**ORDINANCE NO.** **1189-21**

AN ORDINANCE of the City of Algona, Washington, concerning wireless communications facilities; Amending Title 22 of the Algona Municipal Code to adopt a new Chapter 22.38 AMC authorizing and establishing permitting procedures and design and concealment standards for wireless communication facilities; Providing for Severability and Establishing an effective date.

**WHEREAS**, the Federal Communications Commission (“FCC”) recently adopted a Declaratory Ruling, Order, and Regulation (“FCC Order”), which imposes limitations on local municipalities including the City of Algona (“City”) regarding processing and review of all permits associated with the deployment of small wireless facilities; and

**WHEREAS**, the adoption of aesthetic standards for deployment of small wireless facilities and utilization of a concurrent process emphasizing administrative review enables compliance with the federal presumptively reasonable time limits for review; and

**WHEREAS**, separately, federal law and regulation sets time limits on the processing of applications for eligible facility requests to expand existing structures which do not substantially change the height or profile of the structures used to collocate wireless communications facilities; and

 **WHEREAS**, the City desires to adopt a new Chapter 22.38 of the Algona Municipal Code (“AMC”) that (1) establishes the permitting and design regulations for macro communication facilities, (2) sets forth standards and processes related to eligible facility requests, and (3) adopts land use and zoning regulations, design standards, and permitting requirements; and

**WHEREAS**, contemporaneous with the consideration of this ordinance, the Algona City Council enacted an amendment to AMC Title 12 to adopt a new Chapter 12.02 in order to provide for a franchise application and review procedures for telecommunications seeking access to the City’s rights-of-way; and

**WHEREAS**, on February 13, 2020, the Algona Planning Commission considered draft regulations related to the permitting and design of wireless communications facilities and made a recommendation that City Council adopt the regulations as presented herein; and

**WHEREAS**, upon timely notice, the City undertook a State Environmental Policy Act (SEPA) review of these wireless communication regulations and issued a Determination of Non-Significance for this non-project action; and

**WHEREAS**, the Washington State Department of Commerce was provided a Notice of Intent to Adopt the proposed regulations and the City received no comments on the same; and

**WHEREAS,** the proposed regulations went before the Algona City Council for review, discussion, and consideration. Upon timely notice, a public hearing was held before the City Council on April 26, 2021 to consider this topic and solicit and receive public input; and

**WHEREAS**, based on careful consideration of the facts and law, including without limitation the public testimony received, the Planning Commission's recommendation dated February 13, 2020, and records and files with the office of the City Clerk, the Algona City Council finds that the proposed amendments attached and incorporated herein should be approved as presented.

 **NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ALGONA, WASHINGTON, DOES ORDAIN AS FOLLOWS:**

**Section 1. Findings.** The Algona City Council finds as follows:

A. The recitals set forth above are hereby adopted and incorporated as Findings of Fact and/or Conclusions of Law of the Algona City Council. The City Council bases its findings and conclusions on the entire record of testimony and exhibits, including all written and oral testimony before the Planning Commission and the City Council.

B. The amendments that are incorporated herein comply with the requirements of the Washington State Growth Management Act and the City of Algona’s municipal code.

**Section 2. AMC Title 22 Amended**. Title 22 of the Algona Municipal Code is hereby amended by the adoption of a new Chapter 22.28 as set forth in Exhibit A.

**Section 3. Corrections.** The City Clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; references to other local, state or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

**Section 4. Severability**. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to any other person or situation.

**Section 5. Effective Date**. This ordinance or a summary thereof shall be published in the official newspaper of the City and shall take effect and be in full force five days after passage and publication as provided by law.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF ALGONA, WASHINGTON, at a Regular Meeting thereof this 26th day of April, 2021.

David E. Hill, Mayor

ATTEST: APPROVED AS TO FORM:

Jessica Griess Zach Lell

Acting City Clerk City Attorney

Date of Publication: , Effective Date: ,

**EXHIBIT A**

**Algona Municipal Code**

**Chapter 22.38: Wireless Communication Facilities**

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**Article I: General Provisions**

**22.38.010 Purpose.** The purposes of this chapter are to:

1. Establish a local policy concerning telecommunications providers and service.
2. Establish guidelines, standards and time frames for the exercise of local authority with respect to the regulation of telecommunications providers and services.
3. Permit and manage reasonable access to the rights-of-way of the city for telecommunications purposes on a competitively neutral basis.
4. Minimize potential adverse visual, aesthetic, and safety impacts of wireless communication facilities.
5. Establish objective standards for the placement of telecommunications facilities.
6. Ensure that such standards allow competition and do not unreasonably discriminate among providers of functionally equivalent services.
7. Encourage the design of such telecommunications facilities to be aesthetically and architecturally compatible with the surrounding built and natural environments where possible.
8. Encourage the location or attachment of multiple telecommunications facilities within or on existing support structures to help minimize the total number and impact of such structures throughout the community.

