

## Chapter 6.08

### SMALL WIRELESS FACILITIES IN THE RIGHTS-OF-WAY

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#### **6.08.010 Purpose.**

The purpose of this chapter is to establish a process for managing, and uniform requirements for acting upon, requests for the ~~co-location~~deployment of small wireless facilities (SWFs) and for modifications, including eligible facilities requests to modify existing SWF, within the rights-of-way consistent with the city's obligation to promote the public health, safety, and welfare, to manage the rights-of-way, and to ensure that the public is not incommoded by the use of the rights-of-way for the placement deployment and modification of SWFs. The city recognizes the importance of personal wireless services facilities to provide high-quality communications service to the residents and businesses within the city, and the city also recognizes its obligation to comply with applicable federal and state law regarding the ~~placement~~deployment of SWFs in its rights-of-way. This chapter shall be interpreted consistent with those provisions.

#### **6.08.020 Applicability.**

The provisions of this chapter regulate the ~~location~~deployment and design of SWF antennas, SWF equipment, and purpose-built poles in the city rights-of-way. The provisions of this chapter do not apply to wireless communication facilities or purpose-built poles outside the city rights-of-way; these ~~which~~ are both regulated under the terms of the Land Use Code (refer to LUC [20.20.195](#)).

### 6.08.030 Scope.

A. *General.* There shall be a type of city permit entitled a “small wireless facility permit” (SWF permit), which shall be subject to all the applicable requirements of this title. Unless exempted, every person who desires to co-locate a SWF on a city pole or utility pole or to install an SWF on or within a purpose-built pole within the right-of-way shall obtain a SWF permit authorizing the placement or modification in accordance with this chapter. There shall also be a type of city permit entitled a “small wireless facility eligible facilities request permit” (SWF EFR permit), which shall be subject to the applicable requirements of this title. Unless exempted, every person who desires to modify an existing SWF within the right-of-way that qualifies as an eligible facilities request (EFR) shall obtain a SWF EFR permit authorizing modification in accordance with this chapter. Except for SWFs and SWF EFRs permits, no other wireless communication facilities shall be permitted pursuant to this chapter.

B. *Exemptions.* This chapter does not apply to:

1. The placement or modification of facilities by the city or by any other agency of the state solely for public health, welfare and safety purposes.
2. Installation of a “cell on wheels,” “cell on truck” or a similar structure for a temporary period in connection with an emergency, ~~or~~ event, or redevelopment of an existing wireless site but no longer than required for the emergency, ~~or~~ event, or redevelopment; provided, that installation does not involve excavation, movement, or removal of existing facilities.
3. ~~Installation~~ Deployment of a SWF on the strand between two utility poles; provided, that the cumulative volume of all SWF components located on the strand shall not exceed one cubic foot; and provided further, that the installation does not require replacement of the strand, or excavation, modification or replacement of the utility poles or intensification in use of electrical power.

C. *Preexisting Wireless Communications Facilities in the Rights-of-Way.* Any WCF already existing in the right-of-way as of the date of this chapter’s adoption shall remain subject to the provisions of the Land Use Code pursuant to which it was permitted or as subsequently amended.

D. *Public Use.* Except as otherwise provided by state law, any use of the public right-of-way authorized pursuant to this chapter will be subordinate to the city’s use and use by the public.

## 6.08.040 Administration.

A. *Authority.* It shall be the responsibility of the transportation director or their designee to administer the provisions of this chapter. As part of the administration of this chapter, the director is authorized to:

1. Administer and interpret the provisions of this chapter;
2. Develop and implement standards governing the ~~placement~~deployment and modification of SWFs consistent with the requirements of this chapter, including regulations governing ~~co-location~~ attachments and resolution of conflicting applications for ~~placement~~deployment of SWFs;
3. Develop processes, procedures, agreements and forms ~~and procedures~~ for submission of applications for ~~placement~~deployment or modification of SWFs, EFRs, and or proposed changes to any city facilities consistent with this chapter;
4. Collect, as a condition of SWF permit or SWF EFR permit submittal and issuance, any one-time fee required by this chapter;
5. Establish deadlines for submission of information related to an application, and extend or shorten deadlines where appropriate and consistent with federal laws and regulations;
6. Issue any notices of incompleteness, requests for information, or conduct or commission such analysis or studies as may be required to determine whether a permit should be issued;
7. Determine whether to approve, approve subject to conditions, or deny an application;
8. Require deactivation or removal of SWFs not deployed in compliance with an issued permit or the terms of applicable laws or licenses; and
9. Take such other steps as may be required to timely act upon applications for ~~placement~~deployment or modification of SWFs or EFRs to modify an existing SWF, including entering into agreements to mutually extend the time for action on an application and responding to claims that denial would result in a prohibition or effective prohibition under applicable federal law.

B. *Extensions and Final Decisions.*

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1. *Limitation on Extensions.* An extension may not be granted where such extension would result in approval of the application by operation of law.
2. *Final Decisions.* A decision of the director is final.

### **6.08.050 Requirements for small wireless facilities in rights-of-way.**

A. *Generally.* Small wireless facilities in the rights-of-way shall meet the minimum requirements set forth in this chapter and the requirements of any other applicable law.

B. *Regulations.* The decisions on applications for SWF permits shall, at a minimum, ensure that the requirements of this chapter are satisfied, unless it is determined by the director that the applicant has established that denial of an application would, within the meaning of federal law, prohibit or effectively prohibit the provision of personal wireless services through an SWF or EFR, or otherwise violate applicable laws or regulations. If that determination is made, ~~the~~ requirements of this chapter may be waived, but only to the minimum extent required to avoid the prohibition or violation.

C. *Minimum Requirements.* Small wireless facilities shall be installed and modified in a manner that:

1. Minimizes risks to public safety, avoids placement of ground-based facilities in underground areas, avoids installation of new purpose-built SWFs in the rights-of-way, and otherwise maintains the integrity and character of the neighborhoods and corridors in which the facilities are located.
2. Ensures that the city bears no risk or liability as a result of the SWF or EFR installations, and that such use does not inconvenience the public, interfere with the primary uses of the rights-of-way, or hinder the ability of the city or other government agencies to improve, modify, relocate, abandon, or vacate the public rights-of-way or any portion thereof, or to cause the improvement, modification, relocation, vacation, or abandonment of facilities in the rights-of-way.
3. *Other Applicable Requirements.* In addition to the SWF permit required by this chapter, the ~~placement~~ deployment of an SWF in the right-of-way requires the persons who will own or control those facilities to obtain all necessary federal (including FCC or FAA requirements), state and local licenses, permits and approvals including, but not limited to, a Right-of-Way Use Agreement (RUA), Master License Agreement, Site License Agreement

right-of-way use permits, [temporary](#) traffic control plans, proof of agency and permits for the construction, maintenance and operation of the SWF or installation of a replacement pole (collectively referred to hereinafter as “government approvals”) at its sole expense.

4. Ensures compliance with all standards for noise emissions.
5. Ensures RF exposure compliance. All equipment must comply with all standards and regulations of the FCC and any other state or federal government agency with the authority to regulate safe exposure to RF emissions.

D. *Design Standards for SWFs in the Right-of-Way.* The city of Bellevue has a history of investing in and maintaining rights-of-way in a manner that reflects the character of existing and future planned development by taking into account the land use districts bounding the rights-of-way. Applications for SWF [and SWF EFR](#) permits shall incorporate specific concealment elements and design standards described in this section to minimize visual impacts. Unless it is determined that another design is equivalent to or less intrusive through the optional preapproved design process (pursuant to BCC [6.08.060\(E\)](#)), the following standards shall be met:

1. *General Standards Applicable to All SWFs.*

- a. *Pole-Mounted Antenna(s) – Mounting Locations.* Pole-mounted antennas are the preferred deployment option and shall be located [either](#): (i) flush-mounted to the pole as close as technically feasible, but in no case greater than a distance of 12 inches measured from the outside edge of the pole to the inside edge of the antenna; (ii) side-mounted to the pole as close as technically feasible, but in no case greater than a distance of 12 inches measured from the outside edge of the pole to the inside edge of the antenna; [and/or](#) (iii) mounted to the top of the pole in a canister that does not exceed 18 inches in diameter. All SWF antennas shall be located entirely within the limits of the right-of-way. When an installation includes more than one flush-mounted or side-mounted antenna, the antennas shall be located as symmetrically around the pole to which they are affixed as is technically feasible.

