompleteness, the review timeframe will be tolled for all applications including for siting Small Wireless Facilities. If the applicant does not submit the required materials, the City may deny the application.

Commented [LA2]: This requirement needs to be qualified to acknowledge that height required for a wireless facility is dictated by technical network requirements.

19.68.180 Prohibited Locations.

(A) Lattice and guyed wire towers are not permitted in any zoning district.

(B) Commercial advertising including billboards and business identification signs may not be used as alternative antenna support structures.

19.68.190 Permitted locations.

New wireless service facilities, which includes new Small Wireless Facilities are permitted as follows, with the type of permit indicated. For those facilities located within a "right-of-way", a master permit and construction permit for such use is required under the provisions of Chapter XX.XX. The zones referred to below are defined in the City's general zoning code.

Type of Facility	Residential Zones (RI, R2, R2A, R3, R3A, R4, R4A, OT)	Mixed Use Zones (CBD, C, MMU, CM, CM2, P)	Industrial Zones (LM, LMI, MS, HM, I, AZ)
Monopole	Permitted with WCUP	Permitted with WSF, except permitted with WCUP in P and except not permitted in CBD	Permitted with WSF
Utility Poles	Permitted with WCUP	Permitted with WSF, except permitted with WCUP in P, and except not permitted in CBD	Permitted with WSF
Electric Transmission Towers	Permitted with WSF, except permitted with WCUP in OT.	Permitted with WSF, except permitted with WCUP in P and except not permitted in CBD	Permitted with WSF
Water Tank Mounted	Permitted with WSF, except permitted with WCUP in OT	Permitted with WSF	Permitted with WSF
Playfield, Ballfield and Stadium Light Mounted Facilities	Permitted with WCUP	Permitted with WSF	Permitted with WSF
Building Attached	Permitted with WSF, only on buildings with nonresidential uses, and except permitted with WCUP in OT	Permitted with WSF	Permitted with WSF
Stealth Support Structure	Permitted with WSF, except permitted with WCUP in OT	Permitted with WSF, except permitted with WCUP in P	Permitted with WSF
Small Wireless Facility	Permitted with WSF	Permitted with WSF	Permitted with WSF
Other Types Not Listed	Permitted with WCUP	Permitted with WCUP	Permitted with WCUP

19.68.200 Visibility and performance standards.

All wireless service facilities locating within Anacortes must comply with the following standards:

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(A) Standards for all types of facilities:

General	1. All portions of the facility must be the minimum size necessary to support operation of the facility, as certified by the provider's licensed engineer. Where multiple facilities are proposed to be located in close proximity, they may be required to be consolidated in one equipment housing structure; provided that this requirement does not apply to small wireless facilities. 2. Owners and operators must provide information regarding the opportunity for the co-location of facilities. Provision for future co-location may be required if technically feasible and where opportunities for smaller facilities with fewer impacts are limited due to topography, lack of existing above ground structures or other circumstances. To determine feasibility, the applicant must submit an engineer's report regarding the feasibility of co-location.
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Commented [LA3]: This change is necessary to accommodate SWF design. For example, T-Mobile's SWF is a unified enclosure containing antennas and all radio equipment; this unified enclosure is mounted at the top of an existing utility pole or other structure, and it cannot be placed inside an equipment housing structure containing other wireless facility equipment.

Antennas (including Small Wireless Facilities)	1. In general, an antenna array must either be flush mounted within 12 inches of the support structure, or within 12 inches of the face of the building it is attached to; or be contained in a canister that is a continuation of the support structure and is centered on top of the support structure; or be placed pursuant to the City's adopted design standards, subject to the concealment requirements below. 2. All antennas or arrays must be a color and material that matches the support structure. 3. Roof-mounted installation is permitted when the City's adopted design and the Appearance and Screening requirements below have been met. The antennas, mounting brackets and any concealment structures are exempt from the height limit of the underlying zone to the extent that the total height of such facilities does not increase the overall building height by 18 feet, or 50 percent of the original building height, whichever is less.
Equipment Cabinets, Shelters, and Undergrounding	1. All equipment necessary for the operation of the facility must be concealed, either within an existing building, within an architecturally compatible addition to an existing building, or within a new building which is architecturally compatible with other buildings on the site and adjoining properties; or located underground with exceptions as stated in Chapter AMC 15.32, and excepting equipment cabinets and shelters, which may be located above ground, and <u>where technically feasible and practicable given the location</u>, landscaped and screened pursuant to the City's typical landscaping requirements. 2. This section does not apply to antennas or other facilities that are required to remain above-ground in order to be functional, or if it would otherwise materially inhibit wireless service. 3. Underground shelters are not allowed where such shelters would interfere with existing uses of public land including, but not limited to, public rights-of-way. Equipment enclosures less than or equal to five cubic feet, with no single dimension over three feet, may be mounted directly on a street pole. These dimension limitations do not apply to Small Wireless Facilities. 4. Equipment cabinets and shelters are permitted upon abutting private property and may be located within public rights-of-way, pursuant to the applicable requirements and obtaining the appropriate permits specified in Chapter AMC XX.XX. 5. The size of equipment cabinets and shelters must be minimized to the greatest extent possible. 6. Prefabricated concrete and metal structures for equipment enclosures are not permitted unless treated with a facade giving the appearance of masonry or wood siding and are compatible with the existing neighborhood and surrounding setting.
Appearance and Screening	The following standards must be met to ensure the facility minimizes its visual impact: 1. Design and configurations must be compatible with the existing neighborhood, blend in with the surrounding setting, and/or are screened from surrounding uses and properties. 2. Design and configurations must minimize visual intrusion of the facility on surrounding uses and properties. Such techniques may include, for example: containing transmission and power cables and other conduit within any support structure, locating facilities underground, or otherwise screening the facility; minimizing the lateral projection of antenna arrays to the greatest extent technically feasible; and integrating antenna arrays into the design of any structure to which they are attached. The applicant must submit an engineer's report regarding the feasibility of the lateral projection of antenna arrays. 3. <u>To the extent technically feasible and practicable given the location, monopoles</u> Facilities on private property must be screened through the use of mature trees that <u>will reach a mature height of</u> are a minimum of 20 feet tall and planted to screen at least 80 percent of the area around the facility, if technically feasible. 4. For stealth supported structures, the structure must be designed to resemble an object that would be commonly found in the area, including, but not limited to, a flagpole, a clock or bell tower, a tree that is a native conifer species, or a silo. Antennas, to the maximum extent feasible, must be concealed by the stealth support structure, or must not be easily recognized. To determine feasibility, the applicant must submit an engineer's report regarding the feasibility of concealing the antennas.
Noise	Noise reduction measures must comply with the City and/or Federal noise regulations, whichever demonstrates the least amount of noise impact for the nearest residential dwelling(s) at any time of day or night, as measured from the closest point from the exterior of the dwelling to the wireless facility. Such requirements are exempt during testing of alternative power sources (i.e., power generators or similar emergency power sources).
Landscaping	1. Facilities and/or equipment cabinets must be surrounded with a minimum of four feet wide landscaping, in the applicable zones set forth in the City's general zoning provisions, if technically feasible. 2. <u>To the extent technically feasible, monopoles</u> owers must be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from properties used for residences. In some cases, natural growth around the property perimeter may provide a sufficient buffer. 3. Existing mature tree growth and natural land forms on the site must be preserved to the maximum extent possible.

Setbacks	1. In residential zones, towers, antennas, monopoles, and other wireless facilities and equipment pertaining thereto must not be closer than the greater of 20' or 100% of the tower height from the adjoining lot line. 2. In non-residential zones, facilities must comply with the setback requirements set forth in the applicable zoning code, Chapter 17 AMC, and meet or exceed the City or Federal noise regulations, whichever demonstrates the least amount of noise impact for the nearest residential dwelling(s), as measured from the closest point from the exterior of the dwelling to the facility. 3. The setback may be reduced if the applicant uses noise abatement techniques, such as decorative noise walls, to achieve equivalent or greater reduction of visual and noise impacts from the facility. 4. For co-locations, new equipment associated with the facility must be placed no closer to existing residential uses than any existing equipment enclosure on the subject property.
Spacing	1. In residential zones, towers and their antennas must not be closer than 200' or 100% of the tower height from the nearest residential dwelling(s), as measured from the closest point from the exterior of the dwelling to the facility. 2. In non-residential zones, there are no spacing requirements. 3. The minimum spacing requirements herein will not apply if they have the effect of materially inhibiting wireless service.

(B) Standards for specific types of facilities:

New Monopoles (including Small Wireless Facilities) and Stealth Wireless Support Structures	Any wireless service provider which proposes to construct a new monopole or stealth supported facility must provide, as part of its permit application, written findings from a qualified engineer which demonstrate that: 1. Either there are no other facilities reasonably available for colocation; or 2. Any existing facilities reasonably available are not technologically suitable for use by the applicant; and 3. The proposed monopole has been designed in a manner that will allow for the colocation of at least one additional antenna array on the structure, if technically feasible. 4. The height of the monopole may not exceed 120 feet or the height of similar structures permitted in the zone within which it is located, whichever is greater.
Colocating Monopoles or Utility Poles Within Public Rights-of-Way	1. More than one facility may be colocated on any monopole <u>or wireless support structure</u>, subject to the permits and technical feasibility. 2. Monopoles-New wireless support structures located within public rights-of-way must be located a minimum of 500 feet apart; a shorter distance may be approved if the applicant submits an engineering analysis and equipment specifications that demonstrate the reduced distance is necessary to provide adequate coverage and/or capacity. 3. Where a utility located upon a monopole <u>facility to be colocated on structure or pole within the right of way</u> requires vertical separation between existing its facilities and the antenna(s), the structure/pole and antenna may be raised or replaced with a taller structure to accommodate the minimum separation requirement, not to exceed 20 feet in the public right-of-way. Any additions must be constructed of similar materials, and have surface treatments which match the color and texture of the original facility.
Electric Transmission Towers or Utility Poles Outside Public Rights-of-Way	Where a utility facility located upon the a support structure (such as electric transmission tower) requires vertical separation between its existing facilities and the antenna(s), the structure/pole and antenna may be raised by a mount or replaced with a taller structure to accommodate the minimum separation requirement, not to exceed 30 feet. Any additions must be constructed of similar materials, and have surface treatments which match the color and texture of the original facility.
Playfield, Ballfield and Stadium Light Mounted Facilities	Only one facility is permitted on any playfield, ballfield, or stadium light. Where lighted signs and illuminated areas are permitted, such illuminating devices must be shaded and directed so as not to be visible from any residentially zoned property.
Building Attached	The equipment for roof-mounted antennas within the OT zone must be located within the same building on which the antennas are located. This provision will not apply to Small Wireless Facilities if it has the effect of materially inhibiting the provision of service.

Commented [LA4]: New poles for SWF are not appropriately categorized as "monopoles" due to the substantial design differences, including typically relatively low heights of SWF compared to typical macro facility. See definition of "wireless support structure" on packet page 7, which appears intended to include a new pole for a SWF.

Commented [LA5]: See definition of "monopole" on packet page 6. The language here appears to be intended to address new wireless support structures (not monopoles per se)

19.68.210 Requirements for colocations.

(A) All wireless facilities colocating within the City of Anacortes must meet the following standards. This section does not apply to Eligible Facilities Requests.

19.68.250 Testing of facilities required — Noise emissions.

(A) The owner or operator of a wireless service facility must conduct tests necessary to demonstrate compliance with all applicable local regulations regarding the noise emissions of the facility when notified in writing by the Director that a noise complaint has been received regarding the facility. All such tests must be performed by or under the supervision of a licensed environmental noise consultant competent to perform such tests and interpret the data gathered.

(B) When such a report is required, a report, certified by a licensed environmental noise consultant, setting forth the observed noise levels at the property line of the property upon which the facility is located must be submitted. The report must account for background noise and other noise sources and demonstrate the noise levels emitted by the facility, including any air conditioning or ventilation equipment contained therein. Such report must address standards set forth within noise reduction measures within noise provisions in Section 17.54.010 AMC or the standards set forth with the Federal Interagency Committee on Urban Noise, whichever demonstrates the least amount of noise impact for the nearest residential dwelling(s), at any time of day or night, as measured from the closest point from the exterior of the dwelling to the wireless facility.

(C) The Director may retain a technical expert in environmental noise measurement to verify the noise measurements and certification. The cost of such a technical expert must be borne by the owner or operator of the facility, if said facility fails to comply with applicable State or local noise standards.

(D) This section does not apply during the testing of alternative power sources (i.e., power generators).

19.68.260 Security fencing.

All wireless service facilities must be protected from unauthorized entry. ~~To the extent technically feasible, the perimeter of all wireless service facilities which include an antenna support structure must be secured with security fencing which does not exceed seven feet in height. Wireless service facilities that do not include an antenna support structure must be protected from unauthorized entry through appropriate means approved by the Director or his or her designee on a case-by-case basis consistent with the purpose of protecting the public health, safety, and welfare.~~

Commented [LA6]: The term “antenna support structure” is not defined; security fencing as a requirement makes sense only for monopoles located on properties not within the right of way.

