PLANNING COMMISSION AGENDA

April 5, 2022 - 6:00 p.m.

Email planning@centralpointoregon.gov to request a Zoom link for virtual participation

I. MEETING CALLED TO ORDER

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

Planning Commission members, Tom Van Voorhees (chair), Amy Moore, Jim Mock, Pat Smith, Kay Harrison, Brad Cozza, Robin Stroh

IV. CORRESPONDENCE

V. MINUTES

Review and approval of the March 1,, 2022 Planning Commission meeting minutes.

VI. PUBLIC APPEARANCES

VII. BUSINESS

A.

VIII. DISCUSSION

A. Mobile Food Businesses Code Amendments. Discussion of additional revisions to CPMC 5.44, Mobile Food Businesses and various sections Title 17, Zoning recommended following legal review. File No. ZC-21003.

B. Rewite 2022 Zoning Code Update Project. Information session and discussion concerning small wireless facilities regulation. File No. ZC-22001.

IX. ADMINISTRATIVE REVIEWS

X. MISCELLANEOUS

A.

XI. ADJOURNMENT

Individuals needing special accommodations such as sign language, foreign language interpreters or equipment for the hearing impaired must request such services at least 72 hours prior to the Planning Commission meeting. To make your request, please contact the City Recorder at 541-423-1026 (voice), or by e-mail at: deanna.casey@centralpointoregon.gov .

Si necesita traductor en español o servicios de discapacidades (ADA) para asistir a una junta publica de la ciudad por favor llame con 72 horas de anticipación al 541-664-3321 ext. 201.

City of Central Point
Planning Commission Meeting Minutes
March 1, 2022

I. MEETING CALLED TO ORDER AT 6:00 P.M.

II. Pledge of Allegiance

III. ROLL CALL

Commissioners Tom Van Voorhees (chair), Jim Mock (via zoom), Kay Harrison, Pat Smith, and Brad Cozza were present.

Also in attendance were Planning Director Stephanie Holtey, Community Planner Justin Gindlesperger, Public Works Director Matt Samitore (via zoom) and Planning Secretary Karin Skelton

IV. CORESPONDENCE

Revised attachment "A" to staff report

V. MINUTES

Kay Harrison made a motion to approve the January 11, 2022 minutes as presented. Pat Smith seconded the motion. ROLL CALL: Kay Harrison, yes; Jim Mock, yes; Pat Smith yes; Brad Cozza, yes. Motion passed.

VI. PUBLIC APPEARANCES

None.

VII. BUSINESS

A. Public Hearing and consideration of text amendments adding Central Point Municipal Code (CPMC) Chapter 5.44 to provide standards and application requirements for placement of mobile food vendors inside the city limits. Applicant: city of Central Point. File No. ZC-21003. Approval Criteria: CPMC 17.10, Zoning Text Amendments. (Gindlesperger)

Chair Tom Van Voorhees read the rules for a legislative hearing. The Commissioners had no conflict of interest to declare.

Community Planner Justin Gindlesperger stated this hearing is for the purpose of adding chapter 5.44 to the City's Municipal Code to consolidate all mobile food vendor regulations in one location. He reviewed the background, including comments and concerns from both the Citizen's Advisory Committee and the Planning Commission. He stated the primary issue is to establish clear standards for the expanded use of mobile food businesses that are consistent with statewide planning goals and the Central Point Comprehensive Plan.

Mr. Gindlesperger reviewed the proposed amendments including the types of vendors and allowable locations, He described the review procedures and approval criteria.

He noted in the revised Attachment "A" there were three small revisions.

The commissioners discussed the review procedures and suggested minor edits clarifying the language, aligning utility requirements to the Fire Code and expanding morning hours of operation for specialty food vendors.

Stephanie Holtey explained the mobile food vendors regulations were tied to the review process for business licenses. She said any issues would be addressed during the review process for each application.

The public hearing was opened

There were no public comments.

The public hearing was closed.

Kay Harrison made a motion to approve Resolution 893 with the revised attachment "A" and the inclusion that the food vendors be consistent with the fire code. Pat Smith seconded the motion.

The Commissioners noted the motion should be revised to include the three specific changes in the Revised Attachment "A" and revisions to clarify language aligning utility requirements with the Fire Code and expanding hours of operation for specialty food vendors.

. ROLL CALL: Kay Harrison, no; Jim Mock, no; Pat Smith no; Brad Cozza, no. Motion did not pass.

Brad Cozza made a motion to approve Resolution 893 forwarding a favorable recommendation to the City Council to approve the amendments to Chapter 5.44 – Mobile Food Businesses of the Central Point Municipal Code with the revisions set forth in the Revised Attachment A and including Planning Commission revisions to clarify language aligning utility requirements with the Fire Code and expanding hours of operation for specialty food vendors. Kay Harrison seconded the motion. ROLL CALL: Kay Harrison, yes; Jim Mock, yes; Pat Smith yes; Brad Cozza, yes. Motion passed

VIII. DISCUSSION

VIII. ADMINISTRATIVE REVIEWS

X. MICELLANEOUS

DEVELOPMENT UPDATE

- Stephanie Holtey said the zoning code update is going more slowly than expedited as staff has had to focus on the State's Transportation Planning requirements.

- CAC is meeting in April and will be discussing the City's public engagement and involvement program.

- White Hawk is changing their name and has to have it approved prior to beginning development.

PLANNING COMMISSION REPORTS

There were no reports

X. ADJOURNMENT

Kay Harrison moved to adjourn the meeting. Pat Smith seconded the motion. Meeting was adjourned at 7:00 p.m

Tom Van Voorhees, Planning Commission Chair

MOBILE FOOD VENDORS

Memorandum

Planning Commission Discussion
Mobile Food Vending Text Amendments
File No.: ZC-21003

April 5, 2022

To: Planning Commission

From: Justin Gindlesperger, Community Planner II
Stephanie Holtey, Planning Director

Re: Mobile Food Businesses Text Amendments

On March 3, 2022, the Planning Commission considered mobile food business text amendments and forwarded them to City Council with a recommendation for approval. The intent of the amendments was to provide clear standards and application procedures to expand opportunities for mobile food businesses in the City.

Following the Planning Commission meeting, staff prepared an ordinance with the recommended changes. During legal review, minor modifications were made to the mobile food business text amendments for clarity. However, a few questions and changes were suggested by legal counsel that exceeded the scope of the Planning Commission's recommendation. For this reason, staff is bringing the mobile food vendors back to the Planning Commission to provide an overview of the latest revisions as an information item at the April 5, 2022 meeting, and for formal consideration and public hearing at the May 3, 2022 meeting.

In summary, the recommended changes accomplish the following objectives:

- Clarify the application and permit process for each mobile food business type;
- Remove references to undefined terms in Municipal Code;
- Differentiate standards for mobile food vendors and mobile food pods;
- Amend various sections Title 17 – Zoning to align with language in Chapter 5.44.

At the April 5th meeting, staff will present the recommended changes to Chapter 5.44 and the affected sections in Title 17. At that time staff will address questions by Commissioners, request feedback and seek direction to schedule the public hearing on May 3rd as proposed.

REWRITE 2022 CODE UPDATE PROJECT

Memorandum

Small Wireless Facilities Information/Discussion Item
File No. ZC-22001

April 5, 2022

To: Planning Commission

From: Stephanie Holtey, Planning Director

Re: Rewrite 2022: Zoning Code Update Project
Small Wireless Facilities Information Session & Discussion

In November 2021, the Planning Department initiated a project to review and revise the Central Point Zoning Ordinance in Title 17. The purpose of the project is to re-organize and streamline the City's land use and development standards to reflect the community's vision and to comply with state and regional requirements. Phase 1 of the project includes amendments to the following sections:

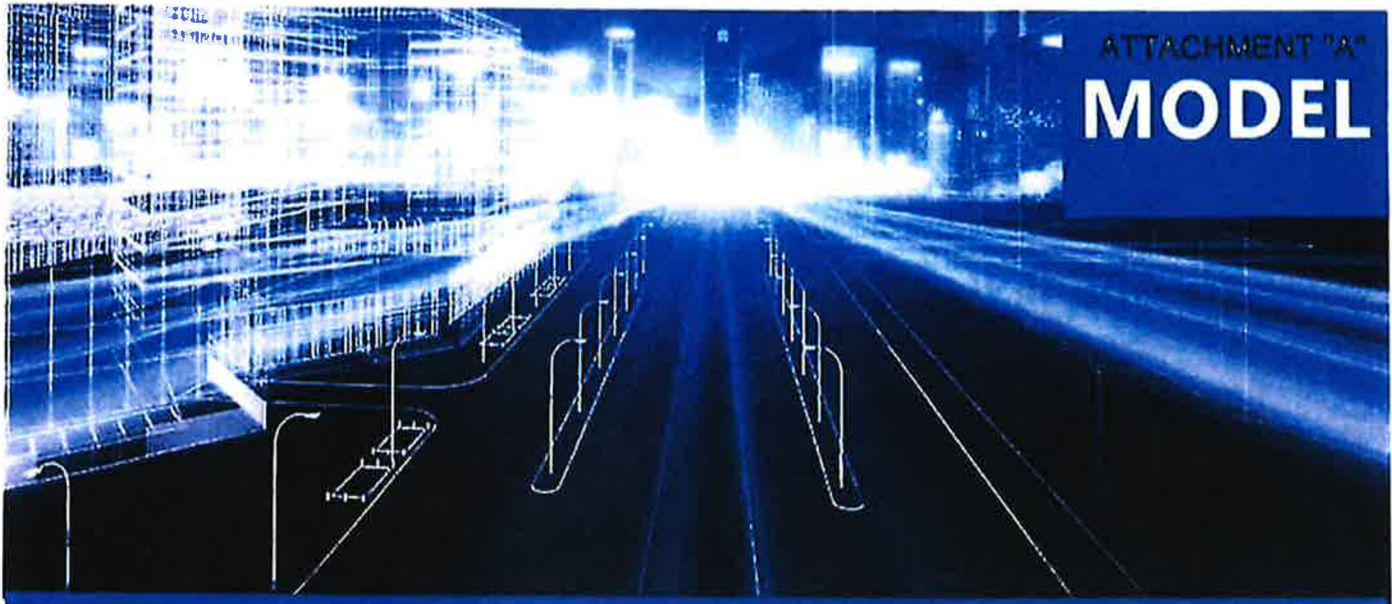
- Title, Purpose
- Zoning District Establishment
- Definitions
- Nonconforming Situations
- Residential Zoning Districts
- Residential Special Use Standards
- Small Wireless Facilities

The April 5th discussion will focus on information pertaining to small wireless facilities. The need for these changes stems from recent changes to federal law require cities to allow small wireless facilities in the public right-of-way subject to clear and objective standards. The new regulations aim to assure that wireless technology providers are subject to clear, objective, efficient and reasonable application requirements across the nation.

Following consultation with the City attorney, it is recommended that the City base its standards on the model ordinance and design guidelines published by the League of Oregon Cities in June 2020. During the April meeting, staff will present model ordinance as an informational item. Input and feedback from the Planning Commission will be used to begin adapting the model ordinance into draft language for consideration as part of the Phase 1 Rewrite 2022 Zoning Code Update project.

Attachments:

Attachment "A" – Small Wireless Facilities Model Ordinance
Attachment "B" – Small Wireless Facilities Model Design Guidelines



Small Wireless Facilities Model Ordinance

JUNE 2020

This model was produced in coordination with:

DISCLAIMER

Any model document provided by the League of Oregon Cities (LOC) is intended to be used as a starting point in an individual city's development of its own documents. Each city is unique, and any adopted document or policy should be individually tailored to meet a city's unique needs. Furthermore, this model is not intended to be a substitute for legal advice. Cities should consult with their city attorney before adopting any small wireless facility policies to ensure that they comply with all aspects of federal, state, and local law.

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Foreword

Background

On January 31, 2017, Federal Communications Commission ("FCC") Chairman Ajit Pai established a Broadband Deployment Advisory Committee (BDAC), which he tasked with making recommendations to the FCC on ways to accelerate the deployment of broadband by reducing or removing regulatory barriers to infrastructure investment. On September 27, 2018, the FCC released a Declaratory Ruling and Third Report and Order (FCC 18-133, referred throughout the document as "Small Cell Order" or "FCC Order") that significantly limits local authority over small wireless infrastructure deployment and fees for use of the rights-of-way (ROW). The FCC Order took effect January 14, 2019. The FCC order defines the size limitations for small wireless facilities (allowing antennas of up to 3 cubic feet each, with additional equipment not to exceed 28 cubic feet), and specifies that such facilities may not result in human exposure to radiofrequency radiation in excess of applicable standards in the FCC's rules (federal statute preempts local regulation of RF emissions). "Small wireless facilities" are sometimes also called "small cells". Throughout the model code, it is noted when language is mirrored in the FCC order.

LOC Model Small Wireless Facilities Code

In coordination with many cities,[1] representatives from Verizon, AT&T, T-Mobile, and the LOC met from January 2019 to May 2020 to discuss and craft a model code, model design standards relating to small wireless facilities while there is pending litigation[2] on the FCC Order. The model code and model design standards are intended to be paired together.

There is no model that will work for every jurisdiction. As such, the LOC's model is intended as a roadmap to assist local governments in adopting their code. While example language is included in the sections, the LOC does not intend to suggest these examples could work for every jurisdiction.

The LOC also recognizes there are many ways to structure a code. The appropriate structure will vary by jurisdiction. The intent is to allow each jurisdiction to draft the substantive provisions that best reflect local needs and interests. The LOC recommends that jurisdictions that own poles or other structures in the rights-of-way establish a clear code for small wireless facilities. The circumstances of each municipality may, and likely will, require modifications to the framework and/or example language of this model code.

Placement Within Local Codes

Although many communities have historically handled wireless facility siting through the land use process, new FCC regulations effectively prohibit these procedures. As explained below, the most practicable location for small wireless facility regulations may be the city's streets and highways code rather than its land development code.

[1] See "Acknowledgements" section for full list of participants.
[2] In October 2018, the LOC in coordination with other municipalities and municipal leagues filed suit against the FCC in the U.S. Ninth Circuit Court of Appeals.

Oregon state law requires at least one hearing on a land use decision – either in the initial determination or as an appeal if the initial determination is made without a hearing. These hearings necessarily require advance public notice, which can add between 10 and 20 days to the review process.

However, the new shot clock regulations are not only shorter but encompass all appeals related to the small wireless facility application. The phrase "shot clock" refers to the presumptively reasonable time frame in which the state or local government should act on a request for authorization to place, construct, or modify personal wireless service facilities, as defined by the FCC. The shot clock is 60 days for small wireless facilities on any existing structure and 90 days for small wireless facilities on new structures. See Appendix A for current shot clocks. Moreover, the FCC allows for "batched applications" with multiple requests for authorization filed at the same time. It is simply not practicable to comply with the state's land use requirements and the FCC's regulations at the same time.

As a result, the current best practice is to place new regulations for small wireless facilities within the public rights-of-way in the city's streets and highways code rather than its land development code. For those communities with existing regulations in their land development codes, an amendment to exempt small wireless facilities in the public rights-of-way from the land development code (and pointing the reader to the streets and highways code) will also be needed. Given that the process to amend a land development code is also a lengthy undertaking, interim regulations administered by the city engineer or public works director may be appropriate.