- b. *Pole-Mounted Antenna(s) – Maximum Size.* Each individual antenna that is located inside an antenna enclosure shall not exceed a maximum volume of three cubic feet. Each individual antenna that has exposed elements shall fit within an imaginary enclosure that does not exceed a maximum volume of three cubic feet. In no case shall

the maximum volume of antennas located within a shroud or fitting within an imaginary enclosure on a single pole exceed 15 cubic feet.

c. *Strand-Mounted Antenna(s) – Mounting Locations.* Strand-mounted antennas shall only be located between two utility poles on a strand that is parallel to the ground and the edge of the right-of-way. Strand-mounted antennas shall not be located on any strand between two utility poles that crosses the right-of-way. All strand-mounted antennas shall be located entirely within the limits of the right-of-way. Strand-mounted antennas shall be placed as close as possible to the nearest utility pole, and in no event more than five feet from the pole unless a greater distance is technically necessary or is required by the utility pole owner for safety clearance.

d. *Strand-Mounted SWFs – Maximum Size.* Each strand-mounted SWF shall not exceed a maximum volume of three cubic feet comprised of radio, antenna and supplementary equipment, but excluding mounts and connectors. Strand-mounted SWFs located between two utility poles shall be consolidated to the greatest extent technically feasible. No strand-mounted component of an SWF installation shall exceed 18 inches in diameter, and no portion of the SWF shall extend greater than a distance of 12 inches measured from the strand on which it is mounted.

e. *Pole-Mounted Equipment – Shrouding and Maximum Size.* Pole-mounted equipment is the preferred deployment option and shall be: (i) consolidated to the greatest extent technically feasible; (ii) covered by a full or partial shroud which creates a uniform appearance and conceals all equipment, cabling and attachment points; and (iii) no larger than is reasonably necessary to conceal the consolidated equipment, but in no case shall the maximum volume exceed 15 cubic feet. ~~An~~The electrical disconnect not exceeding 0.4 cubic feet and mounted in compliance with the locational criteria of subsection (D)(2)(a) of this section may be located independent of the pole mounted equipment ~~may be located independent of the consolidated equipment if necessary to~~ maintain disconnect functionality and maintenance worker safety.

f. *Ground-Based Equipment.* If it is technically infeasible to pole-mount all of the equipment within the maximum 15-cubic-foot volume, then equipment may be ground-based in the right-of-way pursuant to the following standards:

- i. Any necessary ground-based equipment in an undergrounded area shall be undergrounded to the extent technically feasible.

ii. Ground-based equipment not located in an undergrounded area should be undergrounded. If it is technically infeasible to underground the ground-based equipment or to pole-mount the equipment in compliance with the maximum size standards of subsection (D)(1)(e) of this section, the ground-based equipment may be located fully or partially above grade; provided, that: (a) the volume of ground-based equipment that is located above grade shall not exceed a maximum of 13 cubic feet; (b) the ground-based equipment shall be aesthetically compatible with other above-grade utilities (e.g., signal boxes, electrical equipment, etc.) that are located within 600 feet of the pole; and (c) the ground-based equipment shall not encroach into any areas of required sidewalk.

g. *Unified Enclosure(s).*

i. Maximum Size. A unified enclosure(s) may be co-located on a pole with other antenna(s) or equipment provided the combined volume of the equipment within and outside the unified enclosure(s) shall not exceed 15 cubic feet in the aggregate, and the combined volume of antenna(s) within and outside the unified enclosure(s) shall not exceed 15 cubic feet in the aggregate.