19.68.270 Abandonment of facilities.

Any antenna support structure that has had no antennas mounted upon it for a period of six months, or if the antennas mounted thereon are not operated for a period of six months, will be considered abandoned, and the owner thereof must remove such structure and any accompanying equipment and enclosure within 90 days after receipt of a notice from the Director to do so. The Director may extend this time period to a maximum of six additional months. The owner or operator of all wireless service facilities must, when requested by the Hearing Examiner, submit a written report, signed under penalty of perjury, which demonstrates whether or not there has been a cessation in use of the facility for a period of six months during the prior year. If a facility and associated equipment are not removed within 90 days after receipt of a notice from the Hearing Examiner requiring said removal, the Hearing Examiner may seek and obtain a court order directing such removal and imposing a lien upon the real property upon which such wireless service facility is situated in an amount equal to the cost of removal. In the event that more than one wireless service provider is using the antenna support structure, the antenna support structure will not be considered abandoned until all such users cease using the structure as provided in this section.

Commented [LA7]: Not a defined term.

19.68.280 Signs.

Except as approved as part of a plan to conceal, disguise, or camouflage a wireless service facility, no signs, symbols, flags, banners, or similar devices must be placed on, attached to, painted, or inscribed upon any antenna support structure or alternative antenna support structure. Notwithstanding the foregoing, an applicant and/or land owner may place not more than four signs measuring 12 by 18 inches upon or near a wireless service facility which:

(A) state that trespassers will be prosecuted;

(B) list the names and telephone numbers of persons to be contacted in the event of an emergency;

(C) identify the applicant and/or land owner or person responsible for operating the wireless facility; and/or

(D) contain information necessary and convenient for the person operating the wireless service facility to identify the wireless service facility.

Sewer Utility Revenue Requirement

Continuation of November 2018 Discussion

Key Points from FCS report

1. Staff recommendation - 7% Annual increase for 6 years
2. Funds 2 key reserves **Operating at \$775K and Capital at \$625K**
3. Based on our current 6 year CIP
4. Acknowledges GFC revenue is unpredictable in the long term
 - Rate based utility
5. No action will result in our fund balance reaching \$700K by 2024
6. 3 alternatives 6%, 7%, 8% for 6 years
7. Current revenues cover operating expenses but almost no capital
8. CIP review
9. CSO review

Questions?

CITY OF ANACORTES PUBLIC WORKS





MEMO

Date: February 6, 2019

To: Mayor Gere

From: Fred Buckenmeyer, Public Works Director

RE: Follow up information regarding Sewer Utility Revenue discussion.

Mayor and City Council requested additional information on the sewer CIP related to potential future projects

1. Unlike some neighboring cities, the City of Anacortes is in largely a maintenance and operation mode. Our UGA is nearly built out we are not planning on major collection system expansion or plant expansion. Our plant and conveyance system is capable of treating effluent from the planned growth identified in our comprehensive plan. Our CIP is based on continuing operations and maintenance of an older plant and older conveyance system.
2. Our existing 6-year CIP looks much like the next 6-year CIP. Some of the projects may change but largely the same caliper/cost of projects.
 - a. Projects/issues on the horizon: Nutrient removal control, and solids handling.
 - b. Nutrient control is an upcoming regulatory issue [the parameters of the control are still being argued] we will know more in 2020 but it will likely be a 2025 cost to conform to the reg. Cost unknown if any.
 - c. Solids handling, based on our current influent TSS we are projected to be at 85% of our allowable solids handling limit in 20 years.
 - i. If Trident, Sugiyo and other larger users expand greatly that could accelerate our concern.
 - d. In 20 years + we will have to evaluate our incinerator upgrade or replace
3. City Council, in the past, has discussed the underlying approach to funding large cost improvements,
 - a. Do we borrow or save?
 - b. This CIP and associated rates allow us to fund moderately priced projects, however items like incinerator rebuilds or solids handling upgrades in the long-term future would be debt funded.
4. The proposed CSO facility. As council is aware, we are in the preliminary design and site selection phase of the project. We will know preliminary cost estimates late 2019 probably 2020.
 - a. Staff recommends using a portion the existing annual funding for I&I [\$ 1,500,00] to fund the debt for a CSO project.

Conclusion

- Public Works staff including the Waste Water Treatment management are confident the current CIP identifies the level of funding effort necessary to keep our plant and conveyance maintained and operating.
- The proposed CSO project is in the very early stages of development and the cost is not known at this time.
- If we delay until mid-2020, the annual rate increase could be higher, than is currently recommended.
- The FCS study recommended a January 2019 increase of 7% per year for 6 years
- Staff recommends implementing the FCS recommended 7% rate increase present day
- Staff recommends re-evaluating our rate structure every 6 years as recommended by professionals/industry standards



City of
Anacortes



Wastewater Utility: Revenue Requirement

Gordon Wilson, Sr. Program Manager
Tage Aaker, Project Manager
November 26, 2018



Agenda

- ◆ **Scope of this study**
- ◆ **Introduction, fiscal policies, and assumptions**
- ◆ **Capital facilities plan (CFP)**
- ◆ **Revenue requirements**
 - Are existing rates sufficient to cover operating and capital expenditures?
- ◆ **Rate comparison to other jurisdictions**



Scope of this Study

Phase I: 2018	Phase II: 2019
Revenue Requirement	Comprehensive Rate Study
• Review and recommend fiscal policies • Wastewater revenue requirement analysis: 2018-24	• Wastewater cost of service analysis: equity among customer classes • Wastewater rate design • Update Water/Wastewater General Facilities Charges (GFCs)

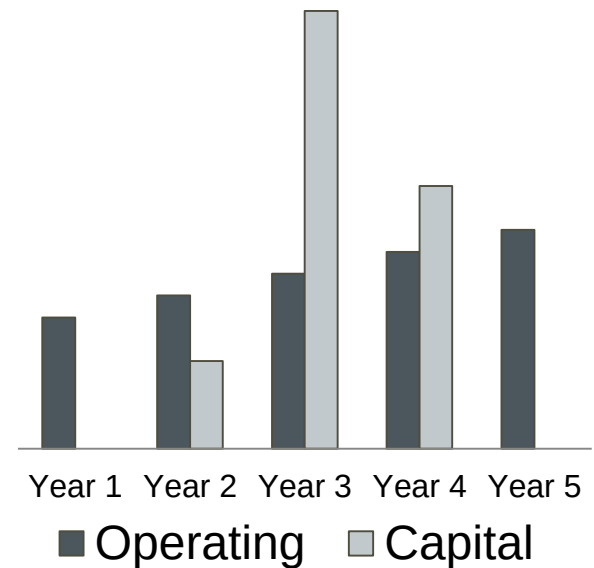
- This presentation is for Phase 1 – the overall revenue requirement
 - How much money do you need to run the system?
- In 2019 the focus will be on who pays how much

Introduction, Fiscal Policies, & Assumptions



Introduction to Utility Rate Making

- ◆ **Utility rates are set to recover cost of providing service**
- ◆ **Operating costs (regular / ongoing)**
 - Employee salaries and benefits
 - Routine inspections
 - Utilities / power
 - Asset repair and maintenance
- ◆ **Capital costs (irregular / periodic)**
 - Infrastructure replacement
 - Facility expansions and upgrades





Revenue Requirement Forecast

Fiscal Policies: Reserves & Debt



2019-24 Capital Facilities Plan:
Cash or New Debt?



Forecast of Ongoing Costs

Revenue
Requirement
Forecast



Study Data Sources

Basic Data for Forecast	
Operating Costs	2018-20 Budget
Operating Revenues	2017 Actual Revenues + 2018 Rate Increase & Growth
Fund Balances	2017 Year-End
Capital Expenditures	2018 YTD; 2019-24 Capital Facilities Plan
Debt	City has no wastewater debt at this time Any new debt assumed to be 20-year revenue bond; 4% interest



Tax Assumptions

State Tax Assumptions	
Public Utility Tax	Collection of sewage: 3.852% tax rate – Applies to approximately 30% of revenues
Business & Occupation Tax	Transmission, treatment, and disposal of sewage: 1.5% tax rate – Applies to approximately 70% of revenues
City Utility Tax	Applied on customer bills; acts as pass-through



Forecast Assumptions

Basic Assumptions for Forecast		
Expenditures	General Cost Inflation	Consumer Price Index for Seattle Tacoma Bremerton: 3.0% (consistent with Washington State Economic Forecast)
	Combined Labor + Benefits Cost Inflation	Based on City Staff Projections: 5.5%
Revenues	Customer Growth	Historical + Future Population / Employment: 0.5% (consistent with water forecast)
	Interest Earnings	Local Government Investment Pool (LGIP): 2.0%



Fiscal Policies

Fiscal Policy Assumptions	
Operating Reserve	45-60 (12%-16%) Days of Operating & Maintenance Cost (\$575,000 – \$775,000 based on 2019 budget)
Capital Reserve	1% of Original Cost of Fixed Assets (\$625,000 based on fixed asset inventory, non-depreciated)
Combined Reserve Assuming 60 Days of O&M	\$1.4 million and growing each year as costs increase; assets are constructed then booked

- Current Sewer Fund policy is to maintain 20% of the budgeted expenses for the year in the Restricted Emergency Reserve
- Combined operating / capital recommended reserve equivalent to 30%



Fund Balance Assumptions Beginning 2018

- ◆ **City currently has \$5.5 million in Wastewater Fund 440**
 - FCS GROUP splits into two reserves for analysis; helps track sources and uses by operating or capital nature
 - First allocated to operating reserve, then to capital reserve
 - \$5.5 million includes restricted emergency cash; this overlaps with recommended minimum reserves

- ◆ **Minimum operating reserve \$0.75 million**
 - 60 days of O&M

- ◆ **Capital reserve \$4.80 million**

Capital Facilities Plan & Funding Options

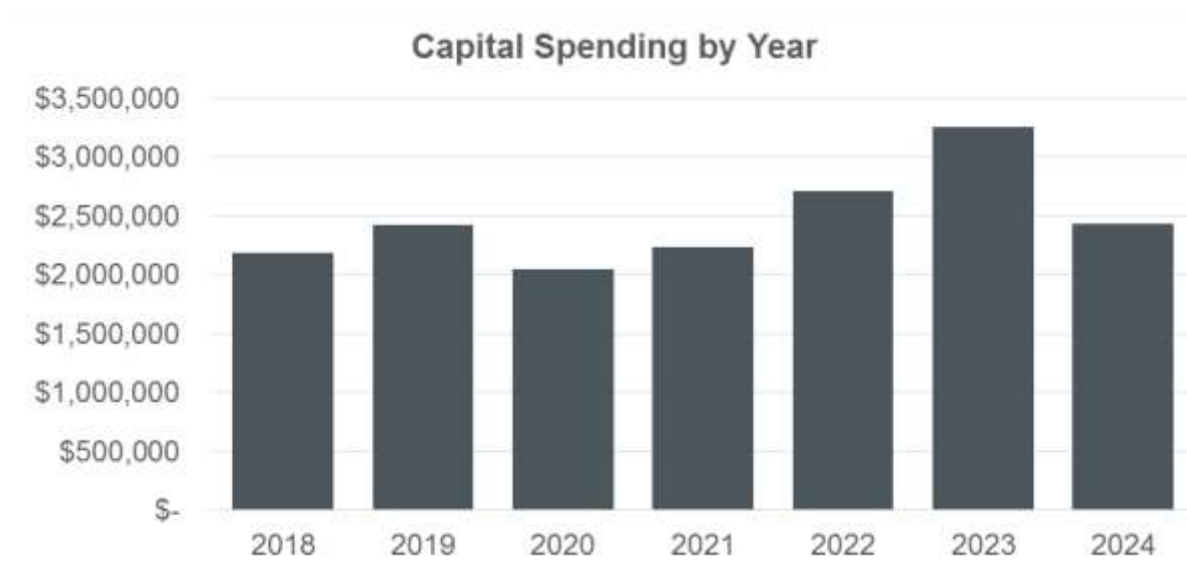


Capital Facilities Plan

Capital Expenditures	2018	2019	2020	2021	2022	2023	2024
Sanitary Sewer Collection System: System Maintenance/inflow and Infiltration Reduction	-	759,000	1,000,000	1,250,000	1,500,000	1,500,000	1,500,000
Sanitary Sewer Collection System: Pump Station Upgrades	-	225,000	231,000	238,000	245,000	252,000	260,000
WWTP: Septage Handling Facility Upgrade	-	-	90,000	-	-	-	-
WWTP: Replace Bar Screens and upgrade grit handling system	-	-	-	-	-	1,150,000	-
WWTP: Influent Pumping Upgrade	-	240,000	-	-	-	-	-
WWTP: Effluent Pump Station Upgrade	-	500,000	-	-	-	-	-
WWTP: Nutrient Removal Upgrade	-	-	-	-	115,000	-	-
WWTP: Basin Rehabilitation	-	-	-	400,000	-	-	-
WWTP: Incinerator Preheat Unit	-	-	-	-	-	-	300,000
Telemetry Upgrades	-	400,000	-	-	-	-	-
WWTP: Solids Handling/Dewatering Facility	-	-	400,000	-	-	-	-
Sanitary Sewer Collection System: Pump Station 16 Upgrade	-	-	-	-	500,000	-	-
Various Maintenance and Repair Projects	-	300,000	325,000	350,000	350,000	350,000	375,000
Capital Expenditures/Expenses: Other Improvements	1,077,000	-	-	-	-	-	-
Capital Expenditures/Expenses: Machinery & Equipment	309,000	-	-	-	-	-	-
Other Capital to Account for 2018 YTD	800,000	-	-	-	-	-	-
Total Capital Expenditures	\$ 2,186,000	\$ 2,424,000	\$ 2,046,000	\$ 2,238,000	\$ 2,710,000	\$ 3,252,000	\$ 2,435,000



Capital Expenditures Forecast (\$2.5m / yr.)