ROW Franchise and License Considerations

The model code provisions are not intended to replace local regulations for ROW franchising and licensing. In most cases, a small wireless facility provider will need both a permit to construct the small wireless facility and a franchise or license to use the public ROW for the provision of communication services.

However, cities should note that certain aspects of the FCC's new regulations will impact the applicability of existing franchise or license requirements to small wireless facilities. For example, the FCC restricts the annual recurring fees for access to the ROW to the reasonable approximation of the direct costs created by the small wireless facility. Although not expressly preempted, the FCC suggests that gross-revenue fees are likely to exceed this limitation.

Accordingly, cities should carefully examine their franchising or licensing requirements when they consider code amendments for small wireless facilities.

Additional Considerations

The LOC model code only applies to small wireless facilities. Municipalities should review their existing ordinances, standards and policies to determine if this framework is appropriate. Municipalities may want to consider whether it would be preferable to adopt a utility-neutral code covering all utilities and communications providers. Differences in policy choices and existing standards, among other things, may impact the decision in how to proceed. It is recommended that cities consult their attorney, right-of-way specialists, engineers, master plans,

comprehensive plans, goals and/or wireless providers before final adoption of this code.

Understanding the Organization of the Model Code

As stated above, the model is best described as an outline or roadmap to assist municipalities in drafting the appropriate code for their community. The model includes example language to illustrate the intent of the section. The example language, or a variation thereof, may be appropriate for final adoption in some jurisdictions.

Finally, there may be additional notes or issues for consideration within the subsections of the model, which are [bracketed] and in ALL CAPS. These notes are intended as guidance for municipal drafters, not for adoption in a final ordinance.

Small Wireless Facility Model Ordinance

AN ORDINANCE ESTABLISHING STANDARDS FOR SMALL WIRELESS FACILITIES IN THE RIGHTS-OF-WAY IN THE CITY OF ______

Preamble

WHEREAS, the City of__________("City") desires to encourage wireless infrastructure investment by providing a fair and predictable process for the deployment of small wireless facilities, while enabling the City to promote the management of the rights-of-way in the overall interests of the public health, safety and welfare; and

WHEREAS, the City recognizes that small wireless facilities are needed to deliver wireless access and capacity to advanced technology, broadband and first responder services to homes, and businesses, as well as health care, public safety and educational services providers within the City; and

WHEREAS, the City recognizes that the wireless industry needs small wireless facilities, including facilities commonly referred to as small cells, deployed in the public rights-of-way; and

WHEREAS, the City further recognizes that the City must balance the benefits from small cell infrastructure with its aesthetic impact on the community in order to mitigate or avoid adverse visual impacts, encourage the deployment of infrastructure consistent with the surrounding built and natural environment, and preserve the City's historic and environmental resources to the extent feasible; and

WHEREAS, the City intends to adopt a new code consistent with local, state and federal laws, standards and requirements.

NOW, THEREFORE, BE IT ORDAINED by the______________that Title_________of the Municipal Code of the City of_______________shall be amended by adding the following Chapter________that will read as follows:

Section 1 – Purpose and Scope

[NOTE: THIS SECTION SHOULD BE CONSISTENT WITH EXISTING ROW ORDINANCES.]

(A) Purpose. The purpose of this Chapter is to establish reasonable and nondiscriminatory policies and procedures for the placement of small wireless facilities in rights-of-way within the City's jurisdiction, which will provide public benefit consistent with the preservation of the integrity, safe usage, and reasonable aesthetic qualities of the City rights-of-way and the City as a whole.

(B) Intent. In enacting this Chapter, the City is establishing uniform standards consistent

with federal law to address the placement of small wireless facilities and associated poles in the rights-of-way, including without limitation, to manage the public rights-of-way in order to:

(1) prevent interference with the use of streets, sidewalks, alleys, parkways and other public ways and places;

(2) prevent the creation of obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;

(3) prevent interference with the facilities and operations of facilities lawfully located in rights-of-way or public property;

(4) protect against environmental damage, including damage to trees;

(5) preserve the character of the community, historic districts or areas with decorative poles; and

(6) facilitate technology advancements, such as deployment of small wireless facilities, to provide the benefits of wireless services.

[NOTE: IT IS SUGGESTED THAT CITIES REVIEW OTHER CHAPTERS OF CITY CODE TO MAKE SURE THERE IS NO CONFLICT AND CONSIDER WHETHER IT IS APPROPRIATE TO AMEND.]

Section 2 - Definitions

(A) "Antenna" means the same as defined in 47 C.F.R. § 1.6002(b), as may be amended or superseded. The term includes an apparatus designed for the purpose of emitting radio frequencies (RF) to be operated or operating from a fixed location pursuant to Federal Communications Commission authorization, for the provision of personal wireless service and any commingled information services. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, or device authorized under 47 C.F.R. Part 15.

(B) "Antenna Equipment" means the same as defined 47 C.F.R. § 1.6002(c), as may be amended or superseded, which defines the term to mean equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with an antenna, located at the same fixed location as the antenna, and, when collocated on a structure, is mounted or installed at the same time as such antenna.

(C) "Antenna Facility" means the same as defined in 47 C.F.R. § 1.6002(d), as may be amended or superseded, which defines the term to mean an antenna and associated antenna equipment.

(D) "Applicable codes" means uniform building, fire, safety, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or state or local amendments to those codes that are of general application and consistent with state and federal law.

(E) "Applicant" means any person who submits an application as or on behalf of a wireless provider.

(F) "Application" means requests submitted by an applicant (i) for permission to collocate small wireless facilities; or (ii) to approve the installation, modification or replacement of a structure on which to collocate a small wireless facility in the rights-of-way, where required.

(G) "City Structure" means a structure located in the rights-of-way within the City's jurisdictional boundaries that is owned, managed or operated by the City or any subdivision or instrumentality thereof, including municipal electric utilities. [Including, but not limited to streetlights, traffic signals, utility poles, building] [Consider excluding certain structures in a new section or in section 8]. [NOTE: THIS DEFINITION RECOGNIZES THAT NOT ALL STRUCTURES OWNED, MANAGED OR OPERATED BY A CITY OR CITY SUBDIVISION OR INSTRUMENTALITY THEREOF ARE LOCATED WITHIN THE SAME CITY'S JURISDICTIONAL BOUNDARIES. FOR EXAMPLE, MONMOUTH POWER & LIGHT SERVES THE CITY OF MONMOUTH AND PORTIONS OF THE CITY OF INDEPENDENCE. TO THE EXTENT THE CITY OF MONMOUTH ADOPTED THIS MODEL CODE, IT COULD NOT ISSUE PERMITS FOR ATTACHMENTS TO STRUCTURES LOCATED WITHIN THE CITY OF INDEPENDENCE. CONVERSELY, THE CITY OF INDEPENDENCE COULD NOT MANDATE ACCESS TO STRUCTURES OWNED BY MONMOUTH POWER & LIGHT.]

(H) "Collocate" means the same as defined in 47 C.F.R. § 1.6002(g), as may be amended or superseded, which defines that term to mean (1) mounting or installing an antenna facility on a preexisting structure, and/or (2) modifying a structure for the purpose of mounting or installing an antenna facility on that structure. "Collocation" has a corresponding meaning.

(I) "Day" means calendar day. For purposes of the FCC shot clock, a terminal day that falls on a holiday or weekend shall be deemed to be the next immediate business day. [NOTE: DAY IS IN REFERENCE TO FCC SHOT CLOCKS]

(J) "Decorative pole" means a city structure that is specially designed and placed for aesthetic purposes.

(K) "Historic district" means a group of buildings, properties, or sites that are either: (1) listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register in accordance with Section VI.D.1a.i-v of the Nationwide Programmatic Agreement codified at 47 C.F.R. Part 1, Appendix C; or, (2) a locally designated historic district as of the effective date of this Chapter or in a locally

designated historic district existing when an application is submitted. [NOTE: THIS IS NOT MEANT TO RETROACTIVELY AFFECT SWFs ALREADY IN PLACE WHEN A NEW DISTRICT IS CREATED].

(L) "Permissions" means [list various permits, agreements and licenses needed for SWF deployment].

(M) "Person" means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including the City.

(N) "Pole" means a type of structure in the rights-of-way that is or may be used in whole or in part by or for wireline communications, electric distribution, lighting, traffic control, signage, or similar function, or for collocation of small wireless facilities; provided, such term does not include a tower, building or electric transmission structures.

(O) "Rights-of-Way" or "ROW" means [insert a consistent definition across other codes. Example: "Right-of-way," "rights-of-way," "public right-of-way," or "ROW" means and includes, but is not limited to, the space in, upon, above, along, across, over or under the public streets, roads, highways, lanes, courts, ways, alleys, boulevards, bridges, trails, paths, sidewalks, bicycle lanes, public utility easements and all other public ways or areas, including the subsurface under and air space over these areas, but does not include parks, parkland, or other City property not generally open to the public for travel.]

(P) "Routine Maintenance" means inspections, testing, repair, and modifications subject to Section 6409(a) that maintain functional capacity, aesthetic and structural integrity of a small wireless facility and/or the associated pole or structure.

(Q) "Small wireless facility" means a facility that meets each of the following conditions per 47 C.F.R § 1.6002(l), as may be amended or superseded:

(1) The facilities (i) are mounted on structures 50 feet or less in height including the antennas, 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; and,

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

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

(4) The facilities do not result in human exposure to radio frequency in excess of the applicable safety standards specified in 47 C.F.R. § 1.1307(b).

(R) "Structure" means the same as defined in 47 C.F.R. § 1.6002(m), as may be amended or superseded, which defines that term as a pole, tower, or base station, whether or not it has an existing antenna facility, that is used or to be used for the provision of personal wireless service (whether on its own or comingled with other types of service).

(S) "Wireless Infrastructure Provider" means any person, including a person authorized to provide communications service in the state, that builds or installs wireless communication transmission equipment, wireless facilities, but that is not a wireless services provider.

(T) "Wireless Provider" means a wireless infrastructure provider or a wireless services provider.

(U) "Wireless Services Provider" means a person who provides personal wireless services (whether or not it is comingled with other services).

Section 3 – Permitted Use; Application and Fees

(A) Permitted Use. The following uses within the rights-of-way shall be a permitted use, subject to compliance with the city's applicable design standards [insert cross-reference here], administrative review only and issuance of a permit as set forth in this Chapter:

(1) Collocation of a small wireless facility; and,

(2) Placement of a new, modified, or replacement pole to be used for collocation of a small wireless facility.

(B) Permissions Required. Except as otherwise provided in this Chapter, no person shall place any small wireless facility described in Section 3(A) in the rights-of-way, without first filing an application for the facility and obtaining [a permit, license, or agreement].

(C) Application Requirements. [THIS SECTION CAN BE LEFT IN OR HANDLED ADMINISTRATIVELY. NOTE: THE FCC PROVIDES THAT APPLICATION REQUIREMENTS MUST BE IN A PUBLICLY STATED FORMAT. TO THE EXTENT THAT CITIES PREFER TO ADOPT ADMINISTRATIVE APPLICATION REQUIREMENTS, THEY SHOULD BE WRITTEN AS CHECKLISTS, GUIDELINES, WORKSHEETS, AND/OR OTHER HANDOUTS, AND BE MADE PUBLICLY AVAILABLE. AT A MINIMUM, CITIES SHOULD REQUIRE THE FOLLOWING MATERIALS.]

An application filed pursuant to this Chapter shall be made by the wireless provider or its duly authorized representative and shall contain the following:

(1) The applicant's name, address, telephone number, and e-mail address;

(2) The names, addresses, telephone numbers, and e-mail addresses of all duly authorized representatives and consultants, if any, acting on behalf of the applicant with respect to the filing of the application.

(3) A general description of the proposed small wireless facility and associated pole, if applicable. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters likely to be affected or impacted by the physical work proposed;

(4) Site plans and engineering drawings to scale that identify the proposed small wireless facility.

(5) A statement or other demonstration that the small wireless facility shall comply with all applicable codes, regulations and standards, including applicable FCC regulations for human exposure to RF emissions.

(6) The application requirements shall not be more burdensome than those for any similarly situated small wireless facilities.

(D) Routine Maintenance and Replacement. An application shall not be required for: (1) routine maintenance; or (2) the replacement of a small wireless facility with another small wireless facility that is the same, substantially similar or smaller in size and weight and height. The City may require a permit for work within the right of way. Such a permit must be issued to the applicant on a non-discriminatory basis upon terms and conditions applied to any other person performing similar activities, regardless of technology, in the ROW. [NOTE: CONSIDER INCLUDING A LIST OF ACTIVITIES THAT REQUIRE A PERMIT EITHER IN CODE, ON THE APPLICATION, IN AGREEMENTS, ETC. For example, ***The City requires a permit for work within the ROW for activities that require excavation or closure of sidewalks or vehicular lanes***.]

(E) Information Updates. Any amendment to non-material information contained in an application shall be submitted in writing to the City within thirty (30) days of the change. [NOTE: MATERIAL CHANGES MAY NECESSITATE A NEW APPLICATION.]

(F) Application Fees. Application fees shall be set by [resolution].

[NOTE: THE FCC PRESCRIBED THE FOLLOWING SAFE HARBOR FEES BELOW IN THE SMALL CELL ORDER. CITIES MAY CHOOSE TO INCORPORATE THIS

LANGUAGE INTO THEIR CODE OR REFERENCE A FEE SCHEDULE SET BY RESOLUTION.

(1) *$500 for up to the first five small wireless facilities in the same application, with an additional $100 for each small wireless facility beyond five in the same application, or fees that are (1) a reasonable approximation of costs, (2) those costs themselves are reasonable, and (3) are nondiscriminatory.*

(2) *$1000 for the installation, modification or replacement of a pole together with the collocation of an associated small wireless facility in the rights-of-way that is a permitted use in accordance with this Chapter, or fees that are (1) a reasonable approximation of costs, (2) those costs themselves are reasonable, and (3) are nondiscriminatory.*]

Section 4 – Action on Administrative Permit Applications Subject to this Chapter

(A) The City must process all applications on a nondiscriminatory basis and may deny an application subject to this Chapter if the proposed small wireless facility or new, modified, or replaced pole:

(1) Materially and demonstrably interferes with the safe operation of traffic control equipment;

(2) Materially and demonstrably interferes with sight lines or clear zones for transportation or pedestrians;

(3) Materially fails to comply with the Americans with Disabilities Act or similar federal, state, or local laws, standards and regulations regarding pedestrian access or movement;

(4) Fails to comply with applicable codes, standards and regulations, including the City's design standards; or

(5) Fails to comply with the provisions in this Chapter.

(B) The City must act on an application within the applicable shot clock and provide written notice to the applicant if the application is denied. The written notice shall state the reasons for denial, with reference to specific code provisions, ordinance, application instruction or otherwise publicly-stated procedures on which the denial was based, and be sent to the applicant within five (5) days after the City denies the application or before the applicable shot clock expires, whichever occurs first.

(C) Batch Applications. [NOTE: FCC SMALL CELL ORDER ALLOWS APPLICANTS TO SUBMIT SWF APPLICATIONS IN BATCHES, WITHOUT NUMERICAL LIMITS.

CITIES MAY CONSIDER TO BATCH APPLICATIONS. SOME MAY CHOOSE TO BATCH BY COMMON DESIGN ELEMENTS AND/OR VICINITY, AS WELL AS OTHER MEASURES TO PROMOTE EFFICIENCY.

