

CITY COUNCIL REGULAR SESSION

Ordinance amending Chapter 6.02 and 6.08 of the Bellevue City Code (BCC) addressing purpose-built pole and strand mounted Small Wireless Facilities (SWF) located within City right-of-way; and establishing an effective date.

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EXECUTIVE SUMMARY

At the March 4 Study Session, Council provided staff direction to return on March 18 with an Ordinance amending Chapter 6.02 and Chapter 6.08 of the BCC to include provisions for Purpose-built Pole and Strand mounted SWF located within the City right-of-way. Following the Study Session, staff determined that environmental review under the State Environmental Policy Act (SEPA) was required prior to Council action on the Ordinance. Environmental review has now been concluded, with no public comments received, and a Threshold Determination of Non-Significance (DNS) issued on April 18.

RECOMMENDATION

Move to adopt Ordinance No. 6462.

If approved, effective date: 5/25/2019.

BACKGROUND/ANALYSIS

On January 22 Council adopted Ordinance No. 6454 amending Chapter 6.02 and adding Chapter 6.08 BCC and Resolution No. 9543 approving the Master License Agreement (MLA) template and authorizing execution of individual MLAs with qualified applicants administratively. These actions represented the first of three phases of the City's response to the Federal Communications Commission (FCC) Order, which preempts local authority to regulate small cell deployment.

- **Phase 1 (completed)**: Phase 1 was completed with the Council actions at the January 22 Regular Session, as described immediately above. Phase 1 amended existing and added new code for addressing co-locating SWFs on City owned street lights and other poles located within the City right-of-way, established SWF design standards, and established policies for the execution and administration of MLAs. These actions were completed within the timelines established by the FCC Order.
- **Phase 2 (this action as described in this agenda memo)**: Amends the adopted code from Phase 1 above to add provisions for Purpose-built Poles when co-locating SWFs on City owned street lights or other utility poles is deemed not feasible. Also amends the code to add provisions for Strand mounted SWF. The FCC's September 2018 order requires SWF applications submitted after April 15, 2019 to be reviewed using aesthetic standards meeting the

requirements of the order.

- Phase 3 (future action): Address SWF on City property that is not public street right-of-way as well as private property. Also accomplish conformance amendments to Comprehensive Plan Policies and the Land Use Code.

The following is a summary of the proposed Phase 2 amendments presented to Council at the March 4 Study Session:

BCC 6.02 – would be amended to add Purpose-Built Pole and Strand mount SWF attachments within the right-of-way.

BCC 6.08 – would be amended to include the requirements and design criteria for the installation of Purpose-built poles and Strand mounted SWF with highlights as follows:

- Carriers are required to obtain all necessary permits for installation and maintenance of Purpose-built Poles and Strand mounted SWF attachments.
- Purpose-built Poles are carrier owned and subject to lease fee of \$270 per pole per year or subject to lease at fair market value if the FCC Order is over turned. Strand mounted attachments, also carrier owned, may be subject to lease fees paid to the City if attaching to City facilities or triggering other requirements.
- New Purpose-built Poles will not fall under a Master License Agreement (MLA), as they are not an attachment to a City owned pole.
- Purpose-built Poles are to be compatible with the land use design district and adjacent facilities.
- Strand mounted SWF design criteria include a maximum 18-inch diameter and three (3) cubic foot volume. No more than two Strand mounted SWFs may be installed between two poles, and Strand mounts shall be located within five (5) feet of the adjacent pole unless safety considerations require a greater distance.

Prior to the March 4 Study Session, staff met with the carriers, including Verizon, AT&T, T-Mobile, and Crown Castle, to go over the proposed amendments. The carriers were informed and supportive of the proposed Phase 2 code amendments.

Following the March 4 Study Session, staff received a request from T-Mobile to remove the “imaginary enclosure” provisions for Strand mounted attachments reflecting that the actual equipment dimensions (radio, antenna, and other equipment excluding mounts and connectors) would not occupy more than the three (3) cubic feet, but an imaginary enclosure could. Staff found this request to be reasonable and consistent with meeting the overall intent of the maximum size provision, and has revised the proposed code amendments accordingly.

Council input from March 4 Study Session

At the March 4 Study Session, Council directed staff to revise the proposed code amendments regarding the height of Purpose-built poles. The proposed Ordinance has been revised to reflect that the maximum height of a Purpose-built Pole shall be the shorter of 55 feet, or no more than 10 percent taller than adjacent City or utility poles located within 600 feet, unless otherwise approved by the

Director.

Council also inquired about the schedule for Phase 3. Timing for Phase 3 will be considered as part of Development Service's 2019 code and policy work program. This work program has been recently affected by key staff vacancies; however, Phase 3 is expected to commence in 2019 and more specifics are anticipated to be available soon.

Following the Study Session, staff determined that the proposed code amendments related to Purpose-built poles were subject to environmental review prior to Council action. Unlike the code amendments adopted under Ordinance 6454, and the proposed amendments related to strand mounted SWF, the proposed amendments related to installation of Purpose-built poles to support SWF are not exempt under SEPA. Environmental review was completed, with no public comments received, and a DNS issued on April 18.

POLICY & FISCAL IMPACTS

Policy Impact

The proposed Ordinance and related Amendments advance the Bellevue Smart plan objectives to enhance wireless services for residents and businesses.

Fiscal Impact

No fiscal impact is expected as a result of the proposed Phase 2 code amendments.

OPTIONS

1. Adopt the Ordinance amending Chapter 6.02 and 6.08 of the Bellevue City Code (BCC) addressing purpose-built pole and strand mounted Small Wireless Facilities (SWF) located within City right-of-way; and establishing an effective date.
2. Do not adopt the Ordinance and provide alternative direction to staff.

ATTACHMENTS & AVAILABLE DOCUMENTS

- A. Redline revisions to current Chapter 6.02 and Chapter 6.08 of the Bellevue City Code
Proposed Ordinance No. 6462

AVAILABLE IN COUNCIL LIBRARY

N/A