- ◆ **2018 capital spending: Estimated at \$2.2 million**
- ◆ **CIP contained in 2019-24 Capital Facilities Plan: \$15.1 million**
 - System Maintenance / Inflow and Infiltration Reduction: \$7.5 million
 - Sanitary Sewer Collection System: Pump Station Upgrades: \$2.0 million
 - Wastewater Treatment Plant Projects \$3.6 million
 - Various Maintenance and Repair Projects: \$2.0 million

Sewer Infrastructure and Maintenance

- ◆ City's sewer system needs routine maintenance



Project Successes

- ◆ Corrected issues help protect water quality



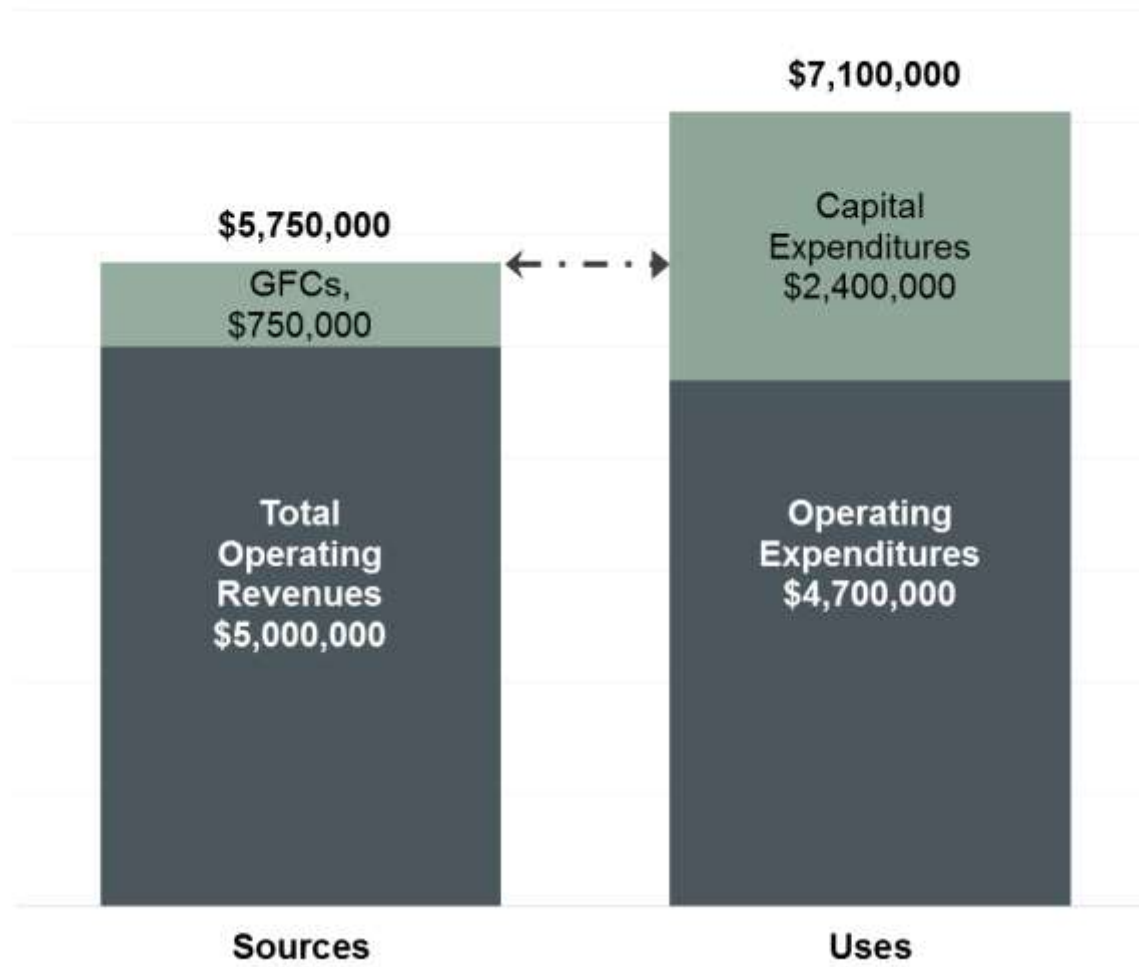
Project Successes

- ◆ Updated drives & equipment rebuilds at the treatment plant





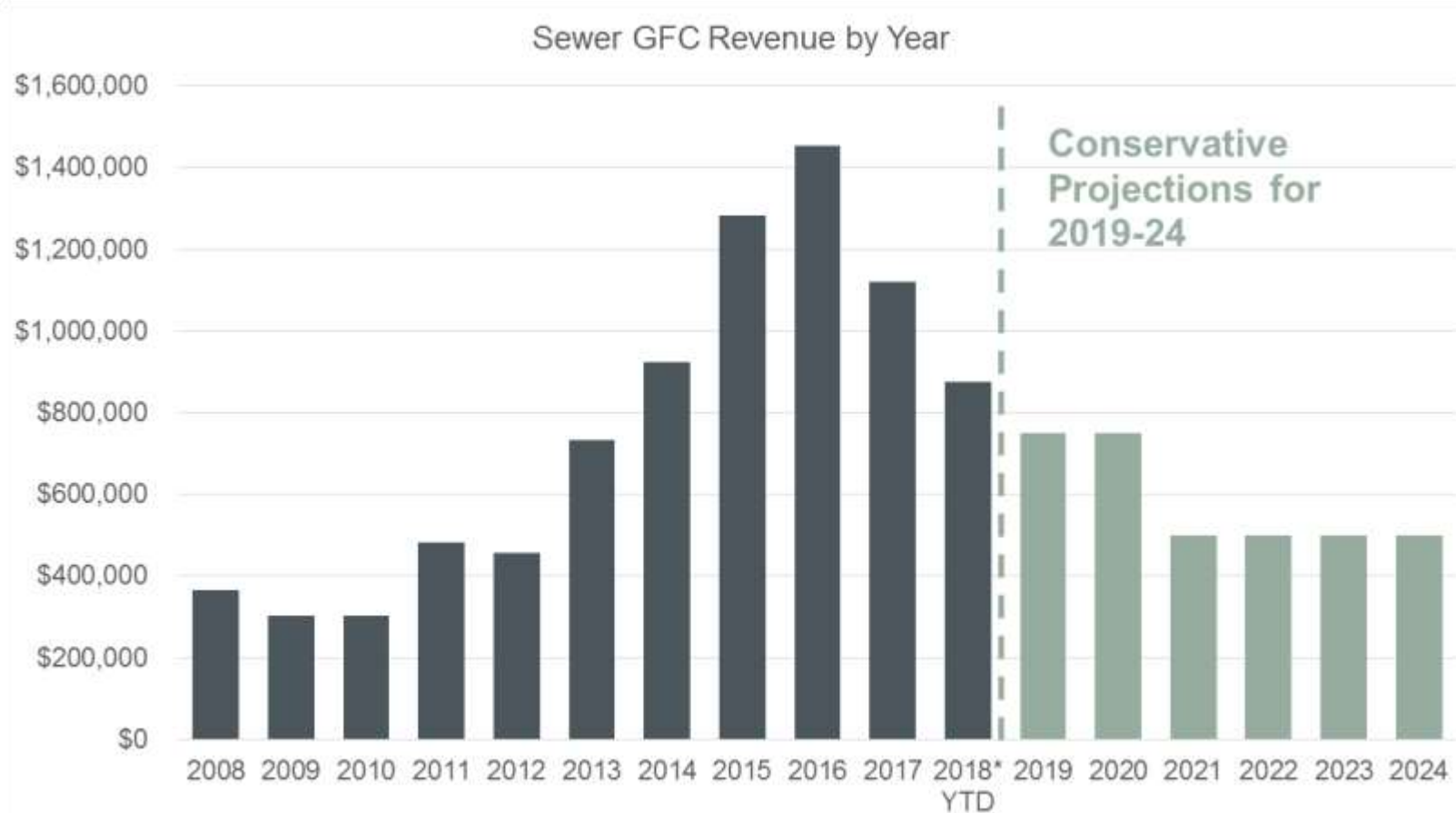
2019 Sources vs. Uses





GFC Revenue Unpredictable

- ◆ **GFC revenue has been strong lately, but revenue can drop if development slows**

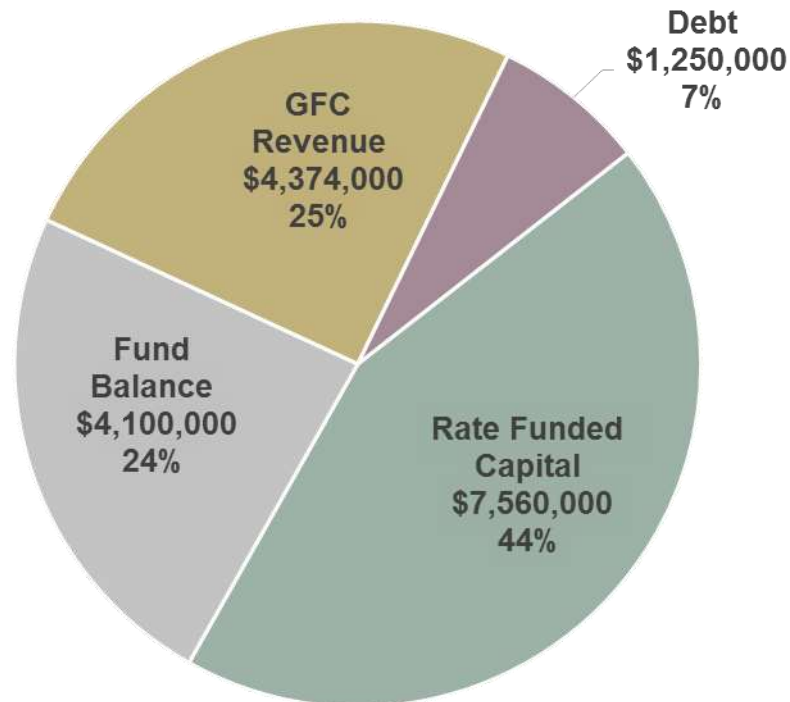


Revenue Requirement Forecast



2018-2024 Capital Costs (\$17.3 million)

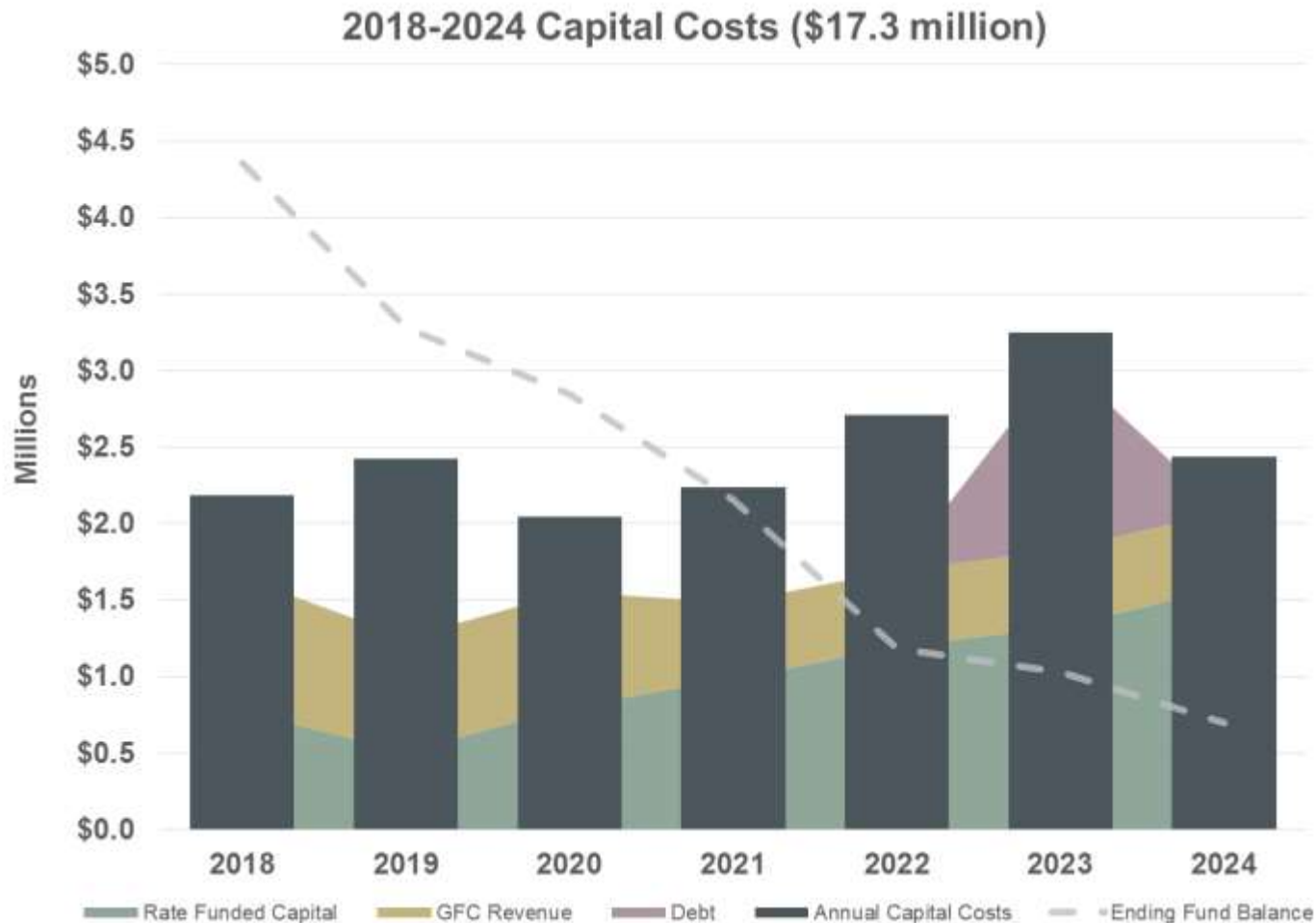
- ◆ Pie-chart represents cumulative funding strategy seven years 2018-2024
- ◆ Debt accounts for 7% of planned capital funding
- ◆ Fund balance—a one time resource—accounts for 24% of funding