A BATCH APPLICATION THAT INCLUDES DEPLOYMENT(S) THAT FALL WITHIN COLLOCATIONS ON EXISTING STRUCTURES *AND* DEPLOYMENT(S) ON NEW STRUCTURES SHALL BE SUBJECT TO A 90-DAY TIMEFRAME FOR APPROVAL AS OPPOSED TO A 60-DAY TIMEFRAME.]

Section 5 – Small Wireless Facilities in the ROW; Maximum Height; Other Requirements

(A) Maximum Size of Permitted Use. Any wireless provider that seeks to install, modify, or replace facilities on a pole in the rights-of-way that exceeds the height limits contained in Section 2(R)(1), shall be subject to applicable requirements [or insert cross references to macro facilities code].

[CITIES MAY CONSIDER ADDING A SUBSECTIONS (B) – (D) HERE OR A SECTION IN THE DESIGN STANDARDS THAT HANDLES THE METHODS FOR DECORATIVE POLES, UNDERGROUND AND HISTORIC DISTRICTS. SECTION 5 IS ALSO AN APPROPRIATE PLACE TO INSERT DESIGN STANDARDS IF CITIES CHOOSE TO CODIFY SUCH STANDARDS.]

(B) Decorative Poles. Subject to this code and applicable design standards, a wireless provider is permitted to collocate on or replace a decorative pole when necessary to collocate a small wireless facility; provided that any such replacement pole shall, to the extent feasible, replicate the design of the pole being replaced.

(C) Underground District. [ACCORDING TO THE FCC ORDER, UNDERGROUNDING REQUIREMENTS ARE SUBJECT TO THE SAME CRITERIA AS OTHER AESTHETIC STANDARDS.

SOME COMPONENTS OF SMALL WIRELESS FACILITIES WILL OFTEN NOT WORK UNDERGROUND. THEREFORE, CITY UNDERGROUNDING REQUIREMENTS OR UNDERGROUND DISTRICTS MAY CREATE AN EFFECTIVE PROHIBITION. CITIES ARE ENCOURAGED TO REVIEW CURRENT UNDERGROUNDING REQUIREMENTS AND WORK WITH THEIR ATTORNEYS/ROW SPECIALISTS TO MAKE SURE THOSE REQUIREMENTS ARE NOT IN CONFLICT WITH THE FCC ORDER.]

(D) Historic District. Small wireless facilities or poles to support collocation of small wireless facilities located in Historic Districts shall be designed to have a similar appearance, including coloring and design elements, if technically feasible, of other poles in the rights-of-way within 500 feet of the proposed installation. Any such design or

concealment measures may not be considered part of the small wireless facility for purpose of the size restrictions in the definition of small wireless facility.

[NOTE:(B) – (D) OF THIS SECTION CODIFY THE FCC SMALL CELL ORDER'S REQUIREMENT THAT AESTHETIC STANDARDS MUST BE: (1) REASONABLE, MEANING THEY ARE TECHNICALLY FEASIBLE AND REASONABLY DIRECTED TO AVOIDING OR REMEDYING THE INTANGIBLE PUBLIC HARM OF UNSIGHTLY OR OUT-OF-CHARACTER DEPLOYMENTS; (2) NO MORE BURDENSOME THAN THOSE APPLIED TO OTHER TYPES OF INFRASTRUCTURE DEPLOYMENT; (3) OBJECTIVE; AND, (4) PUBLISHED IN ADVANCE. THE REQUIREMENTS MAY NOT PROHIBIT OR HAVE THE EFFECT OF PROHIBITING WIRELESS SERVICE.]

Section 6 – Effect of Construction/Work Permit

[NOTE: CITIES SHOULD CROSS-REFERENCE BACK TO PERMITTING CODE SO LANGUAGE WITHIN THIS SECTION IS CONSISTENT.]

(A) Authority Granted. No Property Right or Other Interest Created. A permit from the City authorizes an applicant to undertake only certain activities in accordance with this Chapter and does not create a property right or grant authority to the applicant to impinge upon the rights of others who may already have an interest in the rights-of-way. [NOTE: IF YOUR CITY HAS A ROW LICENSE, CLARIFY THAT THIS DOES NOT GRANT A ROW LICENSE OR RIGHT TO PROVIDE SERVICES.]

(B) Permit Duration.

(1) A permit for construction granted pursuant to this Section shall be valid for a period of______days after issuance unless the City agrees to extend this period for good cause, including but not limited to delay caused by the lack of commercial power or communications facilities, or by other events outside of the reasonable control of the wireless provider. [NOTE: IF YOUR CITY HAS A BUILDOUT PERIOD ALREADY ESTABLISHED FOR ROW CONSTRUCTION, THIS SUBSECTION SHOULD ALLOW A CONSISTENT PERIOD OF TIME.THE USE OF "DAYS" IN THIS SUBSECTION IS NOT INTENDED TO BE LIMITING; 180 TO 365 DAYS MAY BE APPROPRIATE IN THIS SUBSECTION. THE BUILDOUT PERIOD MUST REASONABLY ALLOW TIME FOR CONSTRUCTION.]

(2) The installed facility is subject to applicable relocation requirements, termination for material non-compliance after notice and a reasonable opportunity to cure, and an applicant's right to terminate a permit at any time.

Section 7 – Removal, Relocation or Modification of Small Wireless Facility in the ROW

[NOTE: IF YOUR CITY HAS REMOVAL, RELOCATION, ABANDONMENT, OR MODIFICATION SECTIONS IN OTHER ROW CODES, CONSIDER CROSS-REFERENCING TO THOSE SECTIONS HERE.]

(A) Notice. The City shall provide the applicant reasonable advance notice, but no less than ___days following written notice from the City, the wireless provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any small wireless facilities within the rights-of-way whenever the City has determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any City improvement in or upon, or the operations of the City in or upon, the rights-of-way.

(B) Emergency Removal or Relocation of Facilities. The City retains the right and privilege to cut or move any small wireless facility located within the rights-of-way of the City in the event of an emergency, as the City may determine to be necessary, appropriate or useful in response to any imminent danger to public health, safety, or property. If circumstances permit, the City shall notify the wireless provider and provide the wireless provider an opportunity to move its own facilities prior to cutting or removing a facility and shall notify the wireless provider promptly after cutting or removing a small wireless facility.

(C) Abandonment of Facilities. [NOTE: MAKE CONSISTENT WITH THE CITY'S HANDLINGS OF ABANDONMENT IN OTHER CODES.]

(D) Damage and Repair. The City may require a wireless provider to repair all damage to the rights-of-way directly caused by the activities of the wireless provider and return the rights-of-way to its functional equivalence before the damage pursuant to the competitively neutral, reasonable requirements and specifications. If the wireless provider fails to make the repairs within_____days after written notice, the City may affect those repairs and charge the applicable party the actual, documented cost of such repairs.

Section 8 – Collocation on City Structures in the ROW

[NOTE: NOT ALL CITIES MAY CHOOSE TO ALLOW SMALL WIRELESS FACILITIES TO BE COLLOCATED ON CITY STRUCTURES.]

(A) Collocation on City Structures. Small wireless facilities may be collocated on city structures in the rights-of-way pursuant to this Chapter. No person will be permitted an exclusive arrangement or an arrangement which excludes otherwise qualified applicants to attach to city structures in the rights-of-way. A person who purchases or otherwise acquires a City structure is subject to the requirements of this section.

[NOTE: COLLOCATION ON CITY STRUCTURES OFTEN IMPLICATES MAKE-READY WORK TO PREPARE THE STRUCTURE FOR THE NEW ATTACHMENT. MAKE-READY PROVISIONS ARE TRADITIONALLY NEGOTIATED IN POLE ATTACHMENT AGREEMENTS BETWEEN THE PARTIES. TO THE EXTENT THAT THE CITY HAS CONTROL OVER SUCH NEGOTIATIONS OR SEEKS GENERAL GUIDANCE ON APPROPRIATE RATES, FEES, TERMS AND CONDITIONS, THE FOLLOWING SAMPLE LANGUAGE PROVIDES A USEFUL STARTING POINT:

Make-Ready. The rates, fees, terms and conditions for the make-ready work to collocate a small wireless facility on a pole owned or controlled by the City must be nondiscriminatory, competitively neutral, reasonable, comply with this Chapter and be subject to the following:

(1) The City or any person owning, managing, or controlling the poles owned by the City will provide a good faith estimate for any make-ready work reasonably necessary to make a specific city pole suitable for attachment of the requested small wireless facility, including pole replacement if necessary, within 60 days after receipt of a completed request. Make-ready work including any pole replacement shall be completed within 60 days of written acceptance of the good faith estimate by the applicant.

(2) The City or any person owning, managing, or controlling the poles owned by the city shall not require more make-ready work than required to meet applicable codes or may be reasonably necessary to avoid interference with other attachments on the pole . Fees for make-ready work shall not include costs related to pre-existing or prior damage and non-compliance. Fees for make-ready work including any pole replacement shall not exceed actual and direct costs, or the amount charged to others for similar work and shall not include any revenue or contingency based consultant fees or expenses of any kind.]

Section 9 – Rates for ROW and Collocation on City Structures in the ROW

[NOTE: THE FCC PRESCRIBED THE FOLLOWING SAFE HARBOR FEES BELOW IN (A). CITIES MAY CHOOSE TO INCORPORATE THIS LANGUAGE INTO THEIR CODE, LICENSE, FRANCHISE, OR RIGHT-OF-WAY USE AGREEMENT OR MAKE REFERENCE HERE TO A FEE SCHEDULE SET BY RESOLUTION]

(A) The recurring rate for use of the ROW and attachment of small wireless facilities to a city structure in the ROW shall be subject to the following requirements:

(1) Annual Rate. A wireless provider authorized to place small wireless facilities and any related pole in the rights-of-way will pay to the City compensation for use of the rights-of-way and collocation on city structures in the ROW a rate that is

based on (1) a reasonable approximation of costs, (2) those costs themselves are reasonable, and (3) are non-discriminatory. This rate, together with the one-time application fees, shall be the total compensation that the wireless provider is required to pay the city for the deployment of each small wireless facility in the ROW and any associated pole. The FCC's safe harbor rate is an aggregate annual rate not to exceed $270 per small wireless facility. [NOTE: THE FCC DOES NOT PROVIDE DIRECTION REGARDING THE POTENTIAL ALLOCATION OF FEES CHARGED FOR THE USE OF THE ROW AND ATTACHMENT TO A CITY STRUCTURE, BUT THE TOTAL FEE CHARGED FOR EACH SMALL WIRELESS FACILITY MUST MEET THE CRITERIA IN THE 2018 FCC ORDER. IN OTHER WORDS, THE CITY MAY NOT CHARGE TWICE FOR THE REIMBURSEMENT OF THE SAME COSTS.]

(2) Payment Obligation Upon or After Facility Removal. A wireless provider may remove one or more of its small wireless facilities at any time from the rights-of-way and city structures in the ROW with the required permits. The wireless provider will cease owing the City compensation, as of the date of removal, for such removed facilities.

Section 10 – Effective Date

This Ordinance shall take effect_____days after its passage, approval and publication.

Acknowledgements

Alan Bar, Verizon

Alan Galloway, Davis Wright Tremaine

Andrew Bartlett, City of Hillsboro

Cindy Manheim, AT&T

Colleen DeShazer, Verizon

Dave Waffle, City of Beaverton

George Granger, AT&T

Jennifer Backhaus, City of Milwaukie

Jennifer Li, City of Portland

Ken Lyons, Wireless Policy Group (AT&T)

Kim Allen, Wireless Policy Group (Verizon)

Madison Thesing, City of Lake Oswego

Meridee Pabst, Wireless Policy Group (AT&T)

Michael Johnston, Telecom Law Firm

Pam Vaughan, City of Corvallis

Reba Crocker, ROW Consultants LLC (formerly with the cities of Milwaukie and Gladstone)

Rich Roche, Formerly with AT&T

Robert "Tripp" May III, Telecom Law Firm

Ryan Zink, City of Salem

Sambo Kirkman, City of Beaverton

Scott McClure, Formerly with the City of Monmouth

Steve Coon, Verizon

Tegan Enloe, City of Tigard

Tim Halinski, T-Mobile

Appendix A – Shot Clock Information

Shot clock provisions that apply to small wireless facilities are codified in 47 C.F.R. Section 1.6003, which is provided below.

§1.6003 Reasonable periods of time to act on siting applications.

(a) *Timely action required.* A siting authority that fails to act on a siting application on or before the shot clock date for the application, as defined in paragraph (e) of this section, is presumed not to have acted within a reasonable period of time.

(b) *Shot clock period.* The shot clock period for a siting application is the sum of—

(1) The number of days of the presumptively reasonable period of time for the pertinent type of application, pursuant to paragraph (c) of this section; plus

(2) The number of days of the tolling period, if any, pursuant to paragraph (d) of this section.

(c) *Presumptively reasonable periods of time*—(1) *Review periods for individual applications.* The following are the presumptively reasonable periods of time for action on applications seeking authorization for deployments in the categories set forth in paragraphs (c)(1)(i) through (iv) of this section:

(i) Review of an application to collocate a Small Wireless Facility using an existing structure: 60 days.

(ii) Review of an application to collocate a facility other than a Small Wireless Facility using an existing structure: 90 days.

(iii) Review of an application to deploy a Small Wireless Facility using a new structure: 90 days.

(iv) Review of an application to deploy a facility other than a Small Wireless Facility using a new structure: 150 days.

(2) *Batching.* (i) If a single application seeks authorization for multiple deployments, all of which fall within a category set forth in either paragraph (c)(1)(i) or (iii) of this section, then the presumptively reasonable period of time for the application as a whole is equal to that for a single deployment within that category.

(ii) If a single application seeks authorization for multiple deployments, the components of which are a mix of deployments that fall within paragraph (c)(1)(i) of this section and deployments that fall within paragraph (c)(1)(iii) of this section, then the presumptively reasonable period of time for the application as a whole is 90 days.

(iii) Siting authorities may not refuse to accept applications under paragraphs (c)(2)(i) and (ii) of this section.

(d) *Tolling period.* Unless a written agreement between the applicant and the siting authority provides otherwise, the tolling period for an application (if any) is as set forth in paragraphs (d)(1) through (3) of this section.

(1) For an initial application to deploy Small Wireless Facilities, if the siting authority notifies the applicant on or before the 10th day after submission that the application is materially incomplete, and clearly and specifically identifies the missing documents or information and the specific rule or regulation creatingthe

obligation to submit such documents or information, the shot clock date calculation shall restart at zero on the date on which the applicant submits all the documents and information identified by the siting authority to render the application complete.

(2) For all other initial applications, the tolling period shall be the number of days from—

(i) The day after the date when the siting authority notifies the applicant in writing that the application is materially incomplete and clearly and specifically identifies the missing documents or information that the applicant must submit to render the application complete and the specific rule or regulation creating this obligation; until

(ii) The date when the applicant submits all the documents and information identified by the siting authority to render the application complete;

(iii) But only if the notice pursuant to paragraph (d)(2)(i) of this section is effectuated on or before the 30th day after the date when the application was submitted; or

(3) For resubmitted applications following a notice of deficiency, the tolling period shall be the number of days from—

(i) The day after the date when the siting authority notifies the applicant in writing that the applicant's supplemental submission was not sufficient to render the application complete and clearly and specifically identifies the missing documents or information that need to be submitted based on the siting authority's original request under paragraph (d)(1) or (2) of this section; until

(ii) The date when the applicant submits all the documents and information identified by the siting authority to render the application complete;

(iii) But only if the notice pursuant to paragraph (d)(3)(i) of this section is effectuated on or before the 10th day after the date when the applicant makes a supplemental submission in response to the siting authority's request under paragraph (d)(1) or (2) of this section.