ii. Antennas and Equipment. Antennas and equipment may be consolidated in a unified enclosure; provided, that the consolidation shall be: (i) ~~fully contained within a single enclosure;~~ (ii) no larger than is reasonably necessary to conceal the antenna(s) and equipment, ~~but in no case shall the maximum volume of a unified enclosure on a single pole exceed 15 cubic feet;~~ (iii) mounted in compliance with the locational criteria of subsection (D)(1)(a) of this section; and (iii) mounted in compliance with the locational criteria of subsection (D)(2)(a) or (D)(3)(a) of this section.

iii. Electrical Disconnect. ~~The An~~ electrical disconnect not exceeding 0.4 cubic feet and mounted in compliance with the locational criteria of subsection (D)(2)(a) of this section may be located independent of the consolidated antenna and equipment ~~if necessary~~ to maintain disconnect functionality and worker safety. ~~Only one consolidated installation is allowed per pole, and consolidated installations may not be co-located on a pole with other antenna(s) or equipment.~~

- h. *Visual Impact.* Antenna(s) and equipment shall have subdued colors and nonreflective materials unless otherwise approved by the City. To the greatest extent technically feasible, contrast between the pole and attached antenna(s) and equipment, colors, finishes, brackets and configuration shall be minimized.
- i. *Public Safety/Codes.* Antenna(s) and equipment shall not constitute an obstruction and shall comply with all applicable codes, laws (including ADA), standards and regulations. Antenna(s) and equipment must comply with applicable noise limitations including Chapter [9.18](#) BCC and LUC [20.20.525](#). In the event of a conflict between these design standards and any applicable health and safety codes, such health and safety codes shall govern, but only to the minimum extent necessary to avoid a violation.
- j. *Locational Considerations.* Antenna(s) and equipment shall not be located within 50 feet of an intersection identified as a key city entry or a neighborhood identity point on Comprehensive Plan Map UD-1 unless otherwise approved by the director because the location does not pose a conflict with the proper functioning of the traffic control system or an approved gateway intersection design.
- k. *Advertising Devices, Signs and Lighting.*
- i. No advertising, branding or advertising devices or elements shall be placed in, on or about the SWF unless otherwise approved by the city as a concealment technique.
  - ii. An emergency telephone number shall be posted and maintained on each SWF. No other signs are permitted, unless required by law. Such sign may not exceed eight inches in height and the width of the pole or the minimum necessary to meet FCC requirements. The sign shall contain the pole identification number, service number and emergency contact for both the operator and backhaul provider. The mounting height of the sign shall be consistent with state and federal law.
  - iii. No lighting on an SWF is permitted in excess of what is required to replace preexisting functionality on the pole required by law.
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2. *Specific Additional Standards Applicable to SWFs Co-Located on City Poles.* The following specific standards apply to SWFs co-located on city poles in addition to the general requirements contained in subsection [\(D\)\(1\)](#) of this section:

a. *Pole-Mounted Equipment – Mounting Locations.* Any pole-mounted equipment shall be located entirely within the limits of the right-of-way, and in accordance with: (i) the Transportation Department Design Standards and Plans, or ~~within the top one-third of the pole;~~ (ii) the Optional Preapproved Design. ~~no less than 10 feet from the ground; – and (iii) entirely within the limits of the right-of-way. Collocations are not permitted on city poles that support, or have received approval to support, strand-mounted SWFs.~~

b. *Replacement Poles.* If a replacement pole is proposed, then such pole shall be a standard pole approved for use at that location of the city or designed to utilize materials and specifications approved by the city transportation department in its discretion. Replacement poles shall be located as close to the existing pole location as possible and in no event greater than 10 feet from the existing pole being replaced unless otherwise approved by the director. A replacement pole: (i) shall continue to fulfill all of the uses that existed on the original pole prior to its replacement; (ii) shall be located entirely within the limits of the right-of-way; and (iii) shall not require the removal of a street tree that cannot otherwise be replaced or relocated in a manner that will accommodate both the street tree and the replacement pole.