Capital Funding Strategy

- ◆ Fund balance drawn down to about \$0.7 million by 2024

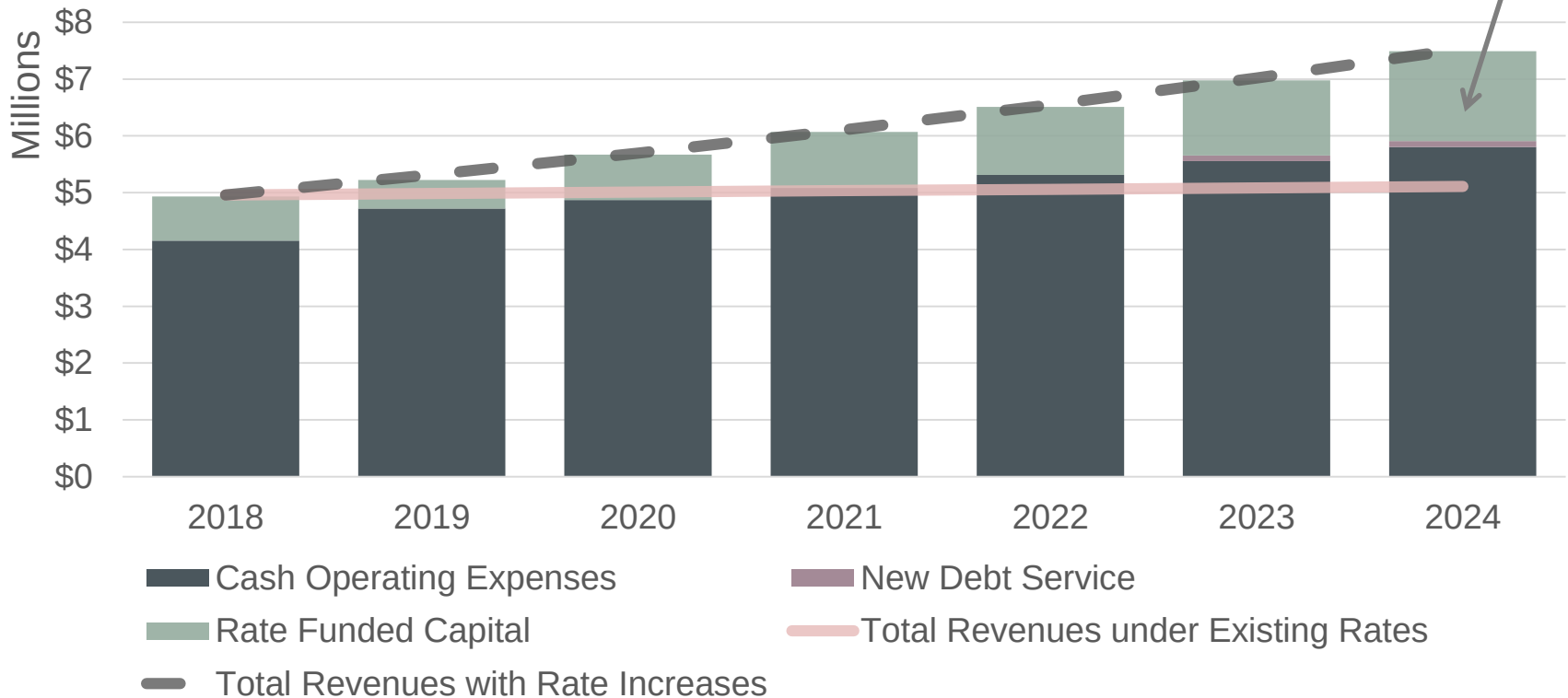




2019-24: Annual 7% increases

- ◆ Operating expenditures exceed existing revenues by 2021
- ◆ \$1.25 million debt issue assumed in 2023 to fund capital

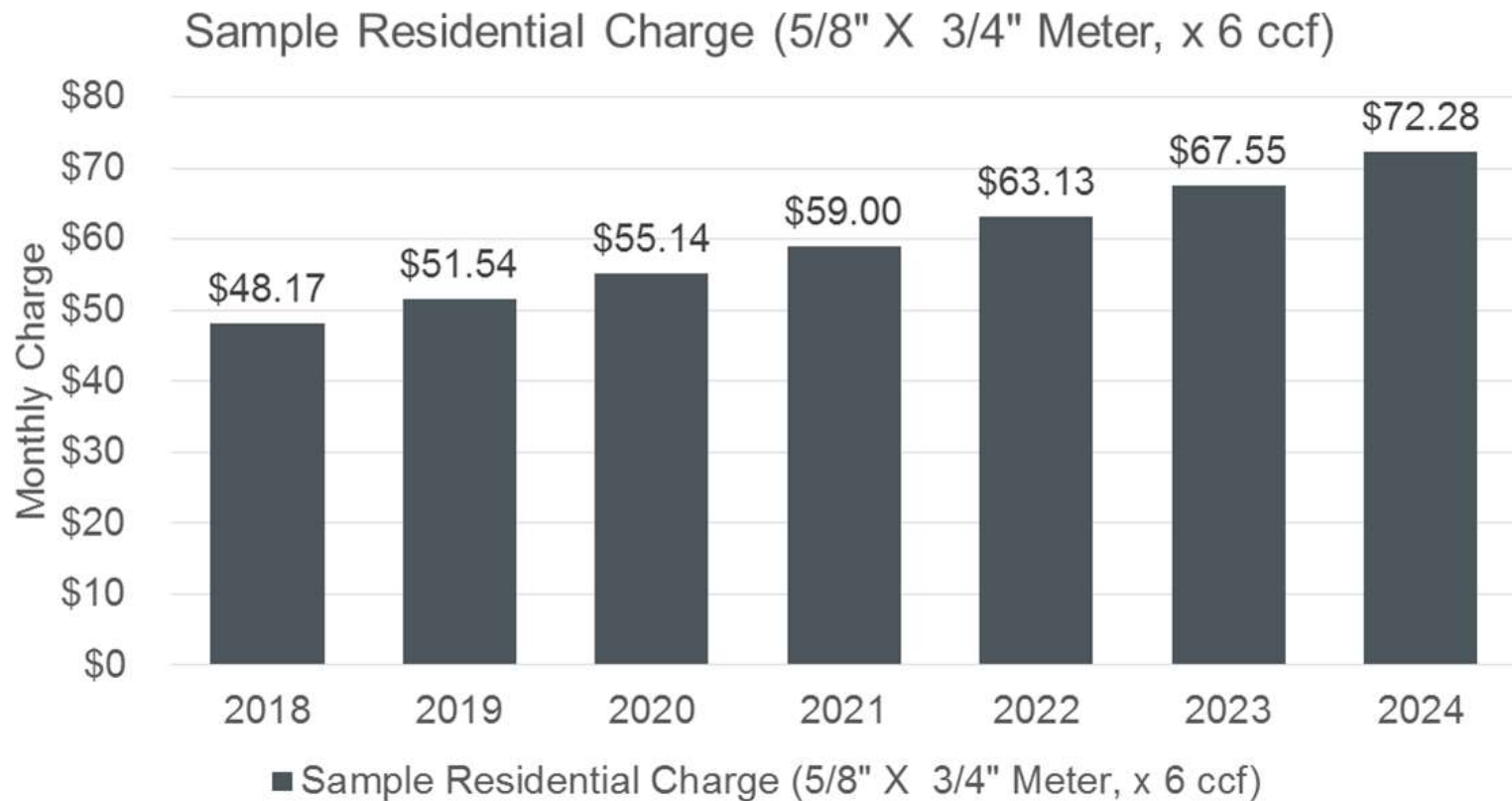
\$1.6m in
cash funded
capital / yr.
(65% of avg. CIP)





Impact to Single Family Monthly Charge

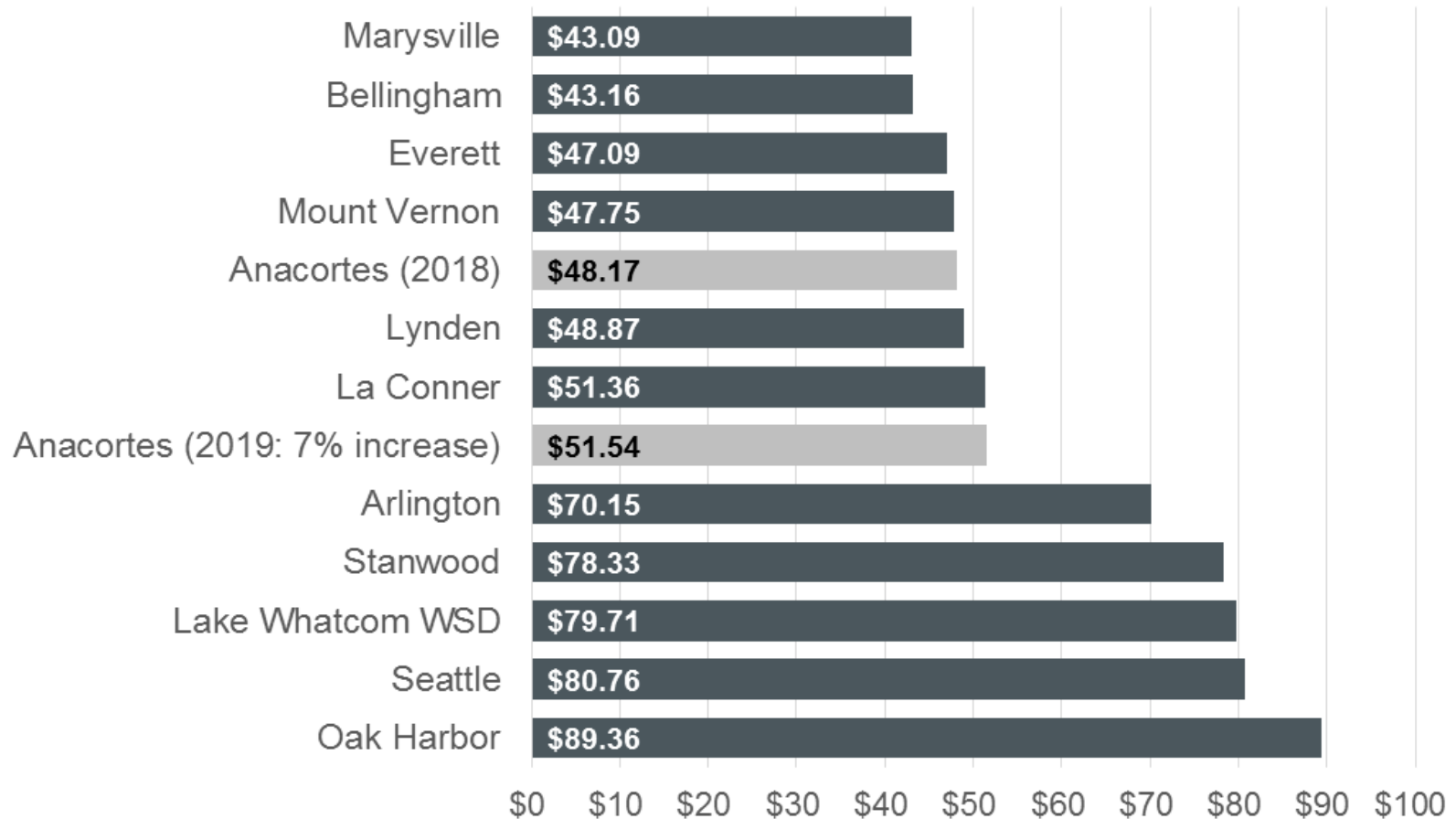
- ◆ **Combined fixed + variable monthly charge to increase \$3-\$5 every year**