(e) *Shot clock date.* The shot clock date for a siting application is determined by counting forward, beginning on the day after the date when the application was submitted, by the number of calendar days of the shot clock period identified pursuant to paragraph (b) of this section and including any pre-application period asserted by the siting authority; *provided,* that if the date calculated in this manner is a "holiday" as defined in §1.4(e)(1) or a legal holiday within the relevant State or local jurisdiction, the shot clock date is the next business day after such date. The term "business day" means any day as defined in §1.4(e)(2) and any day that is not a legal holiday as defined by the State or local jurisdiction.

Appendix B – Code of Federal Regulations (C.F.R) Cited Throughout Document

47 C.F.R. Section 1.1307

§1.1307 Actions that may have a significant environmental effect, for which Environmental Assessments (EAs) must be prepared.

Link to an amendment published at 85 FR 18142, Apr. 1, 2020.

Link to a correction of the above amendment published at 85 FR 33578, June 2, 2020.

(a) Commission actions with respect to the following types of facilities may significantly affect the environment and thus require the preparation of EAs by the applicant (see §§1.1308 and 1.1311) and may require further Commission environmental processing (*see* §§1.1314, 1.1315 and 1.1317):

(1) Facilities that are to be located in an officially designated wilderness area.

(2) Facilities that are to be located in an officially designated wildlife preserve.

(3) Facilities that: (i) May affect listed threatened or endangered species or designated critical habitats;or (ii) are likely to jeopardize the continued existence of any proposed endangered or threatened species or likely to result in the destruction or adverse modification of proposed critical habitats, as determined by the Secretary of the Interior pursuant to the Endangered Species Act of1973.

NOTE: The list of endangered and threatened species is contained in 50 CFR 17.11, 17.22, 222.23(a) and 227.4. The list of designated critical habitats is contained in 50 CFR 17.95, 17.96 and part 226. To ascertain the status of proposed species and habitats, inquiries may be directed to the Regional Director of the Fish and Wildlife Service, Department of the Interior.

(4) Facilities that may affect districts, sites, buildings, structures or objects, significant in American history, architecture, archeology, engineering or culture, that are listed, or are eligible for listing, in the National Register of Historic Places (*see* 54 U.S.C. 300308; 36 CFR parts 60 and 800), and that are subject to review pursuant to section 1.1320 and have been determined through that review process to have adverse effects on identified historic properties.

(5) Facilities that may affect Indian religious sites.

(6) Facilities to be located in floodplains, if the facilities will not be placed at least one foot above the base flood elevation of the floodplain.

(7) Facilities whose construction will involve significant change in surface features (e.g., wetland fill, deforestation or water diversion). (In the case of wetlands on Federal property, *see* Executive Order 11990.)

(8) Antenna towers and/or supporting structures that are to be equipped with high intensity white lights which are to be located in residential neighborhoods, as defined by the applicable zoning law.

(b) In addition to the actions listed in paragraph (a) of this section, Commission actions granting construction permits, licenses to transmit or renewals thereof, equipment authorizations or modifications in existing facilities, require the preparation of an Environmental Assessment (EA) if the particular facility, operation or transmitter would cause human exposure to levels of radiofrequency radiation in excess of the limits in §§1.1310 and 2.1093 of this chapter. Applications to the Commission for construction permits, licenses to transmit or renewals thereof, equipment authorizations or modifications in existing facilitiesmust

contain a statement confirming compliance with the limits unless the facility, operation, or transmitter is categorically excluded, as discussed below. Technical information showing the basis for this statement must be submitted to the Commission upon request. Such compliance statements may be omitted from license applications for transceivers subject to the certification requirement in §25.129 of this chapter.

(1) The appropriate exposure limits in §§1.1310 and 2.1093 of this chapter are generally applicable to all facilities, operations and transmitters regulated by the Commission. However, a determination of compliance with the exposure limits in §1.1310 or §2.1093 of this chapter (routine environmental evaluation), and preparation of an EA if the limits are exceeded, is necessary only for facilities, operations and transmitters that fall into the categories listed in table 1, or those specified in paragraph (b)(2) of this section. All other facilities, operations and transmitters are categorically excluded from making such studies or preparing an EA, except as indicated in paragraphs (c) and (d) of this section. For purposes of table 1, *building-mounted antennas* means antennas mounted in or on a building structure that is occupied as a workplace or residence. The term *power* in column 2 of table 1 refers to total operating power of the transmitting operation in question in terms of effective radiated power (ERP), equivalent isotropically radiated power (EIRP), or peak envelope power (PEP), as defined in §2.1 of this chapter. For the case of the Cellular Radiotelephone Service, subpart H of part 22 of this chapter; the Personal Communications Service, part 24 of this chapter and the Specialized Mobile Radio Service, part 90 of this chapter, the phrase *total power of all channels* in column 2 of table 1 means the sum of the ERP or EIRP of all co-located simultaneously operating transmitters owned and operated by a single licensee. When applying the criteria of table 1, radiation in all directions should be considered. For the case of transmitting facilities using sectorized transmitting antennas, applicants and licensees should apply the criteria to all transmitting channels in a given sector, noting that for a highly directional antenna there is relatively little contribution to ERP or EIRP summation for other directions.

TABLE 1—TRANSMITTERS, FACILITIES AND OPERATIONS SUBJECT TO ROUTINE ENVIRONMENTAL EVALUATION

Service (title 47 CFR rule part)	Evaluation required if:
Experimental Radio Services (part 5)	Power >100 W ERP (164 W EIRP).
Commercial Mobile Radio Services (part 20)	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and power >1000 W ERP (1640 W EIRP). Building-mounted antennas: power >1000 W ERP (1640 W EIRP).
	Consumer Signal Booster equipment grantees under the Commercial Mobile Radio Services provisions in part 20 are required to attach a label to Fixed Consumer Booster antennas that:
	(1) Provides adequate notice regarding potential radiofrequency safety hazards, e.g., information regarding the safe minimum separation distance required between users and transmitting antennas; and
	(2) references the applicable FCC-adopted limits for radiofrequency exposure specified in §1.1310.
Paging and Radiotelephone Service (subpart E of part 22)	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and power >1000 W ERP (1640 W EIRP).
	Building-mounted antennas: power >1000 W ERP (1640 W EIRP).
Cellular Radiotelephone Service (subpart H of part 22)	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and total power of all channels >1000 W ERP (1640 W EIRP).

	Building-mounted antennas: total power of all channels >1000 W ERP (1640 W EIRP).
Personal Communications Services (part 24)	(1) Narrowband PCS (subpart D):
	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and total power of all channels >1000 W ERP (1640 W EIRP).
	Building-mounted antennas: total power of all channels >1000 W ERP (1640 W EIRP).
	(2) Broadband PCS (subpart E):
	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and total power of all channels >2000 W ERP (3280 W EIRP).
	Building-mounted antennas: total power of all channels >2000 W ERP (3280 W EIRP).
Satellite Communications Services (part 25)	All included.
	In addition, for NGSO subscriber equipment, licensees are required to attach a label to subscriber transceiver antennas that:
	(1) provides adequate notice regarding potential radiofrequency safety hazards, e.g., information regarding the safe minimum separation distance required between users and transceiver antennas; and
	(2) references the applicable FCC-adopted limits for radiofrequency exposure specified in §1.1310 of this chapter.
Miscellaneous Wireless Communications Services (part 27 except subpart M)	(1) For the 1390-1392 MHz, 1392-1395 MHz, 1432-1435 MHz, 1670-1675 MHz, and 2385-2390 MHz bands:
	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and total power of all channels >2000 W ERP (3280 W EIRP).
	Building-mounted antennas: total power of all channels >2000 W ERP (3280 W EIRP).
	(2) For the 698-746 MHz, 746-764 MHz, 776-794 MHz, 2305-2320 MHz, and 2345-2360 MHz bands:
	Total power of all channels >1000 W ERP (1640 W EIRP).
Broadband Radio Service and Educational Broadband Service (subpart M of part 27)	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and power >1640 W EIRP.
	Building-mounted antennas: power >1640 W EIRP.
	BRS and EBS licensees are required to attach a label to subscriber transceiver or transverter antennas that:

	(1) provides adequate notice regarding potential radiofrequency safety hazards, e.g., information regarding the safe minimum separation distance required between users and transceiver antennas; and
	(2) references the applicable FCC-adopted limits for radiofrequency exposure specified in §1.1310.
Upper Microwave Flexible Use Service (part 30)	Non-building-mounted antennas: Height above ground level to lowest point of antenna <10 m and power >1640 W EIRP.
	Antennas are mounted on buildings.
Radio Broadcast Services (part 73)	All included.
Auxiliary and Special Broadcast and Other Program Distributional Services (part 74)	Subparts G and L: Power >100 W ERP.
Stations in the Maritime Services (part 80)	Ship earth stations only.
Private Land Mobile Radio Services Paging Operations (subpart P of part 90)	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and power >1000 W ERP (1640 W EIRP).
	Building-mounted antennas: power >1000 W ERP (1640 W EIRP).
Private Land Mobile Radio Services Specialized Mobile Radio (subpart S of part 90)	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and total power of all channels >1000 W ERP (1640 W EIRP).
	Building-mounted antennas: Total power of all channels >1000 W ERP (1640 W EIRP).
76-81 GHz Radar Service (part 95)	All included.
Amateur Radio Service (part 97)	Transmitter output power >levels specified in §97.13(c)(1) of this chapter.
Local Multipoint Distribution Service (subpart L of part 101) and 24 GHz (subpart G of part 101)	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and power >1640 W EIRP.
	Building-mounted antennas: power >1640 W EIRP.
	LMDS and 24 GHz Service licensees are required to attach a label to subscriber transceiver antennas that:
	(1) provides adequate notice regarding potential radiofrequency safety hazards, e.g., information regarding the safe minimum separation distance required between users and transceiver antennas; and
	(2) references the applicable FCC-adopted limits for radiofrequency exposure specified in §1.1310.
70/80/90 GHz Bands (subpart Q of part 101)	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and power >1640 W EIRP.

	Building-mounted antennas: power >1640 W EIRP.
	Licensees are required to attach a label to transceiver antennas that:
	(1) provides adequate notice regarding potential radiofrequency safety hazards, e.g., information regarding the safe minimum separation distance required between users and transceiver antennas; and
	(2) references the applicable FCC-adopted limits for radiofrequency exposure specified in §1.1310.

(2)(i) Mobile and portable transmitting devices that operate in the Commercial Mobile Radio Services pursuant to part 20 of this chapter; the Cellular Radiotelephone Service pursuant to part 22 of this chapter; the Personal Communications Services (PCS) pursuant to part 24 of this chapter; the Satellite Communications Services pursuant to part 25 of this chapter; the Miscellaneous Wireless Communications Services pursuant to part 27 of this chapter; the Upper Microwave Flexible User Service pursuant to part 30 of this chapter; the Maritime Services (ship earth stations only) pursuant to part 80 of this chapter; the Specialized Mobile Radio Service, the 4.9 GHz Band Service, and the 3650 MHz Wireless Broadband Service pursuant to part 90 of this chapter; the Wireless Medical Telemetry Service (WMTS), the Medical Device Radiocommunication Service (MedRadio), and the 76-81 GHz Band Radar Service pursuant to part 95 of this chapter; and the Citizens Broadband Radio Service pursuant to part 96 of this chapter are subject to routine environmental evaluation for RF exposure prior to equipment authorization or use, as specified in §§2.1091 and 2.1093 of this chapter.

(ii) Unlicensed PCS, unlicensed NII, and millimeter-wave devices are also subject to routine environmental evaluation for RF exposure prior to equipment authorization or use, as specified in §§15.255(g), 15.257(g), 15.319(i), and 15.407(f) of this chapter.

(iii) Portable transmitting equipment for use in the Wireless Medical Telemetry Service (WMTS) is subject to routine environmental evaluation as specified in §§2.1093 and 95.2385 of this chapter.

(iv) Equipment authorized for use in the Medical Device Radiocommunication Service (MedRadio) as a medical implant device or body-worn transmitter (as defined in subpart I of part 95 of this chapter) is subject to routine environmental evaluation for RF exposure prior to equipment authorization, as specified in §§2.1093 and 95.2585 of this chapter by finite difference time domain (FDTD) computational modeling or laboratory measurement techniques. Where a showing is based on computational modeling, the Commission retains the discretion to request that supporting documentation and/or specific absorption rate (SAR) measurement data be submitted.

(v) All other mobile, portable, and unlicensed transmitting devices are categorically excluded from routine environmental evaluation for RF exposure under §§2.1091, 2.1093 of this chapter except as specified in paragraphs (c) and (d) of this section.

(3) In general, when the guidelines specified in §1.1310 are exceeded in an accessible area due to the emissions from multiple fixed transmitters, actions necessary to bring the area into compliance are the shared responsibility of all licensees whose transmitters produce, at the area in question, power density levels that exceed 5% of the power density exposure limit applicable to their particular transmitter or field strength levels that, when squared, exceed 5% of the square of the electric or magnetic field strength limit applicable to their particular transmitter. Owners of transmitter sites are expected to allow applicants and licensees to take reasonable steps to comply with the requirements contained in §1.1307(b) and, where feasible, should encourage co-location of transmitters and common solutions for controlling access to areas where the RF exposure limits contained in §1.1310 might be exceeded.

(i) Applicants for proposed (not otherwise excluded) transmitters, facilities or modifications that would cause non-compliance with the limits specified in §1.1310 at an accessible area previously in compliance must submit an EA if emissions from the applicant's transmitter or facility would result, at the area in question, in a power density that exceeds 5% of the power density exposure limit applicable to that transmitter or facility or in a field strength that, when squared, exceeds 5% of the square of the electric or magnetic field strength limit applicable to that transmitter or facility.

(ii) Renewal applicants whose (not otherwise excluded) transmitters or facilities contribute to the field strength or power density at an accessible area not in compliance with the limits specified in §1.1310 must submit an EA if emissions from the applicant's transmitter or facility results, at the area in question, in a power density that exceeds 5% of the power density exposure limit applicable to that transmitter or facility or in a field strength that, when squared, exceeds 5% of the square of the electric or magnetic field strength limit applicable to that transmitter of facility.

(c) If an interested person alleges that a particular action, otherwise categorically excluded, will have a significant environmental effect, the person shall submit to the Bureau responsible for processing that action a written petition setting forth in detail the reasons justifying or circumstances necessitating environmental consideration in the decision-making process. (*See* §1.1313). The Bureau shall review the petition and consider the environmental concerns that have been raised. If the Bureau determines that the action may have a significant environmental impact, the Bureau will require the applicant to prepare an EA (*see* §§1.1308 and 1.1311), which will serve as the basis for the determination to proceed with or terminate environmental processing.

(d) If the Bureau responsible for processing a particular action, otherwise categorically excluded, determines that the proposal may have a significant environmental impact, the Bureau, on its own motion, shall require the applicant to submit an EA. The Bureau will review and consider the EA as in paragraph (c) of this section.