c. *Wiring.* Transmission, fiber, power cables and any other conduit shall be contained within any concrete, glulam wood or metal pole. Wires contained within the interior of the pole are not included in the calculation of maximum equipment volume. No wiring shall be visible on the exterior of the pole. Wire connecting the antenna(s) to the antenna equipment shall be consolidated and pulled as tight as technically feasible or concealed within a shroud. A shroud shall be the minimum size necessary to consolidate and conceal connecting wires. The volume of area enclosed within the shroud will not be counted against the maximum antenna or equipment volumes allowed pursuant to subsections [\(D\)\(1\)\(b\)](#) and [\(D\)\(1\)\(e\)](#) of this section. Loops of extra wire shall not be lashed to the pole, to electrical wires supported by the pole, or to any pole-mounted antenna equipment.

3. *Specific Additional Standards Applicable to SWFs Co-Located on Utility Poles.* The following specific standards apply to SWFs co-located on utility poles in addition to the general requirements contained in subsection [\(D\)\(1\)](#) of this section:

a. *Pole-Mounted Equipment – Mounting Locations.* Any pole-mounted equipment shall be located: (i) pursuant to separation requirements of the utility pole owner as necessary to ensure proper functioning of the utility service; (ii) no less than 10 feet from the ground; and (iii) entirely within the limits of the right-of-way. ~~Co-locations are not permitted on utility poles that support, or have received approval to support, strand-mounted SWFs.~~

b. *Replacement Utility Poles.* Replacement poles shall be located as close to the existing pole location as possible and in no event greater than 10 feet from the existing pole being replaced unless otherwise approved by the director. A replacement pole: (i) shall continue to fulfill all of the uses that existed on the original pole prior to its replacement; (ii) shall be located entirely within the limits of the right-of-way; (iii) shall not require the removal of a street tree that cannot otherwise be replaced or relocated in a manner that will accommodate both the street tree and the replacement pole; and (iv) shall be aesthetically compatible with other utility poles that are located within 600 feet of the existing pole.

c. *Wiring.* To the extent technically feasible, transmission, fiber, power cables and any other conduit should be contained within any concrete, wood or metal pole or its replacement. Wires that are not technically feasible to contain within a utility pole or its replacement shall:

i. Be enclosed in conduit. Wiring shall be encased in the minimum number of separate conduit runs of the minimum diameter technically feasible to accommodate required external pole connections between antenna(s)/equipment and transmission/fiber/power service.

ii. Not be visible on the exterior of the pole. Wires connecting the antenna(s) to the antenna equipment outside the conduit shall be consolidated and pulled as tight as technically feasible or concealed within a shroud. A shroud shall be the minimum size necessary to consolidate and conceal connecting wires. The volume of area enclosed within the shroud will not be counted against the maximum antenna or equipment volumes allowed pursuant to subsections [\(D\)\(1\)\(b\)](#) and

(D)(1)(e) of this section. Loops of extra wire shall not be lashed to the pole, to electrical wires supported by the pole, or to any pole-mounted antenna equipment.

4. *Specific Additional Standards Applicable to SWFs Installed on Purpose-Built Poles.* The following specific standards apply to SWFs installed within or on purpose-built poles in addition to the general requirements contained in subsection (D)(1) of this section:

- a. *When Allowed.* New purpose-built poles in rights-of-way are permitted only when the applicant establishes by substantial evidence that: (i) the SWF cannot be co-located on an existing city pole or utility pole; (ii) the SWF complies with applicable shoreline and critical areas requirements; and (iii) review under the State Environmental Policy Act (SEPA) is completed, if applicable.
- b. *Maximum Height.* The maximum height of a proposed purpose-built pole, inclusive of antenna, shall be the shorter of 50~~5~~ feet, or no more than 10 percent taller than adjacent city or utility poles located within 600 feet, unless otherwise approved by the director.
- c. *Location.* A purpose-built pole: (i) shall be located entirely within the limits of the right-of-way; (ii) shall not be located within 20 feet of a city, utility or purpose-built pole unless otherwise approved by the director; (iii) shall not require the removal of a street tree that cannot otherwise be replaced or relocated in a manner that will accommodate both the street tree and the purpose-built pole; and (iv) shall comply with applicable location and separation requirements contained in the Transportation Design Manual as currently adopted or subsequently amended.
- d. *Design.* Any purpose-built pole shall be aesthetically compatible with: (i) utility poles that are located within 600 feet of the existing pole; and (ii) standard city poles approved for use at that location of the city or designed to utilize materials and specifications approved by the city transportation department in its discretion. If the purpose-built pole is located in an area with decorative poles, the purpose-built pole shall mimic the design of the decorative poles and shall comply with applicable area design standards contained in the Transportation Design Manual as currently adopted or subsequently amended.