Rate Comparison (assumes 2018 rates)

Single Family: Monthly Sewer Bills (Assuming 6 ccf)



Comparing Scenarios



Three Key Decision Variables to Watch

- ◆ **Annual percentage rate increases**
- ◆ **Amount of debt needed through 2024**
- ◆ **Annual cash-funded capital by 2024 (not including GFCs)**
 - Compared with \$2.5 million average annual capital projects
 - This measure determines whether you will need debt in future years to maintain the same level of capital spending



Comparing Scenarios

Variable	6% Scenario	7% Scenario	8% Scenario
Annual Rate Increases 2019-24	6% per year	7% per year	8% per year
Debt in 2023	\$2.75 million	\$1.25 million	n/a
Annual Cash Funded Capital by 2024 (not including GFCs)	\$1.1 million (45% of avg. CIP)	\$1.6 million (65% of avg. CIP)	\$2.1 million (85% of avg. CIP)
Ending Fund Balance: 2024	\$0.7 million	\$0.7 million	\$0.9 million
Single Family Bill: 2019	\$51	\$51	\$52
Monthly Increase	\$3.00 - \$4.00	\$3.00 - \$5.00	\$4.00 - \$6.00



Other Topics

- ◆ **Recommend increasing septic hauler rates along with other service rates**
 - Under the 7% scenario, this would generate additional \$100,000/ yr. by 2024, assuming same level of hauling as in recent history
- ◆ **Can revisit under cost of service analysis / Phase II of study**



Summary & Next Steps

◆ Summary of Revenue Requirement

- Current revenues cover current operating expenses but almost no capital
- Rate increases needed to fund capital which averages \$2.5 million / yr.

◆ Next Steps

- Adopt multi-year schedule of sewer rate increases, to be effective January 1, 2019
- Given your capital needs, we recommend increases not less than 7% per year
- Initially, rate increases will be across-the-board, but that may change in Phase II

◆ Looking Ahead

- Phase II of Rate Study in 2019: Rate equity, rate design, GFC update
- Compare projected and actual revenues and expenditures each year to align projections with reality

Contact FCS GROUP:
(425) 867-1802
www.fcsgroup.com



Rate Schedule Forecast With 7% Scenario

♦ ATB = Across the Board

— All rates increase by same percentage under this scenario

Rate Schedule Forecast	Actual 2017	Existing 2018	ATB 2019	ATB 2020	ATB 2021	ATB 2022	ATB 2023	ATB 2024
Annual System-Wide Rate Increase			7.0%	7.0%	7.0%	7.0%	7.0%	7.0%
<u>Residential Fixed Charge By Meter Size:</u>								
5/8 x 3/4 - Inch	\$32.77	\$33.75	\$36.11	\$38.64	\$41.35	\$44.24	\$47.34	\$50.65
3/4 - Inch	\$39.34	\$40.52	\$43.36	\$46.39	\$49.64	\$53.11	\$56.83	\$60.81
1 - Inch	\$45.89	\$47.27	\$50.58	\$54.12	\$57.91	\$61.96	\$66.30	\$70.94
1 1/2 - Inch	\$59.00	\$60.77	\$65.02	\$69.58	\$74.45	\$79.66	\$85.23	\$91.20
<u>Monthly Consumption Charge</u>								
SIC 1 consumption per cubic foot	\$0.023325	\$0.024025	\$0.025707	\$0.027506	\$0.029432	\$0.031492	\$0.033696	\$0.036055
<u>Commercial Fixed Charge By Meter Size:</u>								
5/8 x 3/4 - Inch	\$32.77	\$33.75	\$36.11	\$38.64	\$41.35	\$44.24	\$47.34	\$50.65
3/4 - Inch	\$39.34	\$40.52	\$43.36	\$46.39	\$49.64	\$53.11	\$56.83	\$60.81
1 - Inch	\$45.89	\$47.27	\$50.58	\$54.12	\$57.91	\$61.96	\$66.30	\$70.94
1 1/2 - Inch	\$59.00	\$60.77	\$65.02	\$69.58	\$74.45	\$79.66	\$85.23	\$91.20
2 - Inch	\$95.06	\$97.91	\$104.76	\$112.10	\$119.94	\$128.34	\$137.32	\$146.94
3 - Inch	\$360.56	\$371.38	\$397.38	\$425.19	\$454.96	\$486.80	\$520.88	\$557.34
4 - Inch	\$458.90	\$472.67	\$505.76	\$541.16	\$579.04	\$619.57	\$662.94	\$709.35
<u>Monthly Consumption Charge</u>								
SIC 1 consumption per cubic foot	\$0.023325	\$0.024025	\$0.025707	\$0.027506	\$0.029432	\$0.031492	\$0.033696	\$0.036055
SIC 2 consumption per cubic foot	\$0.029131	\$0.030005	\$0.032105	\$0.034353	\$0.036757	\$0.039330	\$0.042084	\$0.045029
SIC 3 consumption per cubic foot	\$0.056705	\$0.058407	\$0.062495	\$0.066870	\$0.071551	\$0.076560	\$0.081919	\$0.087653
SIC 4 consumption per cubic foot	\$0.009226	\$0.009503	\$0.010168	\$0.010880	\$0.011642	\$0.012456	\$0.013328	\$0.014261
SIC 4: BOD per pound	\$1.223262	\$1.259978	\$1.348176	\$1.442549	\$1.543527	\$1.651574	\$1.767184	\$1.890887
SIC 4: TSS per pound	\$0.746397	\$0.768800	\$0.822616	\$0.880199	\$0.941813	\$1.007740	\$1.078282	\$1.153761



City Council Agenda Bill

Meeting Date: 2/19/2019

Agenda Item: 7g

Subject: Draft Anacortes Maritime Strategic Plan 2018

Staff Contact: Don Measamer

Approved for Submittal to Council by	
X	Laurie Gere, Mayor
	Steve Hoglund, Finance Director
	Darcy Swetnam, City Attorney
X	Don Measamer

Action Type	
	Ordinance No.
	Code Revision?
	Resolution No. 2035
	Contract
	Public Hearing
	Staff Report

Summary Statement: Review & discuss the draft Maritime Strategic Plan for adoption.

Background: In September 2016, the City of Anacortes and Port of Anacortes, together with the Economic Development Alliance of Skagit County (EDASC), initiated discussions to develop a new comprehensive strategic plan for promoting and expanding a sustainable maritime economy in Anacortes and Skagit County, while preserving the authentic maritime culture of Anacortes. During 2017, the executive teams of the City, Port, and EDASC conducted an extensive set of interviews with a diverse range of local maritime sector manufacturers, service providers, retail businesses, property owners, educational institutions, and non-governmental organizations, among others, to assess the characteristics, strengths, challenges, and opportunities facing the maritime sector in Anacortes. These interviews were augmented by discussions the Skagit County Maritime Industry Cluster Working Group convened by EDASC during 2016 and 2017, which incorporated a broader cross-section of countywide maritime industry stakeholders.

Budget Impact	
Amount Budgeted	
Budget Account (BARS)	
Proposed Expenditure	
Budget Amendment Required?	
Revenue Source	

Proposed Contract	
Contractor	
Amount	
Start Date	
End Date	

Previous Council/Committee Action: [Click here to enter text.](#)

Competing Viewpoints Considered: N/A

Recommended Motion: N/A

Alternative Actions: Review only at this time

Attachments (listed in order presented): Draft Anacortes Maritime Strategic Plan, Draft Resolution, PowerPoint Presentation



ANACORTES MARITIME STRATEGIC PLAN 2018



ACKNOWLEDGEMENT

The Maritime Strategic Plan would not have come together as it did without the invaluable information provided by the individuals and members of our maritime community. The strategies of this Plan were put together after meeting with members of this vibrant community that have first-hand knowledge of what it will take to maintain, support and grow our incredible maritime heritage and community.

We conducted extensive outreach to approximately 123 individuals and businesses who work within our community's maritime industry and were able to meet with approximately 46 individuals. We realize that time constraints did not allow more participation but will continue to work with all of the businesses and individuals as we finalize this important strategic plan.

We extend a sincere thank you and acknowledge the following participants; their assistance provided the information to develop a well thought out plan to help us support the maritime industries through the coming years.

Andy Culbertson	Culbertson Marine
Andy Schwenk	Northwest Rigging
Andy Stewart	Emerald Marine Carpentry
Ann Avary	Northwest Career & Technical Academy
Austin Taylor	Deception Pass Tours
Bill Shaw, Ph.D.	Naval Post Grad School
Bret Andrich	Global Diving
Brooke DeWitt	Marine Service Center
Bud LeMieux	
Cap Sante Marine	
Chris Long	Jolly Mon Charters
Chuck Albertson	Pacific Marine Center
Chuck Seaman	MJB
Dan Crooks	San Juan Marine Freight Co. LLC
David Motherwell	Anacortes Yachts and Ships
Dianna Chonka	North Harbor Diesel & Yacht Service
Dick Nelson	Dakota Creek Industries
Doug Lombard	Marine Service Center
Erika McPhee-Shaw	Shannon Point Marine Center, WWU
Jeff Paxson	Marine Detail Specialist
Jim Raard	Marine Service Center
Jimmy Blais	MJB, Gary Merlino Construction
John Hackstadt	Best Day Yacht Sales
John Lovric & Florence Lovric	Lovric's Sea-Craft Inc.
John Ripley	BananaBelt Boats & Yachts
John Wilkinson	Anacortes Yacht Club
Joshua Berger	Department of Commerce
Kelly Larkin	Skyline Marine Center
Lynnette Brower	Northwest Career & Technical Academy

Mark Bunzel	Burrows Bay Associates
Mark Turner	Oracle
Mary LaFleur	ALT Insurance Group
Michael Roff	North Island Boat
Mystic Sea Charters	Mystic Sea Charters
Nordic Yachts Northwest	Nordic Yachts Northwest
Norm Havercroft	Marine Documentation Service
Pacific Marine Center	Pacific Marine Center
Paul Sorenson	BSD Associates
Peter Schrappen	Northwest Marine Trade Association
Phoebe Barnard, Ph.D.	Pacific Biodiversity Institute
Richard Wright	R&S Management
Russ Meixner	West Yachts LLC
Shane Aggergaard	Island Adventures Whale Watching
Stephanie Hamilton	Anacortes Chamber of Commerce
Terry Merritt	Island Transport Ferry

ANACORTES MARITIME STRATEGIC PLAN 2018

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Anacortes Maritime Strategy

BACKGROUND

In September 2016, the City of Anacortes and Port of Anacortes, together with the Economic Development Alliance of Skagit County (EDASC), initiated discussions to develop a new comprehensive strategic plan for promoting and expanding a sustainable maritime economy in Anacortes and Skagit County, while preserving the authentic maritime culture of Anacortes. During 2017, the executive teams of the City, Port, and EDASC met and conducted an extensive set of interviews with a diverse range of local maritime sector manufacturers, services providers, retail businesses, property owners, educational institutions, and non-governmental organizations, among others, to assess the characteristics, strengths, challenges, and opportunities facing the maritime sector in Anacortes (interview questions listed in Appendix C). These interviews were augmented by discussions of the Skagit County Maritime Industry Cluster Working Group convened by EDASC during 2016 and 2017, which incorporated a broader cross-section of countywide maritime industry stakeholders. This draft strategic plan is an outcome of these discussions and interviews.

OUTLINING THE NEEDS

The maritime industry is one of the oldest, most historically important, and economically impactful sectors in Washington State and in Anacortes. It encompasses a broad, diverse range of businesses and trades, including: shipbuilding, repair, and maintenance; recreational boating and boat building; maritime logistics and shipping; commercial fishing and seafood products; maritime support services; and passenger water transportation.

In Washington State, employment across these six maritime industry categories totaled 69,500 direct jobs in 2015, which paid over \$4.7 billion in wages. The average salary for these jobs was \$67,000, above the state average of \$56,700 (not including benefits). Every maritime industry job in Washington supports 1.8 jobs elsewhere in the economy; for every \$1 million in revenue, 11 jobs are supported elsewhere in the economy. Moreover, the industry is growing: industry-wide revenues have grown 2.4 percent per year from 2012 to 2015, with the largest growth rate found in maritime logistics and shipping at 5.2 percent.¹

Anacortes has a long history and rich culture related to the maritime industry. In the six maritime subsectors identified above, Anacortes had an estimated 1,186 jobs across 43 employers in 2016, which paid over \$59 million in wages with an average salary of \$49,863, according to data from the Washington State Employment Security Department.² The city hosts a diverse range of marine manufacturers, along with one of the leading recreational boating marinas in Washington State.