NOTE TO PARAGRAPH (d): Pending a final determination as to what, if any, permanent measures should be adopted specifically for the protection of migratory birds, the Bureau shall require an Environmental Assessment for an otherwise categorically excluded action involving a new or existing antenna structure, for which an antenna structure registration application (FCC Form 854) is required under part 17 of this chapter, if the proposed antenna structure will be over 450 feet in height above ground level (AGL) and involves either:

1. Construction of a new antenna structure;

2. Modification or replacement of an existing antenna structure involving a substantial increase in size as defined in paragraph I(C)(1)(3) of Appendix B to part 1 of this chapter; or

3. Addition of lighting or adoption of a less preferred lighting style as defined in §17.4(c)(1)(iii) of this chapter. The Bureau shall consider whether to require an EA for other antenna structures subject to §17.4(c) of this chapter in accordance with §17.4(c)(8) of this chapter. An Environmental Assessment required pursuant to this note will be subject to the same procedures that apply to any Environmental Assessment required for a proposed tower or modification of an existing tower for which an antenna structure registration application (FCC Form 854) is required, as set forth in §17.4(c) of this chapter.

(e) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the regulations contained in this chapter concerning the environmental effects of such emissions. For purposes of this paragraph:

(1) The term *personal wireless service* means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services;

(2) The term *personal wireless service facilities* means facilities for the provision of personal wireless services;

(3) The term *unlicensed wireless services* means the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services; and

(4) The term *direct-to-home satellite services* means the distribution or broadcasting of programming or services by satellite directly to the subscriber's premises without the use of ground receiving or distribution equipment, except at the subscriber's premises or in the uplink process to the satellite.

[51 FR 15000, Apr. 22, 1986]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §1.1307, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.govinfo.gov*.

EFFECTIVE DATE NOTE: At 85 FR 18142, Apr. 1, 2020, §1.1307 was amended by revising paragraph (b). At 85 FR 33578, June 2, 2020, this revision was delayed indefinitely.

47 C.F.R Section 1.6002

§1.6002 Definitions.

Terms not specifically defined in this section or elsewhere in this subpart have the meanings defined in this part and the Communications Act of 1934, 47 U.S.C. 151 *et seq*. Terms used in this subpart have the following meanings:

(a) *Action* or *to act* on a siting application means a siting authority's grant of a siting application or issuance of a written decision denying a siting application.

(b) *Antenna,* consistent with §1.1320(d), means an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Commission authorization, for the provision of personal wireless service and any commingled information services. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, or device authorized under part 15 of this chapter.

(c) *Antenna equipment,* consistent with §1.1320(d), means equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with an antenna, located at the same fixed location as the antenna, and, when collocated on a structure, is mounted or installed at the same time as such antenna.

(d) *Antenna facility* means an antenna and associated antenna equipment.

(e) *Applicant* means a person or entity that submits a siting application and the agents, employees, and contractors of such person or entity.

(f) *Authorization* means any approval that a siting authority must issue under applicable law prior to the deployment of personal wireless service facilities, including, but not limited to, zoning approval and building permit.

(g) *Collocation,* consistent with §1.1320(d) and the Nationwide Programmatic Agreement (NPA) for the Collocation of Wireless Antennas, appendix B of this part, section I.B, means—

(1) Mounting or installing an antenna facility on a pre-existing structure; and/or

(2) Modifying a structure for the purpose of mounting or installing an antenna facility on that structure.

(3) The definition of "collocation" in §1.6100(b)(2) applies to the term as used in that section.

(h) *Deployment* means placement, construction, or modification of a personal wireless service facility.

(i) *Facility* or *personal wireless service facility* means an antenna facility or a structure that is used for the provision of personal wireless service, whether such service is provided on a stand-alone basis or commingled with other wireless communications services.

(j) *Siting application* or *application* means a written submission to a siting authority requesting authorization for the deployment of a personal wireless service facility at a specified location.

(k) *Siting authority* means a State government, local government, or instrumentality of a State government or local government, including any official or organizational unit thereof, whose authorization is necessary prior to the deployment of personal wireless service facilities.

(l) *Small wireless facilities* are facilities that meet each of the following conditions:

(1) The facilities—

(i) Are mounted on structures 50 feet or less in height including their antennas as defined in §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 §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 facilities do not require antenna structure registration under part 17 of this chapter;

(5) The facilities are not located on Tribal lands, as defined under 36 CFR 800.16(x); and

(6) The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in §1.1307(b).

(m) *Structure* means a pole, tower, base station, or other building, whether or not it has an existing antenna facility, that is used or to be used for the provision of personal wireless service (whether on its own or comingled with other types of services).

[83 FR 51884, Oct. 15, 2018, as amended at 84 FR 59567, Nov. 5, 2019]

ATTACHMENT "B"

MODEL

Small Wireless Facilities Model Design Guidelines

JUNE 2020

This model was produced in coordination with:

DISCLAIMER

Any model document provided by the League of Oregon Cities (LOC) is intended to be used as a starting point in an individual city's development of its own documents. Each city is uniquc, and any adopted document or policy should be individually tailored to meet a city's unique needs. Furthermore, this model is not intended to be a substitute for legal advice. Cities should consult with their city attorney before adopting any small wireless facility policies to ensure that they comply with all aspects of federal, state, and local law.

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Foreword

Background

On January 31, 2017, Federal Communications Commission ("FCC") Chairman Ajit Pai established a Broadband Deployment Advisory Committee ("BDAC"), which he tasked with making recommendations to the FCC on ways to accelerate the deployment of broadband by reducing or removing regulatory barriers to infrastructure investment. On September 27, 2018, the FCC released a Declaratory Ruling and Third Report and Order (FCC 18-133, referred throughout the document as "Small Cell Order" or "FCC Order") that significantly limits local authority over small wireless infrastructure deployment and fees for use of the rights-of-way (ROW). The FCC Order took effect January 14, 2019. However, the requirements regarding aesthetics did not take effect until April 15, 2019. Under the FCC Order aesthetic or design standards must be: (1) reasonable; (2) no more burdensome than those applied to other types of infrastructure deployments; (3) objective; and (4) published in advance. The FCC Order also defines the size limitations for small wireless facilities (allowing antennas of up to 3 cubic feet each, with additional equipment not to exceed 28 cubic feet), and specifies that such facilities may notresult in human exposure to radiofrequency radiation in excess of applicable standards in the FCC's rules (federal law preempts local regulation of RF emissions). "Small wireless facilities" are sometimes also called "small cells."

LOC Model Small Wireless Facilities Design Standard

In coordination with many cities,[1] representatives from Verizon, AT&T, T-Mobile, and the LOC met from January 2019 to May 2020 to discuss and craft a model code and model design standards relating to small wireless facilities while there is pending litigation[2] on the FCC Order. The model code and model design standards are intended to be paired together.

There is no single design standard that will work for every jurisdiction. As such, the LOC's model design standard is intended as a roadmap to assist local governments in adopting their own design standard. While example language is included in some sections, the LOC does not intend to suggest these examples could work for every jurisdiction. In some instances, the local government may need to issue a deviation to the design standards when it would be technically infeasible for the applicant to comply. The deviation process is provided in Section I of these model standards and is intended to occur within the "shot clock"[3] – the time frame in which the state or local government should act on a request for authorization to place, construct, or modify personal wireless service facilities, as defined by the FCC. However, to the extent that the local government cannot reasonably act on the application within the shot clock, the parties are encouraged to seek a tolling agreement to allow the applicant to vet reasonable design alternatives and the local government to complete its review. Local governments cannot require a tolling agreement as a condition of a deviation.

[1] See "Acknowledgments" section for full list of participants.

[2] In October 2018, the LOC in coordination with other municipalities and municipal leagues filed suit against the FCC in the United States Court of Appeals for the Ninth Circuit.

[3] See Appendix A

The LOC also recognizes there are many ways to structure a design standard. The appropriate structure will vary by jurisdiction. For purposes of this model, the LOC opted to approach designs by type of pole and deployment. The model is intended to provide a general framework and thus is drafted as an outline of provisions jurisdictions may want to include in their final design standard. In many cases example language is provided to help illustrate the issues to be addressed. However, the intent is to allow each jurisdiction to draft the substantive provisions that best reflect local needs and interests. The LOC recommends that jurisdictions that own poles or other structures in the rights-of-way establish a clear design standard. The circumstances of each municipality may, and likely will, require modifications to the framework and/or example language of this model design standard.

Additional Considerations

The LOC model design standards only applies to small wireless facilities. Municipalities should review their existing ordinances, standards and policies to determine if this framework is appropriate. Municipalities may want to consider whether it would be preferable to adopt a utility-neutral standard covering all utilities and communications providers, which would provide one set of "rules" for the design of the public rights-of-way. Differences in policy choices and existing standards, among other things, may impact the decision in how to proceed. It is recommended that cities consult their attorney, ROW specialists, engineers, master plans, comprehensive plans, goals and/or wireless providers before final adoption of standards. Cities may choose to adopt design standards administratively or in code.

Understanding the Organization of the Model Design Standards

As stated above, the model is best described as an outline or roadmap to assist municipalities in drafting the appropriate standards for their community. The model includes example language to illustrate the intent of the section. The example language, or a variation thereof, may be appropriate for final adoption in some jurisdictions.

Finally, there may be additional notes or issues for consideration within the subsections of the model, which are [bracketed] and in ALL CAPS. Again, these notes are is intended as guidance for municipal drafters, not for adoption in a final ordinance.

Small Wireless Facility Design Standards

[GIVEN THAT THE TECHNICAL NEEDS FOR EACH OPERATOR MAY VARY, JURISDICTIONS ARE ENCOURAGED TO ADOPT DESIGN STANDARDS BY CITY COUNCIL RESOLUTION AND/OR ADMINISTRATIVELY BY THE CITY MANAGER OR OTHER OFFICIAL. THIS WAY, CITIES WOULD BE ABLE TO REACT QUICKLY AND AMEND THE STANDARDS IN RESPONSE TO CHANGES IN LAW AND TECHNOLOGY. CITIES SHOULD NOTE THAT THIS NIMBLER APPROACH IS POSSIBLE ONLY IF THE REGULATIONS FOR SMALL WIRELESS FACILITIES IN THE PUBLIC RIGHTS-OF-WAY ARE LOCATED OUTSIDE OF THE LAND DEVELOPMENT CODE.]

A. Definitions

"**Antenna**" means the same as defined in 47 C.F.R. § 1.6002(b), as may be amended or superseded. The term includes an apparatus designed for the purpose of emitting radio frequencies (RF) to be operated or operating from a fixed location pursuant to Federal Communications Commission authorization, for the provision of personal wireless service and any commingled information services. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, or device authorized under 47 C.F.R. Part 15.

"**Antenna Equipment**" means the same as defined 47 C.F.R. § 1.6002(c), as may be amended or superseded, which defines the term to mean equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with an antenna, located at the same fixed location as the antenna, and, when collocated on a structure, is mounted or installed at the same time as such antenna.

"**Antenna Facility**" means the same as defined in 47 C.F.R. § 1.6002(d), as may be amended or superseded, which defines the term to mean an antenna and associated antenna equipment.

"**Applicable codes**" means uniform building, fire, safety, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or state or local amendments to those codes that are of general application and consistent with state and federal law.

"**Applicant**" means any person who submits an application as or on behalf of a wireless provider.

"**Application**" means requests submitted by an applicant (i) for permission to collocate small wireless facilities; or (ii) to approve the installation, modification or replacement of a structure on which to collocate a small wireless facility in the rights-of-way, where required.

"**Collocate**" means the same as defined in 47 C.F.R. § 1.6002(g), as may be amended or superseded, which defines that term to mean (1) mounting or installing an antenna facility on a preexisting structure, and/or (2) modifying a structure for the purpose of mounting or installing an antenna facility on that structure. "Collocation" has a corresponding meaning.

"**Day**" means calendar day. For purposes of the FCC shot clock, a terminal day that falls on a holiday or weekend shall be deemed to be the next immediate business day.

"**Historic District**" means a group of buildings, properties, or sites that are either: (1) listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register in accordance with Section VI.D.1a.i-v of the Nationwide Programmatic Agreement codified at 47 C.F.R. Part 1, Appendix C; or, (2) a locally designated historic district as of the effective date of this [Chapter/Section] or in a locally designated historic district existing when an application is submitted. [NOTE: THIS IS NOT MEANT TO RETROACTIVELY AFFECT SWFs ALREADY IN PLACE WHEN A NEW DISTRICT IS CREATED].

"**Person**" means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including the City.

"**Pole**" means a type of structure in the rights-of-way that is or may be used in whole or in part by or for wireline communications, electric distribution, lighting, traffic control, signage, or similar function, or for collocation of small wireless facilities; provided, such term does not include a tower, building or electric transmission structures.

"**Rights-of-Way**" or "**ROW**" means [INSERT A CONSISTENT DEFINITION ACROSS OTHER CODES. Example: "Right-of-way," "rights-of-way," "public right-of-way," or "ROW" means and includes, but is not limited to, the space in, upon, above, along, across, over or under the public streets, roads, highways, lanes, courts, ways, alleys, boulevards, bridges, trails, paths, sidewalks, bicycle lanes, public utility easements and all other public ways or areas, including the subsurface under and air space over these areas, but does not include parks, parkland, or other City property not generally open to the public for travel.]

"**Small wireless facility**" means a facility that meets each of the following conditions per 47 C.F.R § 1.6002(*l*), as may be amended or superseded:

1. The proposed facilities meet one of the following height parameters:
    a. are mounted on structures 50 feet or less in height including their antennas as defined in 47 C.F.R. Section 1.1320(d), or
    b. are mounted on structures no more than 10 percent taller than other adjacent structures, or
    c. 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 or antenna enclosure shall not exceed three cubic feet in volume.

3. The total volume of installed equipment external to the pole (including, but not limited to cabinets, vaults, boxes) shall not exceed twenty-eight (28) cubic feet. This maximum applies to all equipment installed at the time of original application and includes any equipment to be installed at a future date. Antennas and antenna

enclosures are excluded. If equipment exceeds this maximum, the installation will be redefined as a Macro site installation and all the associated standards and rates for Macro installations will be applied.

4. The facilities do not result in human exposure to radio frequency radiation in excess of the applicable safety standards specified in the FCC's Rules and Regulations [47 C.F.R. section 1.1307(b)].

"**Structure**" means the same as provided in 47 C.F.R. § 1.6002(m), as may be superseded or amended, which defines the term as a pole, tower, base station, or structure, whether or not it has an existing antenna facility, that is used or to be used for the provision of personal wireless service (whether on its own or comingled with other types of service).

[IF THE CITY HAS SPECIFIC CODES OR ORDINANCES WITH DEFINITIONS RELATING TO SWF, CONSIDER INCLUDING DEFINITIONS OR A CROSS REFERENCE HERE.]

