CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 6462

AN 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.

WHEREAS, in September 2018 the Federal Communications Commission (FCC) issued a declaratory ruling and third report and order (FCC 18-133) regarding municipal regulation of "small wireless facilities" (the FCC Order); and

WHEREAS, the FCC Order significantly limits local control of deployment of small wireless facilities (SWF) within the public right-of-way (ROW); and

WHEREAS, certain provisions of the FCC Order became effective on January 14, 2019; and

WHEREAS, in order to comply with the FCC Order, the City adopted Ordinance No. 6454 which established a regulatory framework to process SWF permits and reasonable objective aesthetic design requirements for SWF installation on city pole or utility pole in the ROW; and

WHEREAS, SWF applications submitted after April 15, 2019 must be reviewed using reasonable objective aesthetic design standards meeting the requirements of the FCC Order; and

WHEREAS, this ordinance establishes design requirements for strand mount SWF and SWF installed on purpose-built poles; and

WHEREAS, the City complied with the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, and the City's Environmental Procedures Code, Chapter 22.02 BCC, when it issued a Threshold Determination of Non-Significance relating to code amendments for installation of purpose-built poles and strand mounted Small Wireless Facilities (SWF) on April 18, 2019; now therefore,

Section 1. Section 6.02.015 of the Bellevue City Code is hereby amended to read as follows:

6.02.015 Applicability

The location and siting of telecommunication facilities that make use of city rights-of-way and city property shall comply with the terms of this Title.

A. Small Wireless Facilities (SWF) co-located on City Poles and Utility Poles or installed on a purpose-built pole within City rights-of-way shall be exclusively regulated pursuant to the terms of this Title.

B. Wireless Communication Facilities (WCF) shall be regulated pursuant to the terms of this Title and applicable provisions of the Land Use Code contained in Title 20 of the Bellevue City Code (BCC).

Section 2. Section 6.02.020 of the Bellevue City Code is hereby amended to read as follows:

6.02.020 Definitions.
For the purpose of this title, and the administration and enforcement thereof, the following words and phrases shall have the following meanings, unless the context of the sentence in which they are used indicates otherwise:

“Addendum” means the document in a form approved by the City that, when fully executed by both parties, is subject and subordinate to the provisions of a Right-of-Way Use Agreement or Master License Agreement and authorizes the Company to attach, install, operate, maintain, upgrade, remove, reattach, reinstall, relocate and replace specific Small Wireless Facility components in the rights-of-way and on or between city poles in the rights-of-way;

“Affiliate” means a person who (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with another person;

“Applicant” means any person or entity that applies for any right-of-way use authorization pursuant to this title;

“Authorization” or “right-of-way use authorization” means a telecommunications right-of- way use agreement and/or a telecommunications facilities lease agreement, as the case may be;

“City” means the city of Bellevue, Washington;

“City Facilities” means collectively city poles, strands between city poles, and portions of the right-of-way required for Ground-Based SWF Equipment, which support Small Wireless Facility components. “City Facility(ies)” may refer to such facilities in the singular or plural, or replacement facilities that are not city poles, as appropriate to the context in which used;

“City Poles” means City-owned or controlled streetlights or other poles located within the ROW. In no event shall “City Poles” include poles located at signalized intersections or which include or contain traffic signal system operation and control equipment;

“City property” means and includes all real property or interests therein owned by the city, other than city rights-of-way as that term is defined herein;

“Co-location” means the attachment of telecommunication facilities to city poles or utility poles, or to strands located between two such poles, located within the right-of-way;

“Council” means the city council of the city of Bellevue, Washington acting in its official capacity;

“Design Standards” means the aesthetic, placement and safety standards applicable to SWF components deployed in the right-of-way contained in Chapter 6.08 of the Code;

“Eligible Facilities Request” shall have the meaning as set forth in 47 C.F.R. Section 1.6100(b)(3), or any successor provision;

“Emergency” means a condition of imminent danger to the health, safety, and welfare of persons or property located within the city including, without limitation, damage to persons or property from natural or manmade causes, such as storms, earthquakes, riots or wars;

“Excess capacity” means the volume or capacity in any existing or future duct, conduit, fiber optic cable, manhole, handhole or other telecommunications facility within the right-of-way that is or may be made available for use for additional telecommunications facilities;

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

“Fiber optics” means the technology of using optical fiber to guide and project light for use as a communications medium;

“Ground-based” means utility and telecommunications facilities located on the surface of the ground with some or all of the facility located above grade;

“Master License Agreement” means the agreement for the installation of SWFs on City Poles (or replacement poles) or a strand located between two city poles, and related Ground-Based SWF Equipment, in the form approved by the Bellevue City Council and as may be amended, and fully executed by the City and a provider of telecommunications services;

“Operator” means the person, firm or corporation to whom a right-of-way use agreement is granted pursuant to the provisions of this title;

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

“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;

“Personal Wireless Service” shall have the same meaning as set forth in 47 U.S.C. Section 332(c)(7)(C)(i);

“Pre-approved Design” means a deployment of antenna(s) and equipment that the City has determined through the Optional Pre-Approved Design Process is equivalent or less intrusive than strict application of the Design Standards;