Anacortes is a natural center in Puget Sound for the maritime industry, with unique, superb assets that position it as one of the most competitive locations in the Pacific Northwest for sustained and future growth in this sector. These include:

- The Port of Anacortes, one of only eight deep water ports in Washington State, which can accommodate new Panamax vessels with additional dredging. The port ranked 49th among U.S. ports (and 5th among Washington State ports) in total trade by cargo tonnage during 2016, with 10.7 million tons, ranking 34th for total domestic trade (8.3 million tons) and 36th in total exports (2.2 million tons).³
- Concentrated access to a diverse, highly skilled maritime sector workforce.

¹ *Washington State Maritime Sector Economic Impact Study. 2017 Update (April 2017)*, http://www.maritimefederation.com/uploads/2/9/9/6/29962189/cai.wmf.maritime_cluster_study_2017_update.2017_0413.pdf.

² See Appendix B for more information.

³ According to data collected by the American Association of Port Authorities.

- Skagit Valley College and the Northwest Career and Technical Academy Marine Technology Center in Anacortes, which hosts Washington State's designated Center of Excellence for Marine Manufacturing & Technology, and offers the only comprehensive marine technology program on the U.S. West Coast.
- Two marine research facilities—Western Washington University's Shannon Point Marine Center and Walla Walla University's Rosario Beach Marine Laboratory, with close proximity to a third facility, the Padilla Bay Natural Estuarine reserve.
- One of the most scenic locations of any Pacific Northwest community, Anacortes is a leading destination for marine-related tourism in the Pacific Northwest. It is the primary point of access to the San Juan Islands, and Fidalgo Island itself offers some of Washington State's finest marine recreation opportunities.
- A location convenient to Interstate 5; close proximity to greater Seattle, Vancouver, and Victoria; and strategically situated for Alaska-related maritime logistics and operations.

The sustained growth of the maritime sector is of great importance for Anacortes's continued prosperity and economic development. Anacortes is well-positioned to offer a cost-competitive location for maritime businesses being priced out of other Pacific Northwest locations. Its desirable quality of life and tourism attractions are being enhanced by new investments in infrastructure and projects such as the Guemes Channel Trail that increase public access to the waterfront. There is broad community and local political support for a robust, diversified maritime industry sector. Moreover, the emerging needs for next generation vessels and Pacific fishing fleet recapitalization offers immense opportunities for Anacortes, which is already home to world-class shipbuilders and repair and maintenance services.

At the same time, there are concerns about the future prospects of the industry in Anacortes, and indeed Washington State. In particular, marine manufacturers describe difficulties finding workers trained with the necessary technical skills, while young people in Anacortes and Skagit County are increasingly pursuing career paths that do not include the maritime industry. Retaining existing businesses is taking on increasing importance, with challenges including the regulatory environment and burdens; infrastructure constraints and limitations; and business succession planning for business owners approaching retirement, among others.

This strategy is intended to serve as a blueprint of guiding objectives and tangible actions that the City and Port, along with EDASC and members of the broader local and regional community, can take to strengthen the foundations of the maritime industry in Anacortes. These actions will advance its sustained growth, retain existing businesses, attract new industry, train a world-class workforce, and enhance its role as a tourism destination.

This strategy is timely as it coincides with the launch in December 2017 of the Governor's *Washington Maritime BLUE: 2050 Vision for Accelerating Innovation* project. This strategy aims to make Washington State home to the nation's most sustainable maritime industry by 2050, leading the United States in the maritime shift towards decarbonization, clean technology innovation, and best management practices. These practices will support a strong maritime economy with living wage jobs, a healthy environment and resilient communities. Mayor Laurie Gere is serving on the Governor's Maritime Innovation Advisory Council overseeing development of this strategy, and the Port of Anacortes and EDASC are actively involved in related activities. Through the Anacortes Maritime Strategy, Anacortes and Skagit County can take a leading role within this statewide effort and position itself as Washington's primary location for the future maritime industry.

GOALS OF THIS STRATEGY

Goal 1: Build public support for and engagement in development of a thriving, sustainable Anacortes maritime sector.

Goal 2: Position Anacortes as the Pacific Northwest’s center for the emerging future maritime industry.

Goal 3: Establish Anacortes as a state-wide and national center for maritime workforce development, education, and research and development.

Goal 4: Establish Anacortes as a regional and international destination for marine-related tourism.

GOALS

Goal 1: Build public support for and engagement in development of a thriving, sustainable Anacortes maritime sector.

Objective	Actions: Near Term (0-3 Years)	Actions: Mid-Term (4-7 Years)	Actions: Long-Term (8-10 Years)
LEAD ORGANIZATIONS: City of Anacortes, Port of Anacortes			
Increase public access to waterfront	1 Improve Washington Park Boat Ramp/Boat Dock, and increase access to industrial and commercial boat ramp at Fidalgo Bay 2 Review management practices for access to industrial and commercial boat ramp at Fidalgo Bay	1 Complete Guemes Channel Trail project 2 Develop public boat ramp on Fidalgo Bay	1 Explore feasibility of community boatyard in Anacortes
Increase public awareness and understanding of the value of the maritime industry to the city and regional economy	1 Publish joint communications by Mayor and Port Executive Director about increased alignment and how this will support a strategic approach by Anacortes towards the maritime industry	1 Conduct longer-term, ongoing communication efforts in community to highlight the importance of the maritime industry to the Anacortes economy 2 Develop a vision for a “sustainable marine community” that extends along Fidalgo Bay from Cap Sante Marina to Anacortes	

Objective	Actions: Near Term (0-3 Years)	Actions: Mid-Term (4-7 Years)	Actions: Long-Term (8-10 Years)
		Marina, incorporating Seafarers Park, waterfront trails, existing and new marinas, and residential and commercial space	
Build alignment and cooperation among Anacortes and Skagit County stakeholders in the maritime industry	1 Convene joint meeting(s) of City and Port to present Anacortes Maritime Strategy to the public		
LEAD ORGANIZATION: City of Anacortes, Port of Anacortes, Anacortes Chamber of Commerce, EDASC, businesses, state and federal regulatory agencies, etc.			
	2 Engage Anacortes Chamber Marine Trades Committee, EDASC Skagit Maritime Industry Working Group, and others to build synergies across Skagit County's maritime sector		
LEAD ORGANIZATION: City of Anacortes			
Ensure Anacortes remains a livable community, including for the marine trades workforce		1 Offer a diverse range of affordable housing options in Anacortes to enable the local marine industry workforce to live within the city if they choose	
LEAD ORGANIZATIONS: City of Anacortes, Port of Anacortes			
			1 Conduct research on potential impacts of sea-level rise on Anacortes and economic implications, and develop action plan for preparing for these changes

Goal 2: Position Anacortes as the Pacific Northwest’s center for the emerging future maritime industry.

Objective	Actions: Near-Term (0-3 Years)	Actions: Mid-Term (4-7 Years)	Actions: Long-Term (8-10 Years)
LEAD ORGANIZATIONS: Anacortes Chamber of Commerce, Port of Anacortes, City of Anacortes, EDASC			
Support and retain existing maritime industry businesses, and facilitate their growth	1 Continue support of local maritime-related businesses through facilitation with local, state, and federal officials	1 Identify and implement regulatory zoning, and policy changes that will ensure optimal use of industrial/commercial lands for maritime-related business	
	2 Benchmark similar U.S. communities and identify best practices, including regulatory, that will support Anacortes in maintaining a competitive edge		
LEAD ORGANIZATIONS: Port of Anacortes, City of Anacortes			
		2 Enhance infrastructure, including installation of travel lifts and cargo loading/unloading facilities	
LEAD ORGANIZATIONS: Anacortes Chamber of Commerce, EDASC			
	3 Support local maritime sector businesses with succession planning, access to finance and capital, and in addressing other challenges to ensure their retention in Anacortes		

Goal 2: Position Anacortes as the Pacific Northwest's center for the emerging future maritime industry.

Objective:	Actions: Near-Term (0-3 Years)	Actions: Mid-Term (4-7 Years)	Actions: Long-Term (8-10 Years)
LEAD ORGANIZATIONS: Port of Anacortes, City of Anacortes, state & federal regulatory agencies, EDASC			
	4 Work with local maritime sector businesses to further understand regulatory constraints and work with various agencies to advance business interests in a way that balances regulatory interests		
LEAD ORGANIZATIONS: City of Anacortes			
	5 Develop a municipal fiber optic broadband system within the city limits to provide more opportunities and essential infrastructure for the maritime industry		
LEAD ORGANIZATIONS: EDASC, Anacortes Chamber of Commerce, business community, higher education institutions			
Build new synergies among local maritime industry businesses	1 Increase spirit of cooperation and enhanced communication among existing businesses	1 Foster opportunities that bring together Anacortes marine manufacturers with leading Skagit County advanced composites manufacturers, including around carbon fiber recycling	1 Develop consortiums of local businesses to work jointly on bids for larger projects, such as in fields like maintenance, repair and operations (MRO)

Goal 2: Position Anacortes as the Pacific Northwest’s center for the emerging future maritime industry.

Objective:	Actions: Near-Term (0-3 Years)	Actions: Mid-Term (4-7 Years)	Actions: Long-Term (8-10 Years)
LEAD ORGANIZATIONS: EDASC with Port of Anacortes, City of Anacortes, Anacortes Chamber of Commerce, Marine Trades Committee			
Attract new maritime businesses, with focus on green/sustainable businesses and innovative technologies	1 Conduct comprehensive inventory of maritime sector assets in Anacortes and Skagit County in order to identify industry gaps to fill, including industrial and commercial properties potentially available for marine industry-related development	1 Strategically address and prepare for emergent technologies—including autonomous shipping, artificial intelligence, and electronic operational platforms—to strengthen Anacortes’ position as a national center for maritime workforce development, education, and research and development	
LEAD ORGANIZATIONS: Port of Anacortes, City of Anacortes, EDASC, business community, Anacortes Chamber of Commerce			
	2 Promote Anacortes as an ideal location for marine industries, including at leading industry trade shows. Focus on green, renewable energy-related industries, and cutting-edge technologies	1 Work together to attract new business to Anacortes that fill supply chain gaps to support the needs of local manufacturers	
LEAD ORGANIZATIONS: City of Anacortes, Port of Anacortes, EDASC, consultant to conduct study			
Establish Anacortes as a central location for retrofitting the Pacific fishing fleet	1 Promote local businesses that perform vessel maintenance and recapitalization	1 Commission an analysis of how to position Anacortes as central location for vessel maintenance and recapitalization	

Goal 2: Position Anacortes as the Pacific Northwest’s center for the emerging future maritime industry.

Objective:	Actions: Near-Term (0-3 Years)	Actions: Mid-Term (4-7 Years)	Actions: Long-Term (8-10 Years)
LEAD ORGANIZATIONS: City of Anacortes, Port of Anacortes			
Increase Anacortes’s role within state, regional, and national-level initiatives advancing the maritime industry	1 Participate and take leadership within Governor’s Washington Maritime Blue Strategy initiative		
LEAD ORGANIZATIONS: Port of Anacortes, EDASC			
	2 Increase collaboration among Pacific Northwest Ports and identify particular niches on which Anacortes should focus		
LEAD ORGANIZATIONS: EDASC			
	3 Initiate conversations with counterparts in Canada to discuss issues of mutual interest related to the maritime sector, including tourism, traffic, and infrastructure. Identify whether there are potential opportunities for cooperation related to these priorities, such as information sharing, advocacy, or other projects		
LEAD ORGANIZATIONS: City of Anacortes, local Tribal leaders, state agencies as appropriate (Washington State Dept. of Commerce, Ecology, Fish & Wildlife, Governor’s Office)			
	4 Engage with regional Tribes for discussion and coordination on issues of mutual interest related to Anacortes and Skagit County maritime sector		

Goal 2: Position Anacortes as the Pacific Northwest’s center for the emerging future maritime industry.

Objective:	Actions: Near-Term (0-3 Years)	Actions: Mid-Term (4-7 Years)	Actions: Long-Term (8-10 Years)
LEAD ORGANIZATIONS: City of Anacortes, Port of Anacortes, EDASC, businesses			
Position Anacortes strategically as a leading support center for business operations and logistics in Alaska and the Arctic	1 Develop comprehensive understanding of business linkages between Anacortes, northwestern Washington, and Alaska, with focus on mutual interest with Alaskan business and government leaders around which future cooperation may be of value	1 Identify 1-3 niche areas in which Anacortes can take leadership related to Alaska and the Arctic, and pursue related strategies	
LEAD ORGANIZATIONS: EDASC			
	2 Keep abreast of trends in Alaska and the Arctic that could create opportunities or present issues for Anacortes businesses. Engage with federal government and other organizations as appropriate		
LEAD ORGANIZATIONS: Port of Anacortes			
Increase value and volume of exports through the Port of Anacortes		1 Identify and pursue funding to enhance infrastructure to enable expanded trade and exports	

Goal 2: Position Anacortes as the Pacific Northwest’s center for the emerging future maritime industry.