B. General Requirements.

1. [NOTE: SECTION (B)(1) IS OPTIONAL. CITIES SHOULD CONSIDER A PREFERENCE THAT IS IN LINE WITH GOALS AND CURRENT STANDARDS ON WHETHER THE CITY PREFERS GROUND-MOUNTED EQUIPMENT OR NOT.] Ground-mounted equipment in the right-of-way is discouraged, unless the applicant can demonstrate that pole-mounted equipment is not technically feasible, or the electric utility requires placement of equipment on the ground (such as an electric meter). If ground-mounted equipment is necessary, then the applicant shall conceal the equipment in a cabinet, in street furniture or with landscaping. [THE TERM "TECHNICALLY FEASIBLE" IS USED BY THE FCC TO DESCRIBE WHEN AESTHETIC STANDARDS MAY BE FOUND TO BE REASONABLE AND DO NOT MATERIALLY INHIBIT THE WIRELESS SERVICE PROVIDER'S ABILITY TO PROVIDE SERVICE.]

2. Replacement poles, new poles and all antenna equipment shall comply with the Americans with Disabilities Act ("ADA"), city construction and sidewalk clearance standards and city, state and federal laws and regulations in order to provide a clear and safe passage within, through and across the right-of-way. Further, the location of any replacement pole, new pole, and/or antenna equipment must comply with applicable traffic requirements, not interfere with utility or safety fixtures (e.g., fire hydrants, traffic control devices), and not adversely affect public health, safety or welfare. [NOTE: ADA REQUIREMENTS, WALKING SPACE, BOLT PATTERNS AND OTHER GENERALLY APPLICABLE CONSTRUCTION STANDARDS ALL NEED TO BE CONSIDERED. THESE CAN BE LIMITING DESIGN FACTORS.]

3. Replacement poles shall be located as near as feasible to the existing pole. The abandoned pole must be removed within_____days. [NOTE: KEEP CONSISTENT

WITH OTHER CODES OR REQUIREMENTS ABOUT TIMEFRAMES TO REMOVE EQUIPMENT.]

4. Any replacement pole shall substantially conform to the material and design of the existing pole or adjacent poles located within the contiguous right-of-way unless a different design is requested and approved pursuant to Section I.

5. No advertising, branding or other signage is allowed unless approved by the [City designee] as a concealment technique or as follows:

   a. Safety signage as required by applicable laws, regulations, and standards; and,

   b. Identifying information and 24-hour emergency telephone number (such as the telephone number for the operator's network operations center) on wireless equipment in an area that is visible.

   [NOTE: IDENTIFYING SIGNAGE IS USUALLY REQUIRED TO BE PLACED ON THE POLE AND READABLE FROM THE GROUND AS A MINIMUM. A CITY MAY ADD ADDITIONAL REQUIREMENTS FOR PLACEMENT. STANDARDS FOR SIGNAGE ARE ADVISORY AND MAY BE SUBJECT TO OVERSIGHT BY MULTIPLE FEDERAL AGENCIES. ALTHOUGH THE FCC'S REGULATIONS ULTIMATELY CONTROL, THE FCC'S REGULATIONS ARE GENERAL AND CAN BE UNCLEAR. AS A BEST PRACTICE, CITIES MAY WISH TO CONSULT THE MORE DETAILED RECOMMENDATIONS BY THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION.]

6. The total volume of multiple antennas on one structure shall not exceed fifteen (15)cubic feet, unless additional antenna volume is requested and approved pursuant to Section I.

7. Antennas and antenna equipment shall not be illuminated except as required by municipal, federal or state authority, provided this shall not preclude deployment on a new or replacement street light.

8. Small wireless facilities may not displace any existing street tree or landscape features unless: (a) such displaced street tree or landscaping is replaced with native and/or drought-resistant trees, plants or other landscape features approved by the City, and (b) the applicant submits and adheres to a landscape maintenance plan or agrees to pay an appropriate in-lieu fee for the maintenance costs.

C. **Small Wireless Facilities Attached to Wooden Poles and Non-Wooden Poles with Overhead Lines.** Small wireless facilities located on wooden utility poles and non-wooden utility poles with overhead lines shall conform to the following design criteria unless a deviation is requested and approved pursuant to Section I:

[IN OREGON, PGE AND PACIFIC CORP ARE THE MOST COMMON UTILITY POLE OWNERS. BOTH HAVE THEIR OWN DESIGN STANDARDS. CITIES SHOULD

WORK WITH POLE OWNERS TO FIND WHAT WORKS BEST FOR THEIR COMMUNITIES AND COMPARE DESIGN STANDARDS.]

1. Proposed antenna and related equipment shall meet:

    a. The City's design standards for small wireless facilities;
    b. The pole owner requirements; and
    c. National Electric Safety Code ("NESC") and National Electric Code ("NEC") standards.

2. The pole at the proposed location may be replaced with a taller pole or extended for the purpose of accommodating a small wireless facility; provided that the replacement or extended pole, together with any small wireless facility, does not exceed 50 feet in height or 10 percent taller than adjacent poles, whichever is greater. The replacement or extended pole height may be increased if required by the pole owner, and such height increase is the minimum necessary to provide sufficient separation and/or clearance from electrical and wireline facilities. Such replacement poles may either match the approximate color and materials of the replaced pole or shall be the standard new pole used by the pole owner in the city.

3. To the extent technically feasible, antennas, equipment enclosures, and all ancillary equipment, boxes, and conduit shall match the approximate material and design of the surface of the pole or existing equipment on which they are attached, or adjacent poles located within the contiguous right-of-way. Near matches may be permitted by the City when options are limited by technical feasibility considerations, such as when high-frequency antennas cannot be placed within an opaque shroud but could be wrapped with a tinted film.

4. Antennas which are mounted on poles shall be mounted as close to the pole as technically feasible and allowed by the pole owner.

5. No antenna shall extend horizontally more than 20 inches past the outermost mounting point (where the mounting hardware connects to the antenna), unless additional antenna space is requested and approved pursuant to Section I. [NOTE: THE 20 INCH STANDARD HERE IS NOT INTENDED TO DICTATE THE SIZE OF THE ANTENNA. RATHER, TO DICTATE THE DISTANCE BETWEEN THE ANTENNA/ANTENNA EQUIPMENT AND THE POLE ITSELF.]

6. Antenna equipment, including but not limited to radios, cables, associated shrouding, disconnect boxes, meters, microwaves and conduit, which is mounted on poles shall be mounted as close to the pole as technically feasible and allowed by the pole owner.

7. Antenna equipment for small wireless facilities must be attached to the pole, unless otherwise required by the pole owner or permitted to be ground-mounted [pursuant to subsection (B)(1) above]. The equipment must be placed in an enclosure reasonably related in size to the intended purpose of the facility. [IF APPLICABLE, THE APPLICANT IS ENCOURAGED TO PLACE THE EQUIPMENT ENCLOSURE(S)

BEHIND ANY DECORATIONS, BANNERS OR SIGNS THAT MAY BE ON THE POLE. IN APPROPRIATE CIRCUMSTANCES, CITIES MAY ALSO WISH TO CONSIDER ALLOWING ENCLOSURES THAT INCLUDE REASONABLE SPACE FOR FUTURE ADDITIONAL EQUIPMENT.]

8. All cables and wiring shall be covered by conduits and cabinets to the extent that it is technically feasible, if allowed by pole owner. The number of conduits shall be minimized to the extent technically feasible.

D. **Small Wireless Facilities Attached to Non-Wooden Light Poles and Non-Wooden Utility Poles without Overhead Utility Lines.** Small wireless facilities attached to existing or replacement non-wooden light poles and non-wooden utility poles without overhead lines shall conform to the following design criteria unless a deviation is requested and approved pursuant to Section I:

[NOTE: JURISDICTION MAY PREFER A OR B OR BOTH. ALSO, NOTE THAT THE MOST COMMON TYPES OF THESE POLES ARE DUAL USE POLES. DUAL USE POLES USUALLY REQUIRE SEPARATION INSIDE THE POLE TO KEEP THE UTILITY EQUIPMENT SEPARATE FROM NEW OR ADDED EQUIPMENT FROM SMALL WIRELESS FACILITIES. HOWEVER, THERE MAY BE STANDALONE SMALL WIRELESS FACILITIES POLES THAT MAY USE OPTION A OR B OR BOTH.]

a. **External Equipment**. The antennas and associated equipment enclosures must be camouflaged to appear as an integral part of the pole or be mounted as close to the pole as feasible and must be reasonably related in size to the intended purpose of the facility and reasonable expansion for future frequencies and/or technologies, not to exceed the volumetric requirements described in Section A. If the equipment enclosure(s) is mounted on the exterior of the pole, the applicant is encouraged to place the equipment enclosure(s) behind any decorations, banners or signs that may be on the pole. Conduit and fiber must be fully concealed within the pole.

b. **Concealed Equipment**. All equipment (excluding disconnect switches), conduit and fiber must be fully concealed within the pole. The antennas must be camouflaged to appear as an integral part of the pole or be mounted as close to the pole as feasible. [NOTE: AT THIS TIME, MILLIMETER WAVE ANTENNAS CANNOT BE COVERED OR SHROUDED, THEREFORE THEY MUST BE MOUNTED TO THE OUTSIDE OF THE POLE. POLES MAY HAVE TO BE SIGNIFICANTLY BIGGER IN DIAMETER IF EQUIPMENT IS CONCEALED IN OPTION B (ACCORDING TO POLE MANUFACTURES APPROX. 16-20 INCHES). OPTION A MAY REQUIRE A REPLACEMENT POLE. THE DIAMETER OF THE POLE SHOULD BE SIMILAR TO THE ORIGINAL.]

2. Any replacement pole shall substantially conform to the material and design of the existing pole or adjacent poles located within the contiguous right-of-way unless a different design is requested and approved pursuant to Section I.

3. The height of any replacement pole may not extend more than 10 feet above the height of the existing pole, unless such further height increase is required in writing by the pole owner.

E. **New Poles.** Small wireless facilities may be attached to new poles that are not replacement poles under sections C or D, installed by the wireless provider, subject to the following criteria:

[NOTE: CITIES SHOULD CHECK WITH OTHER CODES TO MAKE SURE THIS SECTION DOES NOT CONFLICT WITH PRACTICES OF NO NEW POLES OR POLE NEUTRAL PRACTICES, AND REVISE SUCH CODES AS APPROPRIATE.]

1. Antennas, antenna equipment and associated equipment enclosures (excluding disconnect switches), conduit and fiber shall be fully concealed within the structure. If such concealment is not technically feasible, or is incompatible with the pole design, then the antennas and associated equipment enclosures must be camouflaged to appear as an integral part of the structure or mounted as close to the pole as feasible, and must be reasonably related in size to the intended purpose of the facility, not to exceed the volumetric requirements in Section (A)(3). [IN APPROPRIATE CIRCUMSTANCES, CITIES MAY ALSO WISH TO CONSIDER ALLOWING ENCLOSURES THAT INCLUDE REASONABLE SPACE FOR FUTURE ADDITIONAL EQUIPMENT.]

2. To the extent technically feasible, all new poles and pole-mounted antennas and equipment shall substantially conform to the material and design of adjacent poles located within the contiguous right-of-way unless a different design is requested and approved pursuant to Section I.

3. New poles shall be no more than forty (40) feet in height unless additional height is requested and approved pursuant to Section I. [NOTE: THE FCC DEFINITION CONSIDERS A FACILITY A SMALL WIRELESS FACILITY IF IT IS 50 FT. OR UNDER. SMALL CELL TECHNOLOGY WORKS BEST WHEN DEPLOYED BETWEEN 35-45 FT. AND OTHER THAN DEPLOYMENTS ON UTILITY POLES, MOST WIRELESS PROVIDERS DO NOT NEED 50 FT TO DEPLOY. THEREFORE, IT MAY BE POSSIBLE TO HAVE NEW POLES THAT ARE NOT 50 FT.]

4. The city prefers that wireless providers install small wireless facilities on existing or replacement poles instead of installing new poles, unless the wireless provider can document that installation on an existing or replacement pole is not technically feasible or otherwise not possible (due to a lack of owner authorization, safety considerations, or other reasons acceptable to the [City designee]).

[NOTE: CITIES MAY CONSIDER THE SPACING BETWEEN POLES/DEPLOYMENTS. IT IS RECOMMENDED THAT CITIES CONSIDER DISTANCES BETWEEN NEW POLES BY AN INDIVIDUAL PROVIDER RATHER THAN ALL SWF DEPOLOYMENTS. SPACING MAY VARY BECAUSE OF BUILDINGS, TOPOGRAPHY, SIZE OF INSTALLATION, ETC. THEREFORE, IT IS RECOMMENDED THAT CITIES WORK WITH PROVIDERS TO SEE WHAT IS FEASIBLE.THE FCC PROVIDES THAT MINIMUM SPACING REQUIREMENTS CANNOT PREVENT A PROVIDER FROM REPLACING ITS PREEXISTING FACILITIES OR COLLOCATING NEW EQUIPMENT ON A STRUCTURE ALREADY IN USE. ULTIMATELY, MINIMUM SPACING REQUIREMENTS WILL BE EVALUATED UNDER THE FCC'S TEST FOR AESTHETIC REGULATIONS – THAT THE REQUIREMENTS MUST BE (1) REASONABLE; (2) NO MORE BURDENSOME THAN THOSE APPLIED TO OTHER INFRASTRUCTURE DEPLOYMENTS; (3) OBJECTIVE, AND (4) PUBLISHED IN ADVANCE.]

F. **Undergrounding Requirements.** [ACCORDING TO THE FCC ORDER, UNDERGROUNDING REQUIREMENTS ARE SUBJECT TO THE SAME CRITERIA AS OTHER AESTHETIC STANDARDS.

SOME COMPONENTS OF SMALL WIRELESS FACILITTIES WILL OFTEN NOT WORK UNDERGROUND. THEREFORE, CITIES UNDERGROUNDING REQUIREMENTS OR UNDERGROUND DISTRICTS MAY CREATE AN EFFECTIVE PROHIBITION. CITIES ARE ENCOURAGED TO REVIEW CURRENT UNDERGROUNDING REQUIREMENTS AND WORK WITH THEIR ATTORNEYS/ROW SPECIALISTS TO MAKE SURE THOSE REQUIREMENTS ARE NOT IN CONFLICT WITH THE FCC ORDER.]

G. **Historic District Requirements.**
Small wireless facilities or poles to support collocation of small wireless facilities located in Historic Districts shall be designed to have a similar appearance, including material and design elements, if technically feasible, of other poles in the rights-of-way within 500 feet of the proposed installation. Any such design or concealment measures may not be considered part of the small wireless facility for purpose of the size restrictions in the definition of small wireless facility.

H. **Strand Mounted Equipment**. Strand mounted small wireless facilities arepermitted, subject to the following criteria:

1. Each strand mounted antenna shall not exceed 3 cubic feet in volume, unless adeviation is requested and approved pursuant to Section I.
2. Only 2 strand mounted antennas are permitted between any two existing poles.

3. Strand mounted devices shall be placed as close as possible to the nearest pole and in no event more than five feet from the pole unless a greater distance is required by the pole owner.

4. No strand mounted device will be located in or above the portion of the roadway open to vehicular traffic.

5. Strand mounted devices must be installed with the minimum excess exterior cabling or wires (other than original strand) to meet the technological needs of the facility.

I. Deviation from Design Standards.

1. An applicant may obtain a deviation from these design standards if compliance with the standard: (a) is not technically feasible; (b) impedes the effective operation of the small wireless facility; (c) impairs a desired network performance objective; (d) conflicts with pole owner requirements; or (e) otherwise materially inhibits or limits the provision of wireless service. [NOTE: SINCE DEVIATIONS FROM THE DESIGN STANDARDS MAY LEAD TO QUESTIONS FOR WHY ONE PROVIDER WAS ALLOWED AN EXCEPTION AND ANOTHER WAS NOT, IT IS ADVISED THAT CITIES DOCUMENT REASONS FOR DEVIATIONS.]