5. *Specific Additional Standards Applicable to Strand-Mounted SWFs.* The following specific standards apply to SWFs installed on a strand located between two utility poles in addition to the general requirements contained in subsection [\(D\)\(1\)](#) of this section:

- a. *Wiring.* Strand-mounted SWFs must be installed to cause the least visual impact and without excess exterior cabling or wires (other than the original strand). No more than one strand is permitted between poles to support the SWFs. Electrical power to strand-mounted facilities shall be served aerially from poles connected to an adjacent pole with existing electrical conduit. Wiring and cable connections to the SWF shall be securely lashed to the strand.
- b. *Strand Attachments.* Strand attachments shall not exceed the structural limits of the existing span and the existing or replacement poles.
- c. *Strand and Service Connection Dimensions.* The post-installation cumulative dimension of the strand and all wiring, cables and lashing needed to serve the SWF and secure the installation shall not exceed a maximum of four inches in diameter.
- d. *Limitation on Deployment.* Strand-mounted facilities are prohibited between purpose-built poles, or between existing poles that do not support electric, telephone, data, telecommunications, cable services and similar utility lines or strands. ~~Strand-mounted SWFs are not permitted between city or utility poles where an existing SWF has been co-located.~~ No more than two SWF installations are permitted between two poles.

## **6.08.060 Applications.**

A. *Submittal Requirements.* The director shall specify submittal requirements, including type, detail, and standards for an application to be complete. The director may require additional material such as maps, studies, or photographic simulations when the director determines such material is needed to adequately assess the proposed project.

B. *Waivers of Submittal Requirements.* The director may waive specific submittal requirements determined to be unnecessary for review of an application. Requests for waivers from any submittal requirement shall be made in writing to the director or his or her designee. The director may grant or deny a request for a waiver pursuant to this subsection. The director may grant a request for waiver if it is demonstrated that, notwithstanding the issuance of a waiver,

the city will be provided all information necessary to understand the nature of the construction or other activity to be conducted pursuant to the permit sought. All waivers approved pursuant to this subsection shall be (1) granted only on a case-by-case basis, and (2) narrowly tailored to minimize deviation from the requirements of the city code.

C. *Notice of Incompleteness.* For SWF permits and SWF EFR permits, applications will be processed, and notices of incompleteness provided, in conformity with state, local, and federal law. If such an application is incomplete, the director may issue a notice of incompleteness ~~it may be rejected by the director by notifying the applicant and~~ identifying the material omitted from the application.

D. *Applications Denied without Prejudice.* To promote efficient review and timely decisions, the city may deny an application without prejudice when the applicant fails to tender a substantive response to the city within 180 calendar days after the city deems the application incomplete in a written notice to the applicant. In the event the application is denied without prejudice as provided herein and the applicant seeks to pursue an application at the same location, the applicant shall be required to submit a new application and applicable fees.

E. *Optional Preapproved Design Process.* The optional preapproved design process is a mechanism for applicants to receive preapproval of a programmatic SWF design that deviates from the design standards but achieves an equal or better aesthetic concealment outcome.