Objective:	Actions: Near-Term (0-3 Years)	Actions: Mid-Term (4-7 Years)	Actions: Long-Term (8-10 Years)
LEAD ORGANIZATIONS: Port of Anacortes, EDASC			
	1 Conduct analysis of short and long-term seaport/cargo and logistics opportunities for Port of Anacortes	2 Investigate where land constraints for storage and infrastructure at Port of Anacortes Marine Terminal could be met through potential partnership with the Port of Skagit or other locations within Anacortes and Skagit County	
	2 Develop marketing strategy to position the Port of Anacortes’s deep water terminal as a strategic location for access to the Asia-Pacific and Alaska/Arctic		
	3 Create Foreign Trade Zone after analysis of business demand		

Goal 3: Establish Anacortes as a state-wide and national center for maritime workforce development, education, and research and development.

Objective	Actions: Near-Term (0-3 Years)	Actions: Mid-Term (4-7 Years)	Actions: Long-Term (8-10 Years)
LEAD ORGANIZATIONS: Skagit Valley College, Skagit STEM Network, Anacortes School District, Northwest Career and Technical Academy, Anacortes Chamber of Commerce			
Increase interest among K-12 students in careers in marine trades	1 Develop and implement targeted outreach program(s) in Anacortes aimed to encourage K-12 students to explore careers in marine trades as part of the Skagit STEM Network's program of work and Marine Technology Center. As part of this, work to encourage greater participation of historically under-represented people and communities in maritime sector employment opportunities		
LEAD ORGANIZATIONS: Skagit Valley College, Skagit STEM Network, local businesses, EDASC, Anacortes Chamber of Commerce Marine Trades Group, Northwest Career and Technical Academy			
Encourage businesses to develop and support marine trades sector training programs locally		1 Increase participation by local employers and workers in marine trades mentoring and apprenticeship programs	

Goal 3: Establish Anacortes as a state-wide and national center for maritime workforce development, education, and research and development.

Objectives:	Actions: Near-Term (0-3 Years)	Actions: Mid-Term (4-7 Years)	Actions: Long-Term (8-10 Years)
LEAD ORGANIZATIONS: City of Anacortes, Port of Anacortes, EDASC			
Expand maritime research and development activities in Anacortes	Through engagement with potential business expansion leads, identify research activities that could take place locally that would help to make Anacortes an attractive location		Attract national- or international-level R&D facility to locate in Anacortes
LEAD ORGANIZATIONS: Northwest Innovation Resource Center, Maritime Innovation Center (Seattle), Skagit Valley College, local businesses			
Foster entrepreneurship and innovative businesses in Anacortes in marine trades		- Establish maritime industry-focused makerspace-type facility in Anacortes - Identify niche technologies where Skagit County based organizations can collaborate to develop and commercialize improved technologies for maritime products	Establish regional satellite for the Maritime Innovation Center being established in Seattle, with particular focus on workforce training and development

Goal 4: Establish Anacortes as a regional and international destination for marine-related tourism.

Objective	Action: Near-Term (0-3 Years)	Actions: Mid-Term (4-7 Years)	Actions: Long-Term (8-10 Years)
LEAD ORGANIZATIONS: Northwest Marine Trade Association, Port of Anacortes, Anacortes Chamber of Commerce, Marine Trades Committee, EDASC			
Increase number of recreational boating visitors to Anacortes	1 Continue to hold successful Anacortes boat shows		
LEAD ORGANIZATIONS: Port of Anacortes, Anacortes Chamber of Commerce Marine Trades Committee, EDASC			
	2 Promote Anacortes as a destination for recreational boat purchases, services, and moorage at Seattle Boat Show		
LEAD ORGANIZATIONS: City of Anacortes, Port of Anacortes, Anacortes Chamber of Commerce			
	3 Increase “shoulder season” transient moorage at Cap Sante Marina through strategic promotions and partnerships with event producers		
LEAD ORGANIZATIONS: Anacortes Chamber of Commerce, Anacortes Small Boat Center, Anacortes School District, Local Boating Organizations			
Encourage increased interest in marine recreation and make it more accessible	1 Using existing research or conducting a new survey, measure views of young adults to identify specific experiences they are looking for related to maritime sector	1 Develop introduction to marine recreation-type experiences targeted at K-12 students, university students, et al, that are affordable, and facilitate opportunities to get them engaged	

Goal 4: Establish Anacortes as a regional and international destination for marine-related tourism.

Objectives:	Actions: Near Term (0-3 Years)	Actions: Mid-Term (4-7 Years)	Actions: Long-Term (8-10 Years)
LEAD ORGANIZATIONS: Anacortes Chamber of Commerce, countywide tourism organizations, EDASC, Industry Cluster Working Groups			
Strengthen Anacortes's position as a leading destination for marine recreation-related activities	1 Develop and implement marketing and promotional outreach campaign of Anacortes for marine-related recreation and tourism, with a unified message and focus on eco-tourism assets	1 Develop Anacortes as a major small cruise ship port	
LEAD ORGANIZATIONS: Port of Anacortes, City of Anacortes, EDASC, Skagit County, Washington State Department of Commerce			
	2 Continue planning and development Events Center at Cap Sante Marina to increase tourism and hospitality assets in Anacortes (e.g. hotel, events center, restaurants)	2 Complete development of Events Center at Cap Sante Marina	
LEAD ORGANIZATIONS: Washington State Department of Transportation, Anacortes Chamber of Commerce, City of Anacortes, EDASC			
			1 Ensure completed remodel of the Anacortes Ferry Terminal supports local businesses and addresses traffic/ access issues, etc.
LEAD ORGANIZATIONS: City of Anacortes, Port of Anacortes, EDASC			
		3 Address any required infra-structure needs to allow access by float planes during summer months	

Goal 4: Establish Anacortes as a regional and international destination for marine-related tourism.

Objectives:	Actions: Near Term (0-3 Years)	Actions: Mid-Term (4-7 Years)	Actions: Long-Term (8-10 Years)
LEAD ORGANIZATIONS: City of Anacortes, Port of Anacortes, Anacortes Chamber of Commerce, Local Boating Organizations			
Strengthen Anacortes's position as a leading destination for marine recreation-related activities		4 Make Fidalgo Bay a premier destination for sailboat racing	

This Maritime Strategic Plan is signed in mutual agreement on this ____ day of _____, 2019, by City of Anacortes Mayor Laurie Gere and Port of Anacortes Executive Director Dan Worra.

Mayor Laurie Gere, City of Anacortes

Executive Director Dan Worra, Port of
Anacortes

APPENDIX

Appendix A: Maritime Industry Definitions

The *Washington State Maritime Sector Economic Impact Study (April 2017 Updated Edition)*, prepared for the Washington Maritime Federation and Workforce Development Council of King County by Community Attributes, Inc. (CAI), defines the maritime sector to include the NAICS codes listed below. In the 2017 update, which examined 2015 industry data, a goal of the Washington Maritime Federation was to realign the definition of the industry in order to more accurately represent the full range of maritime sector activities taking place in Washington State. In addition to NAICS codes, CAI conducted custom analysis for subsectors that were not adequately defined by NAICS codes alone; to do this, methods included assembling a list of businesses in the subsector through interviews, industry association member lists, and other supplemental sources. A full explanation of the study methodologies is included in the report.

Ship and Boat Building, Repair and Maintenance

- Ship building and repairing (336611)
- Boat building (336612)
- Puget Sound Naval Shipyard (Custom)

Recreational Boating and Boat Building

- Recreational Boat Building (Custom)
- Charter Fishing (Custom)
- Marinas (713930)
- Boat dealers (441222)
- Scenic and sightseeing transportation, water (487210)

Commercial Fishing and Seafood Products

- Finfish farming and fish hatcheries (112511)
- Shellfish farming (112512)
- Finfish fishing (114111)
- Shellfish fishing (114112)
- Seafood product preparation and packaging (311710)
- Fish and seafood merchant wholesalers (424460)

Maritime Logistics and Shipping

- Deep sea freight transportation (483111)
- Coastal and great lakes freight transport. (483113)
- Inland water freight transportation (483211)
- Support activities for rail transportation (488210)
- Port and harbor operations (488310)
- Marine cargo handling (488320)
- Navigational services to shipping (488330)
- Freight transportation arrangement (488510)
- Refrigerated warehousing and storage (493120)
- Rail (custom)
- Trucking and Drayage (custom)
- Warehousing (custom)

Passenger Water Transportation

- Deep sea passenger transportation (483112)
- Coastal and great lakes passenger transport. (483114)
- Inland water passenger transportation (483212)

- Other support activities for water transport. (488390)

Maritime Support Services

- Geotechnical & Environmental (Custom)
- Naval Architecture (Custom)
- Law (Custom)
- Accounting (Custom)
- Associations (Custom)
- Education (Custom)
- Marine Construction and Engineering (Custom)
- Maritime Insurance (Custom)
- Other support (Custom)

Appendix B: Anacortes Maritime Sector Employment, 2016

Source: Washington State Employment Security Department

Notes: The below data includes all NAICS codes covered in Appendix A specific to the Anacortes, WA zip code (98221). It does not include data for categories in Appendix A listed as “custom.”

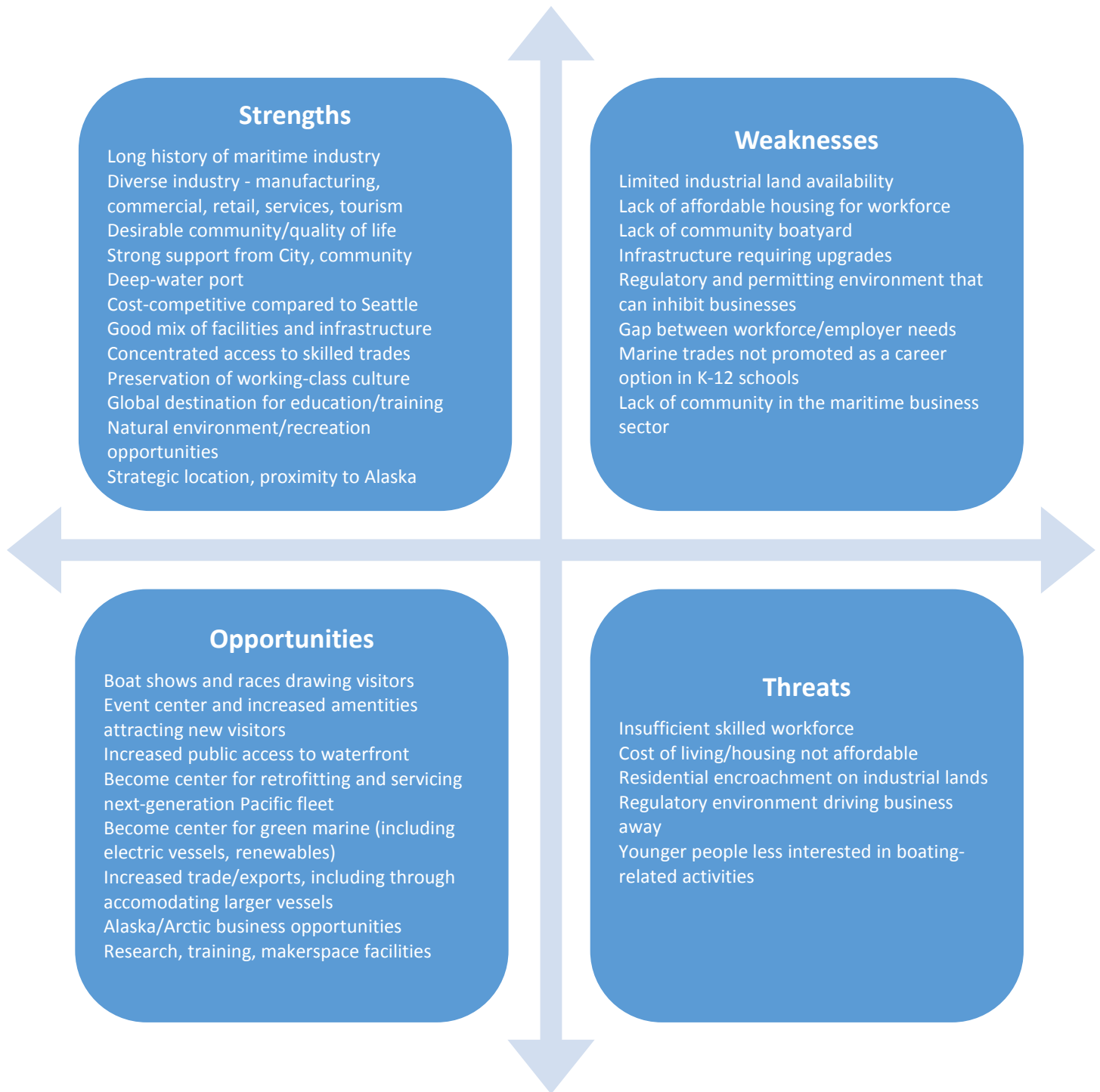
Average annual employment and wage, 2016	employers	employment	wage	average wage
Total	43	1,186	\$59,133,514	\$49,863
Total Ship and Boat Building, Repair & Maintenance	6	386	\$24,977,645	\$64,653
Total Recreational Boating & Boat Building	14	102	\$3,530,407	\$34,697
713930 - Marinas	4	47	\$1,793,867	\$38,371
441222 – Boat Dealers	4	26	\$953,080	\$36,657
487210 – Scenic and Sightseeing Transportation, Water	6	29	\$783,460	\$27,016
Total Commercial Fishing & Seafood Products	11	504	\$18,764,989	\$37,220
Total Maritime Logistics & Shipping	8	159	\$10,170,859	\$64,001
Total Passenger Water Transportation	4	35	\$1,689,614	\$48,622

Appendix C: Maritime Sector Interview Questions

Anacortes Maritime Industry Strategic Plan

Conversation Starting Questions for Industry Leaders & Stakeholders

1. What are Anacortes's strengths in the maritime industry? Do you have suggestions to maximize/build on that strength?
2. How do you see Anacortes as different from other communities with robust maritime industries?
3. What obstacles to growth do you see for maritime industries in Anacortes?
4. What opportunities for your industry do you foresee?
5. Are there specific regulations or regulatory entities that prohibit growth?
6. What industry trends do you see developing locally, statewide, and nationally?
7. What specific skills/training needs does your business have? Short term? Long term?
8. Do you have future expansion or hiring plans? Short term? Long term? What does that look like?
9. What role do you think local government (City/Port/County) could play in advancing your business and industry interests?
10. Do you have any infrastructure needs (boat lift/launch, boat yard space)?
11. Would it be helpful to your interests to have a complete database of marine related businesses?
12. Are there other businesses within Anacortes that are complementary to yours? Suppliers? Technicians? Builders? If not, would it be beneficial to attract such businesses to town?
13. What are your thoughts on the goals of the Anacortes Maritime Strategy described in the letter? Do you feel this are appropriate goals? Are there other big-picture issues you might suggest? Which goal(s) do you feel are relevant to your business?
14. What advice would you give Port/City/EDASC as we explore this industry and seek ways address obstacles and explore opportunities?