2. When requests for deviation are sought under subsections (I)(1)(a)-(e), the request must be narrowly tailored to minimize deviation from the requirements of these design standards, and the [City designee] must find the applicant's proposed design provides similar aesthetic value when compared to strict compliance with these standards.

3. [City designee] may also allow for a deviation from these standards when it finds the applicant's proposed design provides equivalent or superior aesthetic value when compared to strict compliance with these standards.

4. The small wireless facility design approved under this Section I must meet the conditions of 47 C.F.R. Sec. 1.6002(*l*).

5. [City designee] will review and may approve a request for deviation to the minimum extent required to address the applicant's needs or facilitate a superior design. [NOTE: CITIES MAY RECOMMEND A PRE-MEETING WITH PROVIDERS IF A DEVIATION FROM STANDARDS IS BEING CONSIDERED. HOWEVER, PRE-MEETINGS **MUST BE OPTIONAL.** MANDATORY PRE-MEETINGS, WHETHER WITH STAFF, MEMBERS OF THE COMMUNITY OR NEIGHBORHOOD ASSOCIATIONS, WILL TRIGGER THE SHOT CLOCK TO START.]

Acknowledgements

Alan Bar, Verizon

Alan Galloway, Davis Wright Tremaine

Andrew Bartlett, City of Hillsboro

Cindy Manheim, AT&T

Colleen DeShazer, Verizon

Dave Waffle, City of Beaverton

George Granger, AT&T

Jennifer Backhaus, City of Milwaukie

Jennifer Li, City of Portland

Ken Lyons, Wireless Policy Group (AT&T)

Kim Allen, Wireless Policy Group (Verizon)

Madison Thesing, City of Lake Oswego

Meridee Pabst, Wireless Policy Group (AT&T)

Michael Johnston, Telecom Law Firm

Pam Vaughan, City of Corvallis

Reba Crocker, ROW Consultants LLC (formerly with the cities of Milwaukie and Gladstone)

Rich Roche, Formerly with AT&T

Robert "Tripp" May III, Telecom Law Firm

Ryan Zink, City of Salem

Sambo Kirkman, City of Beaverton

Scott McClure, Formerly with the City of Monmouth

Steve Coon, Verizon

Tegan Enloe, City of Tigard

Tim Halinski, T-Mobile

Appendix A – Shot Clock Information

Shot clock provisions that apply to small wireless facilities are codified in 47 C.F.R. Section 1.6003, which is provided below.

§1.6003 Reasonable periods of time to act on siting applications.

(a) *Timely action required.* A siting authority that fails to act on a siting application on or before the shot clock date for the application, as defined in paragraph (e) of this section, is presumed not to have acted within a reasonable period of time.

(b) *Shot clock period.* The shot clock period for a siting application is the sum of—

(1) The number of days of the presumptively reasonable period of time for the pertinent type of application, pursuant to paragraph (c) of this section; plus

(2) The number of days of the tolling period, if any, pursuant to paragraph (d) of this section.

(c) *Presumptively reasonable periods of time*—(1) *Review periods for individual applications.* The following are the presumptively reasonable periods of time for action on applications seeking authorization for deployments in the categories set forth in paragraphs (c)(1)(i) through (iv) of this section:

(i) Review of an application to collocate a Small Wireless Facility using an existing structure: 60 days.

(ii) Review of an application to collocate a facility other than a Small Wireless Facility using an existing structure: 90 days.

(iii) Review of an application to deploy a Small Wireless Facility using a new structure: 90 days.

(iv) Review of an application to deploy a facility other than a Small Wireless Facility using a new structure: 150 days.

(2) *Batching.* (i) If a single application seeks authorization for multiple deployments, all of which fall within a category set forth in either paragraph (c)(1)(i) or (iii) of this section, then the presumptively reasonable period of time for the application as a whole is equal to that for a single deployment within that category.

(ii) If a single application seeks authorization for multiple deployments, the components of which are a mix of deployments that fall within paragraph (c)(1)(i) of this section and deployments that fall within paragraph (c)(1)(iii) of this section, then the presumptively reasonable period of time for the application as a whole is 90 days.

(iii) Siting authorities may not refuse to accept applications under paragraphs (c)(2)(i) and (ii) of this section.

(d) *Tolling period.* Unless a written agreement between the applicant and the siting authority provides otherwise, the tolling period for an application (if any) is as set forth in paragraphs (d)(1) through (3) of this section.

(1) For an initial application to deploy Small Wireless Facilities, if the siting authority notifies the applicant on or before the 10th day after submission that the application is materially incomplete, and clearly and specifically identifies the missing documents or information and the specific rule or regulation creating the

obligation to submit such documents or information, the shot clock date calculation shall restart at zero on the date on which the applicant submits all the documents and information identified by the siting authority to render the application complete.

(2) For all other initial applications, the tolling period shall be the number of days from—

(i) The day after the date when the siting authority notifies the applicant in writing that the application is materially incomplete and clearly and specifically identifies the missing documents or information that the applicant must submit to render the application complete and the specific rule or regulation creating this obligation; until

(ii) The date when the applicant submits all the documents and information identified by the siting authority to render the application complete;

(iii) But only if the notice pursuant to paragraph (d)(2)(i) of this section is effectuated on or before the 30th day after the date when the application was submitted; or

(3) For resubmitted applications following a notice of deficiency, the tolling period shall be the number of days from—

(i) The day after the date when the siting authority notifies the applicant in writing that the applicant's supplemental submission was not sufficient to render the application complete and clearly and specifically identifies the missing documents or information that need to be submitted based on the siting authority's original request under paragraph (d)(1) or (2) of this section; until

(ii) The date when the applicant submits all the documents and information identified by the siting authority to render the application complete;

(iii) But only if the notice pursuant to paragraph (d)(3)(i) of this section is effectuated on or before the 10th day after the date when the applicant makes a supplemental submission in response to the siting authority's request under paragraph (d)(1) or (2) of this section.

(e) *Shot clock date.* The shot clock date for a siting application is determined by counting forward, beginning on the day after the date when the application was submitted, by the number of calendar days of the shot clock period identified pursuant to paragraph (b) of this section and including any pre-application period asserted by the siting authority; *provided,* that if the date calculated in this manner is a "holiday" as defined in §1.4(e)(1) or a legal holiday within the relevant State or local jurisdiction, the shot clock date is the next business day after such date. The term "business day" means any day as defined in §1.4(e)(2) and any day that is not a legal holiday as defined by the State or local jurisdiction

Appendix B – Code of Federal Regulations (C.F.R.) Cited Throughout Document

47 C.F.R. Section 1.1307

§1.1307 Actions that may have a significant environmental effect, for which Environmental Assessments (EAs) must be prepared.

Link to an amendment published at 85 FR 18142, Apr. 1, 2020.

Link to a correction of the above amendment published at 85 FR 33578, June 2, 2020.

(a) Commission actions with respect to the following types of facilities may significantly affect the environment and thus require the preparation of EAs by the applicant (see §§1.1308 and 1.1311) and may require further Commission environmental processing (*see* §§1.1314, 1.1315 and1.1317):

(1) Facilities that are to be located in an officially designated wilderness area.

(2) Facilities that are to be located in an officially designated wildlife preserve.

(3) Facilities that: (i) May affect listed threatened or endangered species or designated critical habitats; or (ii) are likely to jeopardize the continued existence of any proposed endangered or threatened species or likely to result in the destruction or adverse modification of proposed critical habitats, as determined by the Secretary of the Interior pursuant to the Endangered Species Act of1973.

NOTE: The list of endangered and threatened species is contained in 50 CFR 17.11, 17.22, 222.23(a) and 227.4. The list of designated critical habitats is contained in 50 CFR 17.95, 17.96 and part 226. To ascertain the status of proposed species and habitats, inquiries may be directed to the Regional Director of the Fish and Wildlife Service, Department of the Interior.

(4) Facilities that may affect districts, sites, buildings, structures or objects, significant in American history, architecture, archeology, engineering or culture, that are listed, or are eligible for listing, in the National Register of Historic Places (*see* 54 U.S.C. 300308; 36 CFR parts 60 and 800), and that are subject to review pursuant to section 1.1320 and have been determined through that review process to have adverse effects on identified historic properties.

(5) Facilities that may affect Indian religious sites.

(6) Facilities to be located in floodplains, if the facilities will not be placed at least one foot above the base flood elevation of the floodplain.

(7) Facilities whose construction will involve significant change in surface features (e.g., wetland fill, deforestation or water diversion). (In the case of wetlands on Federal property, *see* Executive Order11990.)

(8) Antenna towers and/or supporting structures that are to be equipped with high intensity white lights which are to be located in residential neighborhoods, as defined by the applicable zoning law.

(b) In addition to the actions listed in paragraph (a) of this section, Commission actions granting construction permits, licenses to transmit or renewals thereof, equipment authorizations or modifications in existing facilities, require the preparation of an Environmental Assessment (EA) if the particular facility, operation or transmitter would cause human exposure to levels of radiofrequency radiation in excess of the limits in §§1.1310 and 2.1093 of this chapter. Applications to the Commission for construction permits, licenses to transmit or renewals thereof, equipment authorizations or modifications in existing facilitiesmust

contain a statement confirming compliance with the limits unless the facility, operation, or transmitter is categorically excluded, as discussed below. Technical information showing the basis for this statement must be submitted to the Commission upon request. Such compliance statements may be omitted from license applications for transceivers subject to the certification requirement in §25.129 of this chapter.

(1) The appropriate exposure limits in §§1.1310 and 2.1093 of this chapter are generally applicable to all facilities, operations and transmitters regulated by the Commission. However, a determination of compliance with the exposure limits in §1.1310 or §2.1093 of this chapter (routine environmental evaluation), and preparation of an EA if the limits are exceeded, is necessary only for facilities, operations and transmitters that fall into the categories listed in table 1, or those specified in paragraph (b)(2) of this section. All other facilities, operations and transmitters are categorically excluded from making such studies or preparing an EA, except as indicated in paragraphs (c) and (d) of this section. For purposes of table 1, *building-mounted antennas* means antennas mounted in or on a building structure that is occupied as a workplace or residence. The term *power* in column 2 of table 1 refers to total operating power of the transmitting operation in question in terms of effective radiated power (ERP), equivalent isotropically radiated power (EIRP), or peak envelope power (PEP), as defined in §2.1 of this chapter. For the case of the Cellular Radiotelephone Service, subpart H of part 22 of this chapter; the Personal Communications Service, part 24 of this chapter and the Specialized Mobile Radio Service, part 90 of this chapter, the phrase *total power of all channels* in column 2 of table 1 means the sum of the ERP or EIRP of all co-located simultaneously operating transmitters owned and operated by a single licensee. When applying the criteria of table 1, radiation in all directions should be considered. For the case of transmitting facilities using sectorized transmitting antennas, applicants and licensees should apply the criteria to all transmitting channels in a given sector, noting that for a highly directional antenna there is relatively little contribution to ERP or EIRP summation for other directions.

TABLE 1—TRANSMITTERS, FACILITIES AND OPERATIONS SUBJECT TO ROUTINE ENVIRONMENTAL EVALUATION

Service (title 47 CFR rule part)	Evaluation required if:
Experimental Radio Services (part 5)	Power >100 W ERP (164 W EIRP).
Commercial Mobile Radio Services (part 20)	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and power >1000 W ERP (1640 W EIRP). Building-mounted antennas: power >1000 W ERP (1640 W EIRP).
	Consumer Signal Booster equipment grantees under the Commercial Mobile Radio Services provisions in part 20 are required to attach a label to Fixed Consumer Booster antennas that:
	(1) Provides adequate notice regarding potential radiofrequency safety hazards, e.g., information regarding the safe minimum separation distance required between users and transmitting antennas; and
	(2) references the applicable FCC-adopted limits for radiofrequency exposure specified in §1.1310.
Paging and Radiotelephone Service (subpart E of part 22)	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and power >1000 W ERP (1640 W EIRP).
	Building-mounted antennas: power >1000 W ERP (1640 W EIRP).
Cellular Radiotelephone Service (subpart H of part 22)	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and total power of all channels >1000 W ERP (1640 W EIRP).

	Building-mounted antennas: total power of all channels >1000 W ERP (1640 W EIRP).
Personal Communications Services (part 24)	(1) Narrowband PCS (subpart D):
	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and total power of all channels >1000 W ERP (1640 W EIRP).
	Building-mounted antennas: total power of all channels >1000 W ERP (1640 W EIRP).
	(2) Broadband PCS (subpart E):
	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and total power of all channels >2000 W ERP (3280 W EIRP).
	Building-mounted antennas: total power of all channels >2000 W ERP (3280 W EIRP).
Satellite Communications Services (part 25)	All included.
	In addition, for NGSO subscriber equipment, licensees are required to attach a label to subscriber transceiver antennas that:
	(1) provides adequate notice regarding potential radiofrequency safety hazards, e.g., information regarding the safe minimum separation distance required between users and transceiver antennas; and
	(2) references the applicable FCC-adopted limits for radiofrequency exposure specified in §1.1310 of this chapter.
Miscellaneous Wireless Communications Services (part 27 except subpart M)	(1) For the 1390-1392 MHz, 1392-1395 MHz, 1432-1435 MHz, 1670-1675 MHz, and 2385-2390 MHz bands:
	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and total power of all channels >2000 W ERP (3280 W EIRP).
	Building-mounted antennas: total power of all channels >2000 W ERP (3280 W EIRP).
	(2) For the 698-746 MHz, 746-764 MHz, 776-794 MHz, 2305-2320 MHz, and 2345-2360 MHz bands:
	Total power of all channels >1000 W ERP (1640 W EIRP).
Broadband Radio Service and Educational Broadband Service (subpart M of part 27)	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and power >1640 W EIRP.
	Building-mounted antennas: power >1640 W EIRP.
	BRS and EBS licensees are required to attach a label to subscriber transceiver or transverter antennas that:

	(1) provides adequate notice regarding potential radiofrequency safety hazards, e.g., information regarding the safe minimum separation distance required between users and transceiver antennas; and
	(2) references the applicable FCC-adopted limits for radiofrequency exposure specified in §1.1310.
Upper Microwave Flexible Use Service (part 30)	Non-building-mounted antennas: Height above ground level to lowest point of antenna <10 m and power >1640 W EIRP.
	Antennas are mounted on buildings.
Radio Broadcast Services (part 73)	All included.
Auxiliary and Special Broadcast and Other Program Distributional Services (part 74)	Subparts G and L: Power >100 W ERP.
Stations in the Maritime Services (part 80)	Ship earth stations only.
Private Land Mobile Radio Services Paging Operations (subpart P of part 90)	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and power >1000 W ERP (1640 W EIRP).
	Building-mounted antennas: power >1000 W ERP (1640 W EIRP).
Private Land Mobile Radio Services Specialized Mobile Radio (subpart S of part 90)	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and total power of all channels >1000 W ERP (1640 W EIRP).
	Building-mounted antennas: Total power of all channels >1000 W ERP (1640 W EIRP).
76-81 GHz Radar Service (part 95)	All included.
Amateur Radio Service (part 97)	Transmitter output power >levels specified in §97.13(c)(1) of this chapter.
Local Multipoint Distribution Service (subpart L of part 101) and 24 GHz (subpart G of part 101)	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and power >1640 W EIRP.
	Building-mounted antennas: power >1640 W EIRP.
	LMDS and 24 GHz Service licensees are required to attach a label to subscriber transceiver antennas that:
	(1) provides adequate notice regarding potential radiofrequency safety hazards, e.g., information regarding the safe minimum separation distance required between users and transceiver antennas; and
	(2) references the applicable FCC-adopted limits for radiofrequency exposure specified in §1.1310.
70/80/90 GHz Bands (subpart Q of part 101)	Non-building-mounted antennas: height above ground level to lowest point of antenna <10 m and power >1640 W EIRP.