“Property of a telecommunications carrier or provider” means all property owned, leased, controlled, installed or otherwise used by a telecommunications carrier or provider in the conduct of its business in the city under the authority of a right-of-way use agreement granted pursuant to this title;

“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;

“Purpose-built Pole” means any structure built for the sole or primary purpose of supporting a SWF. This definition does not include city poles or utility poles;

“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;

“Small Wireless Facility (SWF)” shall have the same meaning as “small wireless facility” in 47 C.F.R. 1.6002(l), or any successor provision (which is a personal wireless services facility that meets the following conditions that, solely for convenience, have been set forth below):

(1) The facility—

(i) is mounted on a structure 50 feet or less in height, including antennas, as defined in 47 C.F.R. Section 1.1320(d), or

(ii) are mounted on structures no more than 10 percent taller than other adjacent structures, or

(iii) do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;

(2) Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in 47 C.F.R. Section 1.1320(d)), is no more than three cubic feet in volume;

(3) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;

(4) The facility does not require antenna structure registration under 47 C.F.R. Part 17;

(5) The facility is not located on Tribal lands, as defined under 36 C.F.R. Section 800.16(x); and

(6) The facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 C.F.R. Section 1.1307(b);

“SWF Antenna” is a component of the SWF that refers collectively to the rod, panel, disc, or similar device, together with the mounting hardware that attaches the antenna to a pole or a strand located between two poles, that provides data/telecommunications services per the BCC including 6.02.020 and 6.04.010;

“SWF Equipment” is a component of the SWF that refers collectively to all cabinets, utilities, fiber optic cables, wires, power, radio and other mechanical and technical equipment associated with an antenna together with any shroud, cabinet or vault in which the equipment is contained, but does not include the SWF antenna itself or the pole to which it is attached;

“State” means the State of Washington Utilities and Transportation Commission unless otherwise indicated;

“Telecommunications carrier” means and includes every person that directly or indirectly owns, controls, operates or manages telecommunications facilities within the city, used or to be used for the purpose of offering and providing telecommunications service;

“Telecommunications facilities” means the plant, equipment and property, including but not limited to, cables, wires, conduits, ducts, pedestals, antennae, poles, electronics and other appurtenances used or to be used to transmit, receive, distribute, provide or offer telecommunications services;

“Telecommunications facilities lease agreement” means a written lease agreement issued pursuant to this title to use specified city property for telecommunications facilities subject to certain conditions;

“Telecommunications provider” means and includes every person who provides telecommunications services over or by means of telecommunications facilities without having any ownership or management control of such facilities;

“Telecommunications right-of-way use agreement (RUA)” means a written agreement between the city and a telecommunications carrier or provider, approved pursuant to this title, to allow the use and occupation of specified city rights-of-way for the purpose of providing telecommunications services;

“Telecommunications service” means the providing or offering for rent, sale or lease, or in exchange for other value received, of the transmittal of voice, data, image, graphic and video programming information between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities, with or without benefit of any closed transmission medium;

“Telecommunications system.” See “Telecommunications facilities”;

“Title” or “this title” means BCC Title 6 and all chapters inclusive therein;

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

“Undergrounded Area” means those areas where there are no existing electrical facilities in the right of way; or where the wires associated with the same are or are required to be located underground; or where the same are scheduled to be converted from overhead to underground. Electrical facilities are distribution facilities owned by a permitted Franchise Electric utility in accordance with BCC 14.20 and do not include transmission facilities;

“Unified Enclosure” means a pole-mounted portion of a SWF providing concealment of both antenna(s) and equipment within a single enclosure;

“Utility Pole” means a structure in the right-of-way designed to support electric, telephone, data, telecommunications, cable services and similar utility lines or a strand located between two poles. A purpose-built pole or a city pole is not a utility pole;

“Wireless Communication Facility” (WCF) means an unstaffed facility (that does not otherwise meet the definitions of a SWF) for the transmission and/or reception of wireless communications services, usually consisting of, but not limited to, an

antenna array, transmission cables, equipment, an equipment housing structure, and a support structure used to achieve the necessary elevation as the term WCF is now defined in the Land Use Code or therein after amended.

Section 3. The Title of Chapter 6.08 of the Bellevue City Code is hereby amended to read as follows:

Chapter 6.08
Small Wireless Facilities in the Rights-of-Way

Sections:

Section 4. Section 6.08.020 of the Bellevue City Code is hereby amended to read as follows:

6.08.020 Applicability

The provisions of this Chapter regulate the location 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 which are regulated under the terms of the Land Use Code (refer to BCC 20.20.195).

Section 5. Section 6.08.030 of the Bellevue City Code is hereby amended to read as follows:

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 Title 6. Unless exempted, every person who desires to co-locate a SWF on a city pole or utility pole or to install a 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. Except for SWFs, 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, but no longer than required for the emergency or event, provided that installation does not involve excavation, movement, or removal of existing facilities.

3. Installation 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 1 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. Pre-existing 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.