1. The applicant must apply to the director for review of any proposed optional preapproved design.
  2. The city commits to review, and make a decision upon, a proposed optional preapproved design in a timely fashion. The shot clocks adopted by FCC rule do not apply because this is an optional process.
  3. An applicant will be charged for the cost of review consistent with the one-time fee provisions of this chapter.
  4. Preapproved designs shall accomplish the intended aesthetic concealment outcomes of the design standards for SWF in the right-of-way, and deviations from the requirements of the city code shall be the minimum necessary to support SWF function.
  5. No preapproved designs shall result in a deployment that exceeds the size limitations for an SWF as defined in [47 CFR 1.6002\(l\)](#).
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6. Preapproved designs will be appended to the Transportation Design Manual and may be used as an alternative to meeting the design standards required by BCC [6.08.050\(D\)](#). Proposals must comply with all other applicable laws and regulations.

F. *One-Time Fees.* Applicant shall be responsible for paying all costs associated with city review, processing and inspection as part of all SWF ~~or SWF EFR~~ permit applications filed for the installation, modification, maintenance and removal of an SWF. The city shall track its time spent reviewing the applicant's application submittals and conducting inspections. The hourly rate for one-time fees shall be assessed and administered consistent with standard city practice and fee schedule(s) as currently adopted and subsequently amended or replaced.

## **6.08.070 Permits and inspections.**

### *A. Permit Approvals.*

1. *Findings.* All SWF permits approved pursuant to this section shall be subject to the following findings by the director:

- a. The applicant has an executed RUA with the city;
- b. The applicant has an executed master license agreement with the city if any component of the proposed SWF involves use of a city pole;
- c. Subject to post-installation inspection pursuant to subsection [C](#) of this section to confirm compliance, the proposal meets the minimum requirements for SWFs in the right-of-way pursuant to BCC [6.08.050\(C\)](#); and
- d. Subject to post-installation inspection pursuant to subsection [C](#) of this section to confirm compliance, the proposal complies with the concealment requirements contained in this chapter by:
  - i. Utilizing a pre-approved design appended to the Transportation Design Manual; or
  - ii. Complying with the design standards for SWFs in the rights-of-way pursuant to BCC [6.08.050\(D\)](#).

e. The applicant has an executed circuit access agreement with the city if connecting to and accessing city systems for electrical power.

2. *Decisions.* Decisions on an SWF permit request shall be in writing and shall include any applicable conditions of approval in addition to the requirements of this Chapter. Any permit granted in response to a SWF application for a modification shall be subject to the terms and conditions of the underlying SWF permit. In the event of a conflict between the conditions of the underlying SWF permit and the SWF permit for the modification, the conditions of the SWF permit for the modification shall govern.

B. *Installation Timing.* Applicant shall complete installation and commence operation of its SWF no later than ~~six~~twelve (12) months after ~~receipt~~issuance of governmental approvals and permits; provided this ~~six~~twelve-month period may be extended (a) automatically due to delays in installation of necessary fiber backhaul or electrical power, or (b) upon written consent of the city; provided, however, in no event shall such extension exceed ~~18~~2 months beyond ~~receipt~~issuance of government approvals and permits. Failure of the applicant to complete installation or commence operation of the applicable SWF as provided above shall permit the city to terminate the SWF or SWF EFR permit upon 30 days' notice to applicant unless within such 30-day period applicant either (a) completes installation or commences operation, or (b) the city consents in writing to extend the time within which applicant must complete installation and commence operation.

C. *Post-Installation Inspection.*

1. *Scheduling.* Within 20 business days of completing installation of a permitted SWF or SWF EFR, the applicant shall call for a city inspection and provide post-installation certification of compliance with FCC RF emissions requirements if requested.

2. *Final.* The city shall inspect the site to verify whether the SWF or SWF EFR installation complies with the terms of the granted SWF or SWF EFR permit and shall notify the applicant of the results of the inspection. Installations found to be compliant with all terms of the ~~SWF~~applicable permit may be activated and begin operation. Installations found not to be compliant with all terms of the ~~SWF~~applicable permit shall be modified to be compliant with the issued ~~SWF~~ permit, and reinspected to verify compliance. SWF and SWF EFR installations may not be operated before installation compliance is verified by city inspection. No city inspection (or approval) shall relieve or supersede an applicant's obligation to comply with the terms of an issued SWF or SWF EFR permit.