	Building-mounted antennas: power >1640 W EIRP.
	Licensees are required to attach a label to transceiver antennas that:
	(1) provides adequate notice regarding potential radiofrequency safety hazards, e.g., information regarding the safe minimum separation distance required between users and transceiver antennas; and
	(2) references the applicable FCC-adopted limits for radiofrequency exposure specified in §1.1310.

(2)(i) Mobile and portable transmitting devices that operate in the Commercial Mobile Radio Services pursuant to part 20 of this chapter; the Cellular Radiotelephone Service pursuant to part 22 of this chapter; the Personal Communications Services (PCS) pursuant to part 24 of this chapter; the Satellite Communications Services pursuant to part 25 of this chapter; the Miscellaneous Wireless Communications Services pursuant to part 27 of this chapter; the Upper Microwave Flexible User Service pursuant to part 30 of this chapter; the Maritime Services (ship earth stations only) pursuant to part 80 of this chapter; the Specialized Mobile Radio Service, the 4.9 GHz Band Service, and the 3650 MHz Wireless Broadband Service pursuant to part 90 of this chapter; the Wireless Medical Telemetry Service (WMTS), the Medical Device Radiocommunication Service (MedRadio), and the 76-81 GHz Band Radar Service pursuant to part 95 of this chapter; and the Citizens Broadband Radio Service pursuant to part 96 of this chapter are subject to routine environmental evaluation for RF exposure prior to equipment authorization or use, as specified in §§2.1091 and 2.1093 of this chapter.

(ii) Unlicensed PCS, unlicensed NII, and millimeter-wave devices are also subject to routine environmental evaluation for RF exposure prior to equipment authorization or use, as specified in §§15.255(g), 15.257(g), 15.319(i), and 15.407(f) of this chapter.

(iii) Portable transmitting equipment for use in the Wireless Medical Telemetry Service (WMTS) is subject to routine environmental evaluation as specified in §§2.1093 and 95.2385 of this chapter.

(iv) Equipment authorized for use in the Medical Device Radiocommunication Service (MedRadio) as a medical implant device or body-worn transmitter (as defined in subpart I of part 95 of this chapter) is subject to routine environmental evaluation for RF exposure prior to equipment authorization, as specified in §§2.1093 and 95.2585 of this chapter by finite difference time domain (FDTD) computational modeling or laboratory measurement techniques. Where a showing is based on computational modeling, the Commission retains the discretion to request that supporting documentation and/or specific absorption rate (SAR) measurement data be submitted.

(v) All other mobile, portable, and unlicensed transmitting devices are categorically excluded from routine environmental evaluation for RF exposure under §§2.1091, 2.1093 of this chapter except as specified in paragraphs (c) and (d) of this section.

(3) In general, when the guidelines specified in §1.1310 are exceeded in an accessible area due to the emissions from multiple fixed transmitters, actions necessary to bring the area into compliance are the shared responsibility of all licensees whose transmitters produce, at the area in question, power density levels that exceed 5% of the power density exposure limit applicable to their particular transmitter or field strength levels that, when squared, exceed 5% of the square of the electric or magnetic field strength limit applicable to their particular transmitter. Owners of transmitter sites are expected to allow applicants and licensees to take reasonable steps to comply with the requirements contained in §1.1307(b) and, where feasible, should encourage co-location of transmitters and common solutions for controlling access to areas where the RF exposure limits contained in §1.1310 might be exceeded.

(i) Applicants for proposed (not otherwise excluded) transmitters, facilities or modifications that would cause non-compliance with the limits specified in §1.1310 at an accessible area previously in compliance must submit an EA if emissions from the applicant's transmitter or facility would result, at the area in question, in a power density that exceeds 5% of the power density exposure limit applicable to that transmitter or facility or in a field strength that, when squared, exceeds 5% of the square of the electric or magnetic field strength limit applicable to that transmitter or facility.

(ii) Renewal applicants whose (not otherwise excluded) transmitters or facilities contribute to the field strength or power density at an accessible area not in compliance with the limits specified in §1.1310 must submit an EA if emissions from the applicant's transmitter or facility results, at the area in question, in a power density that exceeds 5% of the power density exposure limit applicable to that transmitter or facility or in a field strength that, when squared, exceeds 5% of the square of the electric or magnetic field strength limit applicable to that transmitter of facility.

(c) If an interested person alleges that a particular action, otherwise categorically excluded, will have a significant environmental effect, the person shall submit to the Bureau responsible for processing that action a written petition setting forth in detail the reasons justifying or circumstances necessitating environmental consideration in the decision-making process. (*See* §1.1313). The Bureau shall review the petition and consider the environmental concerns that have been raised. If the Bureau determines that the action may have a significant environmental impact, the Bureau will require the applicant to prepare an EA (*see* §§1.1308 and 1.1311), which will serve as the basis for the determination to proceed with or terminate environmental processing.

(d) If the Bureau responsible for processing a particular action, otherwise categorically excluded, determines that the proposal may have a significant environmental impact, the Bureau, on its own motion, shall require the applicant to submit an EA. The Bureau will review and consider the EA as in paragraph (c) of this section.

NOTE TO PARAGRAPH (d): Pending a final determination as to what, if any, permanent measures should be adopted specifically for the protection of migratory birds, the Bureau shall require an Environmental Assessment for an otherwise categorically excluded action involving a new or existing antenna structure, for which an antenna structure registration application (FCC Form 854) is required under part 17 of this chapter, if the proposed antenna structure will be over 450 feet in height above ground level (AGL) and involves either:

1. Construction of a new antenna structure;

2. Modification or replacement of an existing antenna structure involving a substantial increase in size as defined in paragraph I(C)(1)(3) of Appendix B to part 1 of this chapter; or

3. Addition of lighting or adoption of a less preferred lighting style as defined in §17.4(c)(1)(iii) of this chapter. The Bureau shall consider whether to require an EA for other antenna structures subject to §17.4(c) of this chapter in accordance with §17.4(c)(8) of this chapter. An Environmental Assessment required pursuant to this note will be subject to the same procedures that apply to any Environmental Assessment required for a proposed tower or modification of an existing tower for which an antenna structure registration application (FCC Form 854) is required, as set forth in §17.4(c) of this chapter.

(e) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the regulations contained in this chapter concerning the environmental effects of such emissions. For purposes of this paragraph:

(1) The term *personal wireless service* means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services;

(2) The term *personal wireless service facilities* means facilities for the provision of personal wireless services;

(3) The term *unlicensed wireless services* means the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services; and

(4) The term *direct-to-home satellite services* means the distribution or broadcasting of programming or services by satellite directly to the subscriber's premises without the use of ground receiving or distribution equipment, except at the subscriber's premises or in the uplink process to the satellite.

[51 FR 15000, Apr. 22, 1986]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §1.1307, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.govinfo.gov*.

EFFECTIVE DATE NOTE: At 85 FR 18142, Apr. 1, 2020, §1.1307 was amended by revising paragraph (b). At 85 FR 33578, June 2, 2020, this revision was delayed indefinitely.

47 C.F.R. Section 1.1320

§1.1320 Review of Commission undertakings that may affect historic properties.

(a) *Review of Commission undertakings.* Any Commission undertaking that has the potential to cause effects on historic properties, unless excluded from review pursuant to paragraph (b) of this section, shall be subject to review under section 106 of the National Historic Preservation Act, as amended, 54 U.S.C. 306108, by applying—

(1) The procedures set forth in regulations of the Advisory Council on Historic Preservation, 36 CFR800.3-800.13, or

(2) If applicable, a program alternative established pursuant to 36 CFR 800.14, including but not limited to the following:

(i) The Nationwide Programmatic Agreement for the Collocation of Wireless Antennas, as amended, Appendix B of this part.

(ii) The Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Certain Undertakings, Appendix C of this part.

(iii) The Program Comment to Tailor the Federal Communications Commission's Section 106 Review for Undertakings Involving the Construction of Positive Train Control Wayside Poles and Infrastructure, 79 FR 30861 (May 29, 2014).

(b) *Exclusions.* The following categories of undertakings are excluded from review under this section:

(1) *Projects reviewed by other agencies.* Undertakings for which an agency other than the Commission is the lead Federal agency pursuant to 36 CFR 800.2(a)(2).

(2) *Projects subject to program alternatives.* Undertakings excluded from review under a program alternative established pursuant to 36 CFR 800.14, including those listed in paragraph (a)(2) of this section.

(3) *Replacement utility poles.* Construction of a replacement for an existing structure where all the following criteria are satisfied:

(i) The original structure—

(A) Is a pole that can hold utility, communications, or related transmission lines;

(B) Was not originally erected for the sole or primary purpose of supporting antennas that operate pursuant to the Commission's spectrum license or authorization; and

(C) Is not itself a historic property.

(ii) The replacement pole—

(A) Is located no more than 10 feet away from the original pole, based on the distance between the centerpoint of the replacement pole and the centerpoint of the original pole; *provided* that construction of the replacement pole in place of the original pole entails no new ground disturbance (either laterally or in depth) outside previously disturbed areas, including disturbance associated with temporary support of utility, communications, or related transmission lines. For purposes of this paragraph, "ground disturbance" means any activity that moves, compacts, alters, displaces, or penetrates the ground surface of previously undisturbed soils;

(B) Has a height that does not exceed the height of the original pole by more than 5 feet or 10 percent of the height of the original pole, whichever is greater; and

(C) Has an appearance consistent with the quality and appearance of the original pole.

(4) *Collocations on buildings and other non-tower structures.* The mounting of antennas (including associated equipment such as wiring, cabling, cabinets, or backup power) on buildings or other non-tower structures where the deployment meets the following conditions:

(i) There is an existing antenna on the building or structure;

(ii) One of the following criteria is met:

(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 1.1304(a)(4) solely because of the age of the structure.

NOTE 1 TO PARAGRAPH (b)(4): A non-visible new antenna is in the "same vicinity" as a pre-existing antenna if it will be collocated on the same rooftop, façade or other surface. A visible new antenna is in the "same vicinity" as a pre-existing antenna if it is on the same rooftop, façade, or other surface and the centerpoint of the new antenna is within ten feet of the centerpoint of the pre-existing antenna. A deployment causes no new ground disturbance when the depth and width of previous disturbance exceeds the proposed construction depth and width by at least two feet.

(c) *Responsibilities of applicants.* Applicants seeking Commission authorization for construction or modification of towers, collocation of antennas, or other undertakings shall take the steps mandated by, and comply with the requirements set forth in, Appendix C of this part, sections III-X, or any other applicable program alternative.

(d) *Definitions.* For purposes of this section, the following definitions apply:

Antenna means an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Commission authorization, for the transmission of writing, signs, signals, data, images, pictures, and sounds of all kinds, including the transmitting device and any on-site equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with that antenna and added to a tower, structure, or building as part of the original installation of the antenna. For most services, an antenna will be mounted on or in, and is distinct from, a supporting structure such as a tower, structure or building. However, in the case of AM broadcast stations, the entire tower or group of towers constitutes the antenna for that station. For purposes of this section, the term antenna does not include unintentional radiators, mobile stations, or devices authorized under part 15 of this title.

Applicant means a Commission licensee, permittee, or registration holder, or an applicant or prospective applicant for a wireless or broadcast license, authorization or antenna structure registration, and the duly authorized agents, employees, and contractors of any such person or entity.

Collocation means 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.

Tower means any structure built for the sole or primary purpose of supporting Commission-licensed or authorized antennas, including the on-site fencing, equipment, switches, wiring, cabling, power sources, shelters, or cabinets associated with that tower but not installed as part of an antenna as defined herein.

Undertaking means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of the Commission, including those requiring a Commission permit, license or approval. Maintenance and servicing of towers, antennas, and associated equipment are not deemed to be undertakings subject to review under this section.

[82 FR 58758, Dec. 14, 2017]

47 C.F.R. Section 1.6002

§1.6002 Definitions.

Terms not specifically defined in this section or elsewhere in this subpart have the meanings defined in this part and the Communications Act of 1934, 47 U.S.C. 151 *et seq.* Terms used in this subpart have the following meanings:

(a) *Action* or *to act* on a siting application means a siting authority's grant of a siting application or issuance of a written decision denying a siting application.

(b) *Antenna,* consistent with §1.1320(d), means an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Commission authorization, for the provision of personal wireless service and any commingled information services. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, or device authorized under part 15 of this chapter.

(c) *Antenna equipment,* consistent with §1.1320(d), means equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with an antenna, located at the same fixed location as the antenna, and, when collocated on a structure, is mounted or installed at the same time as such antenna.

(d) *Antenna facility* means an antenna and associated antenna equipment.

(e) *Applicant* means a person or entity that submits a siting application and the agents, employees, and contractors of such person or entity.

(f) *Authorization* means any approval that a siting authority must issue under applicable law prior to the deployment of personal wireless service facilities, including, but not limited to, zoning approval and building permit.

(g) *Collocation,* consistent with §1.1320(d) and the Nationwide Programmatic Agreement (NPA) for the Collocation of Wireless Antennas, appendix B of this part, section I.B, means —

(1) Mounting or installing an antenna facility on a pre-existing structure; and/or

(2) Modifying a structure for the purpose of mounting or installing an antenna facility on that structure.

(3) The definition of "collocation" in §1.6100(b)(2) applies to the term as used in thatsection.

(h) *Deployment* means placement, construction, or modification of a personal wireless service facility.

(i) *Facility* or *personal wireless service facility* means an antenna facility or a structure that is used for the provision of personal wireless service, whether such service is provided on a stand-alone basis or commingled with other wireless communications services.

(j) *Siting application* or *application* means a written submission to a siting authority requesting authorization for the deployment of a personal wireless service facility at a specifiedlocation.

(k) *Siting authority* means a State government, local government, or instrumentality of a State government or local government, including any official or organizational unit thereof, whose authorization is necessary prior to the deployment of personal wireless servicefacilities.

(l) *Small wireless facilities* are facilities that meet each of the followingconditions:

(1) The facilities—

(i) Are mounted on structures 50 feet or less in height including their antennas as defined in§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 §1.1320(d)), is no more than three cubic feet involume;

(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 facilities do not require antenna structure registration under part 17 of thischapter;

(5) The facilities are not located on Tribal lands, as defined under 36 CFR 800.16(x);and

(6) The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in §1.1307(b).

(m) *Structure* means a pole, tower, base station, or other building, whether or not it has an existing antenna facility, that is used or to be used for the provision of personal wireless service (whether on its own or comingled with other types ofservices).

[83 FR 51884, Oct. 15, 2018, as amended at 84 FR 59567, Nov. 5, 2019]