Section 6. Section 6.08.050 of the Bellevue City Code is hereby amended to read as follows:

6.08.050 Requirements for Small Wireless Facilitiess 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 a SWF, 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, minimizes 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 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 of a 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 RUA, Right-of-Way use permits, 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 Rights-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 Permits shall incorporate specific concealment elements and design standards described in the section to minimize visual impacts. Unless it is determined that another design is equivalent to or less intrusive through the Optional Pre-Approved 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: (a) 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; (b) 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; or (c) mounted to the top of the pole in a canister that does not exceed 18 inches in diameter. All SWF

antenna 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 3 cubic feet. Each individual antenna that has exposed elements shall fit within an imaginary enclosure that does not exceed a maximum volume of 3 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 antenna 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 (5) 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 3 cubic feet comprised of radio, antenna and supplemtary equipment, but excluding mounts and connectors. Strand-mounted SWF located between two utility poles shall be consolidated to the greatest extent technically feasible. No strand-mounted component of a 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. The electrical disconnect 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 feet 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.

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 Paragraph D.1.e, the ground-based equipment may be located fully or partially above-grade provided that: (i) the volume of ground-based equipment that is located above-grade shall not exceed a maximum of 13 cubic feet; (ii) 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 (iii) the ground-based equipment shall not encroach into any areas of required sidewalk.

e. Unified Enclosure. 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 or on a strand between two poles exceed 3 cubic feet; (iii) mounted in compliance with the locational criteria of paragraph D.1.a and D.1.c of these Design Standards; and (iv) mounted in compliance with the locational criteria of Paragraphs D.2.a or D.3.a of these Design Standards. The electrical disconnect may be located independent of the consolidated 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.

f. Visual Impact. Antenna(s) and equipment shall have subdued colors and non-reflective materials. To the greatest extent technically feasible, contrast between the pole and attached antenna(s) and equipment, colors, finishes, brackets and configuration shall be minimized.

g. 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 BCC 9.18 and BCC 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.

h. 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.

i. 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 (8) 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 a SWF is permitted in excess of what is required to replace pre-existing functionality on the pole required by law.

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 paragraph D.1 of this section.

a. Pole-Mounted Equipment - Mounting Locations. Any pole-mounted equipment shall be located: (i) within the top 1/3 of the pole, (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 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, 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 of paragraphs 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 paragraph 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 of paragraphs 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 paragraph 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 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.
    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 paragraph 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 4 inches in diameter.

d. Limitation on Deployment. Strand mounted facilities are prohibited between purposes-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.

Section 7. Section 6.08.070 of the Bellevue City Code is hereby amended to read as follows:

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 paragraph 6.08.070.C to confirm compliance, the proposal meets the minimum requirements for SWFs in the right-of-way pursuant to paragraph 6.08.050.C; and

d. Subject to post-installation inspection pursuant to paragraph 6.08.070.C to confirm compliance, the proposal complies with the concealment requirements contained in this Chapter by:

i. Utilizing an 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 6.08.050.D.

2. Decisions. Decisions on a SWF Permit request shall be in writing.

B. Installation Timing. Applicant shall complete installation and commence operation of its SWF no later than six (6) months after receipt of Governmental Approvals; provided this six (6) month period may be extended (i) automatically due to delays in installation of necessary fiber backhaul or electrical power, or (ii) upon written consent of the City; provided, however, in no event shall such extension exceed twelve (12) months beyond receipt of Government Approvals. Failure of the applicant to complete installation or commence operation of the applicable SWF as provided above shall permit City to terminate the SWF Permit upon thirty (30) days' notice to applicant unless within such thirty (30) day period, applicant either (i) completes installation or commences operation, or (ii) City consents in writing to extend the time within which applicant must complete installation and commence operation.

C. Post Installation Inspection.

1. Scheduling. Within twenty (20) business days of completing installation of a permitted SWF, 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 installation complies with the terms of the granted SWF Permit and shall notify the applicant of the results of the inspection. Installations found to be compliant with all terms of the SWF Permit may be activated and begin operation. Installations found not to be compliant with all terms of the SWF permit shall be modified to be compliant with the issued SWF Permit, and re-inspected to verify compliance. SWF 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 Permit.

3. Grounds for Deactivation. If a SWF is found at any time not to be in compliance with the requirements of the applicable SWF Permit, the City may require the permit holder to cure the noncompliance or deactivate and remove the noncompliant SWF pursuant to the terms of BCC 1.18 (Civil Violations).

D. As-Built Drawings. The Permittee shall submit an as-built drawing within ninety (90) days after installation of a SWF 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 a 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.

Section 8. Section 6.08.090 of the Bellevue City Code is hereby amended to read as follows:

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.

B. Removal Upon Undergrounding. A 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 are subsequently undergrounded.

Section 9. This Ordinance shall take effect and be in force thirty (30) days after its passage and legal publication.

Passed by the City Council this _____ day of _____, 2019 and signed in authentication of its passage this _____ day of _____, 2019.

(SEAL)

_____
John Chelminiak, Mayor

Approved as to form:
Kathryn L. Gerla, City Attorney

_____
Monica A. Buck, Assistant City Attorney

Attest:

_____
Charmaine Arredondo, City Clerk

Published _____