**RESOLUTION 2035
ADOPTING THE
ANACORTES MARITIME STRATEGIC PLAN 2018**

WHEREAS, in September 2016, the City of Anacortes and Port of Anacortes, together with the Economic Development Alliance of Skagit County (EDASC), initiated discussions to develop a new comprehensive strategic plan for promoting and expanding a sustainable maritime economy in Anacortes and Skagit County, while preserving the authentic maritime culture of Anacortes; and

WHEREAS, in 2017, the City, Port, and EDASC conducted an extensive set of interviews with a diverse range of local maritime sector manufacturers, services providers, retail businesses, property owners, educational institutions, and non-governmental organizations to assess the characteristics, strengths, challenges, and opportunities facing the maritime sector in Anacortes; and

WHEREAS, these interviews were augmented by discussions of the Skagit County Maritime Industry Cluster Working Group convened by EDASC during 2016 and 2017, which incorporated a broader cross-section of countywide maritime industry stakeholders; and

WHEREAS, based on input by the citizen stakeholders, City and Port staff, and members of EDASC, City staff prepared the draft Anacortes Maritime Strategic Plan 2018 for the City of Anacortes and Skagit County; and

WHEREAS, this strategy is timely as it coincides with the launch in December 2017 of the Governor's *Washington Maritime BLUE: 2050 Vision for Accelerating Innovation* project; and

WHEREAS, the Plan draft was presented to the Anacortes City Council on February 19, 2019; and

WHEREAS, the City Council has determined that it is in the best interests of the City to adopt the Plan.

NOW, THEREFORE IT IS HEREBY RESOLVED BY THE ANACORTES CITY COUNCIL to authorize the adoption of the Anacortes Maritime Strategic Plan 2018, as the official act and deed of the City of Anacortes.

PASSED and APPROVED on this ____ day of February, 2019.

CITY OF ANACORTES

By _____

Laurie Gere, Mayor

ATTEST:

Steven Hoglund, City Clerk

APPROVED AS TO FORM:

Darcy Swetnam, WSBA #40530
City Attorney



ANACORTES MARITIME STRATEGY 2018



Timeline

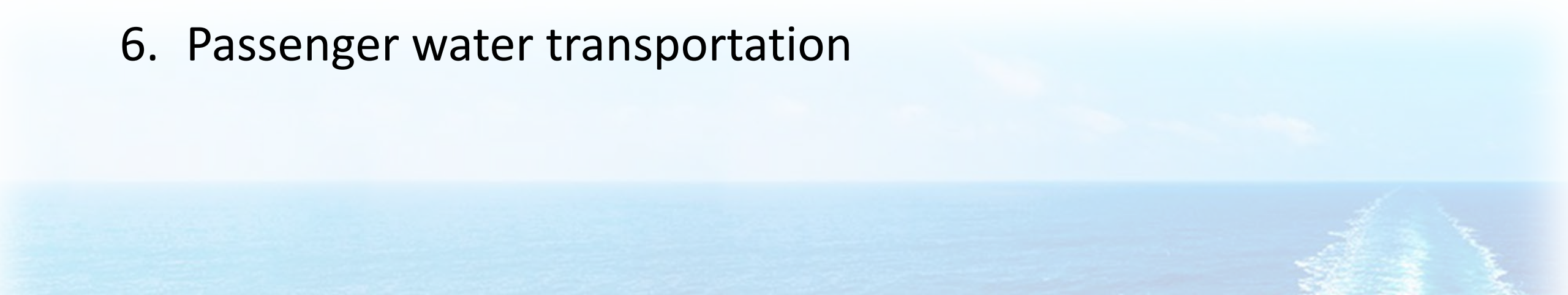
- **September 2016:** Initial discussion between City and Port, together with EDASC, about developing a comprehensive strategic plan for promoting and expanding a sustainable maritime economy in Anacortes and Skagit County, while preserving the authentic maritime culture of Anacortes.
- **Winter/Spring 2017:** Skagit County Maritime Industry Cluster Working Group convened by EDASC conducts SWOT (strength, weaknesses, opportunities, threats) analysis of countywide maritime sector.
- **Summer 2017:** City/Port/EDASC executive teams conduct interviews with Anacortes businesses, property owners, educational institutions, and others to assess the characteristics, strengths, challenges, and opportunities facing the maritime sector in Anacortes.

Interview Questions

- What are Anacortes's strengths in the maritime industry? Do you have suggestions to maximize/build on that strength?
- How do you see Anacortes as different from other communities with robust maritime industries?
- What obstacles to growth do you see for maritime industries in Anacortes?
- What opportunities for your industry do you foresee?
- Are there specific regulations or regulatory entities that prohibit growth?
- What industry trends do you see developing locally, statewide, and nationally?
- What specific skills/training needs does your business have? Short term? Long term?
- Do you have future expansion or hiring plans? Short term? Long term? What does that look like?
- What role do you think local government (City/Port/County) could play in advancing your business and industry interests?
- Do you have any infrastructure needs (boat lift/launch, boat yard space)?
- Would it be helpful to your interests to have a complete database of marine related businesses?
- Are there other businesses within Anacortes that are complementary to yours? Suppliers? Technicians? Builders? If not, would it be beneficial to attract such businesses to town?
- What are your thoughts on the goals of the Anacortes Maritime Strategy described in the letter? Do you feel these are appropriate goals? Are there other big-picture issues you might suggest? Which goal(s) do you feel are relevant to your business?
- What advice would you give Port/City/EDASC as we explore this industry and seek ways to address obstacles and explore opportunities?

What is the Maritime Sector?

1. Shipbuilding, repair, and maintenance
2. Recreational boating and boat building
3. Maritime logistics and shipping
4. Commercial fishing and seafood products
5. Maritime support services
6. Passenger water transportation



Anacortes's Competitive Advantages

- Deep water port.
- Concentrated access to a diverse, highly skilled maritime sector workforce.
- Workforce training assets: Northwest Marine Technology Center - only comprehensive marine tech program on the U.S. West Coast.
- Leading destination for marine-related tourism in the Pacific Northwest.
- Cost-competitive location for maritime businesses.
- Location convenient to I-5; proximity to greater Seattle, Vancouver, and Victoria.
- Desirable quality of life.
- Broad community and local political support for a robust, diversified maritime industry sector.
- Strategically situated for Alaska-related maritime logistics and operations.
- Established world-class shipbuilders and repair and maintenance services positions Anacortes for opportunities in next generation vessels and Pacific fishing fleet recapitalization.
- Two marine research facilities (WWU Shannon Point Marine Center; Rosario Beach Marine Laboratory).

Strategy Goals

- **Goal 1**: Build public support for and engagement in development of a thriving, sustainable Anacortes maritime sector.
- **Goal 2**: Position Anacortes as the Pacific Northwest's center for the emerging future maritime industry.
- **Goal 3**: Establish Anacortes as a state-wide and national center for maritime workforce development, education, and research and development.
- **Goal 4**: Establish Anacortes as a regional and international destination for marine-related tourism.

Goal 1: Build public support for and engagement in development of a thriving, sustainable Anacortes maritime sector.

- Increase public access to waterfront.
- Increase public awareness and understanding of the value of the maritime industry to the city and regional economy.
- Build alignment and cooperation among Anacortes and Skagit County stakeholders in the maritime industry.
- Ensure Anacortes remains a livable community, including for the marine trades workforce.



Goal 2: Position Anacortes as the Pacific Northwest's center for the emerging future maritime industry.

- Support and retain existing maritime industry businesses, and facilitate their growth.
- Build new synergies among local maritime industry businesses.
- Attract new maritime businesses, with focus on green/sustainable businesses and innovative technologies.
- Establish Anacortes as a central location for retrofitting the Pacific fishing fleet.
- Increase Anacortes's role within state, regional, and national-level initiatives advancing the maritime industry.
- Position Anacortes strategically as a leading support center for business operations and logistics in Alaska and the Arctic.
- Increase value and volume of exports through the Port of Anacortes.

Goal 3: Establish Anacortes as a state-wide and national center for maritime workforce development, education, and R&D.

- Increase interest among K-12 students in careers in marine trades.
- Encourage businesses to develop and support marine trades sector training programs locally.
- Expand maritime research and development activities in Anacortes.
- Foster entrepreneurship and innovative businesses in Anacortes in marine trades.



Goal 4: Establish Anacortes as a regional and international destination for marine-related tourism.

- Increase number of recreational boating visitors to Anacortes.
- Encourage increased interest in marine recreation and make it more accessible.
- Strengthen Anacortes's position as a leading destination for marine recreation-related activities.



**Thank you to everyone who participated in the development of this
draft Maritime Strategic Plan!**





Anacortes City Council

Proposed Agenda Items for the Next Eight Weeks Beginning February 25, 2019

Subjects listed below have been tentatively suggested for consideration by the Anacortes City Council on the dates indicated. Items may be added to, removed from or rearranged on this list. Routine business such as approval of minutes and vouchers are not included. The complete Preliminary Agenda for each meeting is published at 3:00 on the Wednesday prior to the meeting. Published Agendas are subject to change and may be updated following the posting period. For additional information on agenda topics, please contact the City Clerk's office at 360-299-1960 to be directed to the sponsoring staff member.

February 25, 2019

- Contract Award: WTP SCADA Systems Upgrade - Engineering Services Phase 1 #19-031-WTR-001
- Public Hearing: Ordinance 3037: Vacating the Alley in Block 31 "Map of the City of Anacortes" (Discussion/Possible Action)
- Public Hearing: Ordinance 3030: Fire Impact Fees (Discussion/Possible Action)
- Resolution 2035: Anacortes Maritime Strategic Plan (Discussion/Possible Action)
- Resolution 2032: Ratifying TBD Vehicle License Tab Repeal and Transportation Sales Tax (Discussion/Possible Action)
- Resolution 2036: Adopting Unified Fee Schedule with Revised Sewer Rates (Discussion/Possible Action)
- Contract Award: Craley ISM (Discussion/Possible Action)

March 4, 2019

- Ordinance 3035: Safety Suggestion Incentive Program for Employees (Discussion/Possible Action)

March 11, 2019

- Contract Award: Emergency Management Services 19-015-IDS-001
- Planning Commission Recommendation: Development Regulations and Zoning Map Amendments (Discussion)

March 18, 2019

- Planning Commission Recommendation: Development Regulations and Zoning Map Amendments (Discussion)

March 25, 2019

- Planning Commission Recommendation: Development Regulations and Zoning Map Amendments (Discussion)

April 1, 2019

April 8, 2019

April 15, 2019

Upcoming City Council Committee Meetings

The public is welcome to attend City Council Committee Meetings.

- Public Works, Tuesday, Feb 19, 2019, 5:00 PM, Main Conference Room, City Hall
- Parks & Recreation, Thursday, Feb 21, 2019, 6:00 PM, Main Conference Room, City Hall
- Planning, Monday, Feb 25, 2019, 5:00 PM, Main Conference Room, City Hall
- Finance, Wednesday, Feb 27, 2019, 5:00 PM, Main Conference Room, City Hall
- Public Works, Monday, Mar 4, 2019, 5:00 PM, Main Conference Room, City Hall
- Planning, Monday, Mar 11, 2019, 5:00 PM, Main Conference Room, City Hall