3. *Grounds for Deactivation.* If an SWF or SWF EFR installation is found at any time not to be in compliance with the requirements of the applicable ~~SWF~~ permit or presenting an

immediate public safety issue, the city may require the permit holder to cure the noncompliance or deactivate and remove the noncompliant ~~SWF facility~~ pursuant to the terms of Chapter 1.18 BCC (Civil Violations).

D. *As-Built Drawings*. The permittee shall submit an as-built drawing within 90 days after installation of an SWF or an approved SWF EFR, on a city pole. As-builts shall be in an electronic format acceptable to the city.

E. *No Waiver of Standing*. The city's grant of an SWF permit does not waive, and shall not be construed to waive, any standing by the city to challenge any FCC orders or rules related to small wireless facilities, or any modification to those FCC orders or rules.

### **6.08.080 Modifications.**

A. *Limitation on Modifications*. Applications for modifications to ~~a approved or~~ preexisting SWFs, other than SWF EFRs, shall be processed as SWF Permits and shall only be granted if the SWF will continue to comply with specific concealment elements and design standards intended to minimize visual impacts. ~~No modification or eligible facilities request shall be granted to allow an enlargement that would exceed the size limitations for an SWF as defined in 47 CFR 1.6002(l).~~

B. *Eligible Facilities Requests (EFRs)*. The director shall approve a SWF EFR permit~~modification application~~ if, on the basis of the application and other materials or evidence provided in review thereof, it finds the following:

1. That the application ~~qualifies as is~~ an eligible facilities request as defined in 47 CFR 1.6100(b)(3), or any successor provision;
2. That the applicant has an executed RUA with the city;
3. That the applicant has an executed master license agreement with the city if any component of the proposed EFR involves use of a city pole.
- ~~2. That the proposed facility will comply with subsection A of this section; and~~
4. That the proposed facility will comply with all generally applicable laws.
5. That the applicant has an executed circuit access agreement with the city if connecting to and accessing city systems for electrical power.



If the findings for approval of the SWF EFR permit cannot be made, the director shall notify the applicant in writing of the reasons for denial. If the Director finds the application is not an eligible facilities request, the Director shall also require the applicant to provide any additional information needed to complete a SWF permit application form for the proposed facility.

C. *Supplemental Conditions.* All ~~SWF EFR permits~~<sup>permits for an eligible facility request</sup> granted pursuant to this section shall be subject to the following additional conditions, unless modified by the director:

1. *Permit Subject to Conditions of Underlying Permit.* Any permit granted in response to an application qualifying as an eligible facilities request shall be subject to the terms and conditions of the underlying permit. In the event of a conflict between the conditions of the underlying permit and the SWF EFR permit, the conditions of the SWF EFR permit shall govern.
2. *No Extension of Underlying Approvals.* The director's grant or grant by operation of law of an ~~SWF EFR~~<sup>eligible facilities request</sup> permit constitutes a federally mandated modification to the underlying government approval for the subject base station, and shall not extend the term for any underlying government approval and its term shall be coterminous with the underlying government approvals for the subject base station.
3. *No Waiver of Standing.* The city's grant or grant by operation of law of an eligible facilities request does not waive, and shall not be construed to waive, any standing by the city to challenge Section 6409(a) of the Spectrum Act, any FCC rules that interpret Section 6409(a) of the Spectrum Act, or any modification to Section 6409(a) of the Spectrum Act.

## **6.08.090 Removal.**

A. *Removal of Abandoned SWFs.*

1. The SWF owner shall provide the director with copies of any notice of intent to cease operations that is provided to the FCC.
2. All SWFs shall be removed by the SWF owner within 90 days of the date it ceases to be operational.

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B. *Removal upon Undergrounding.* An SWF must be removed at no expense to the city if co-located on a city pole or utility pole, or a strand located between two city or utility poles, that is subsequently undergrounded.

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