**22.38.020 Definitions**. See AMC 12.02.020 for additional definitions used in this chapter.

1. “ADA” means the Americans with Disabilities Act (42 U.S.C. § 12101).
2. “Antenna(s)” means an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to FCC 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 CFR Part 15.
3. “Collocation” 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. Provided that, for purposes of Eligible Facilities Requests, “collocation” means the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.
4. “Macro facility” means a large telecommunications facility that provides radio frequency coverage for a personal wireless service. Generally, antennas for macro facilities are mounted on ground-based towers, rooftops and other existing structures, at a height that provides a clear view over the surrounding buildings and terrain. Macro facilities typically contain antennas that are greater than three cubic feet per antenna and typically cover large geographic areas with relatively high capacity and may be capable of hosting multiple wireless service providers.
5. “Permittee” means a person who has applied for and been issued a wireless communications facility permit pursuant to this chapter.
6. “Small wireless” and “small wireless facility” shall have the same meaning as a “small wireless facility” as set forth in 47 CFR 1.6002.
7. “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).
8. “Traffic Signal Poles” means a pole that supports equipment used for controlling traffic, including but not limited to traffic lights, rapid flashing beacons, speed radar, and school zone flashers.
9. “Unified enclosure” means a small wireless facility providing concealment of antennas and equipment within a single enclosure.
10. “Utility pole” means a structure designed and used primarily for the support of electrical wires, telephone wires, television cable, or lighting for streets, parking lots, or pedestrian paths.

**22.38.030 Applicability.** Any application for a telecommunications facility, as defined by AMC 12.02.030, inside or outside the right-of-way shall comply with the applicable application requirements described in this chapter. In addition, telecommunications facilities inside the right-of-way must also obtain a franchise pursuant to AMC 12.02.010. Applicants are encouraged and expected to provide all related applications in one submittal, unless they have already obtained a franchise or have an existing, valid franchise agreement.

**22.38.040 General provisions**.

1. Wireless communication facilities shall not be considered nor regulated as essential public facilities.
2. Wireless communication facilities located outside the public right-of-way are permitted uses in every zone of the city. A different use of an existing structure on the same lot shall not preclude the installation of a wireless communication facility.
3. Small wireless facilities, as defined in AMC 22.38.020, located within the public right-of-way pursuant to a valid franchise are permitted uses in every zone of the city but still require a small wireless facility permit pursuant to AMC 22.38.190(B)(2).
4. Macro facilities, as defined in AMC 22.38.020, are permitted uses in every zone of the city, but still require a macro facility permit pursuant to AMC 22.38.050(A)(2).
5. The following wireless communication facilities shall be exempt from the requirement to obtain land use permits:

1. Small Satellite Dish Antenna(s). Small dish antenna(s) in all zones shall be exempt from obtaining land use permit approval. Such antennas shall not be required to obtain building permit approval, but installation must comply with any applicable provisions of the city building code.

2. Routine maintenance or repair of wireless communication facilities and related equipment (excluding structural work or changes in height or dimensions of antennas, support structures or buildings); provided, that compliance with the standards of this code is maintained and a right-of-way use permit is obtained if the wireless communication facility is located in the right-of-way.

3. Temporary wireless communication facility for emergency communications equipment in anticipation of and during a declared public emergency or emergency exercise.

4. Wireless communication facilities which legally existed or had a vested application on or prior to the effective date of the ordinance codified in this section; except, that this exemption does not apply to modifications of such facilities.

5. Governmentally operated wireless communication devices for public safety radio systems, Ham radio and business radio systems.

**Article II: Macro Facilities**

**22.38.050 Macro facility application process**. In order to manage the rights-of-way in a thoughtful manner which balances the need to accommodate new and evolving technologies with the preservation of the natural and aesthetic environment of the City, the City of Algona has adopted this administrative process for the deployment of macro facilities. Applicants are encouraged and expected to provide all related applications listed in subsection (A) below for each facility in one submittal, unless they have already obtained a franchise or lease.

1. The Director is authorized to establish franchise and other application forms to gather the information required by these ordinances from applicants.
2. Franchise. To locate a macro facility in the right-of-way, the applicant must apply for, and receive, a franchise consistent with AMC 12.02. An applicant with a franchise for the deployment of macro facilities in the City may apply directly for a macro facility permit and related approvals.
3. Macro Facility Permits. To locate a macro facility outside the right-of-way, or if the applicant has already received a franchise to locate in the right-of-way, the applicant shall apply for a macro facility permit, as outlined in this chapter. Prior to the issuance of a macro facility permit, the applicant shall pay a permit fee in an amount as determined by the City Council and adopted by resolution, or the actual costs incurred by the City in reviewing such permit application.

1. Associated Permit(s). The applicant shall attach all associated required permit applications including but not limited to applications required under AMC 12.08, and applications or check lists required under the City’s Critical Areas, Shoreline or SEPA ordinances.
2. Leases. An applicant who desires to attach a macro facility to any structure owned by the City shall include an application for a lease as a component of its application. Leases for the use of public property, structures, or facilities shall be submitted to the City Council for approval.

**22.38.060** **Macro facility application requirements.**

1. A pre-application meeting is encouraged prior to submitting an application for a macro facility permit.
2. Each application shall contain the following:
3. The name, address, phone number and authorized signature on behalf of the applicant;
4. If the proposed site is not owned by the City, the name, address and phone number of the owner and a signed document or lease confirming that the applicant has the owner’s permission to construct the macro facility;
5. A statement identifying the nature and operation of the macro facility;
6. A vicinity sketch showing the relationship of the proposed use to existing streets, structures and surrounding land uses, and the location of any nearby bodies of water, wetlands, critical areas or other significant natural or manmade features;
7. A plan of the proposed use showing proposed streets, structures, land uses, open spaces, parking areas, fencing, pedestrian paths and trails, buffers, and landscaping, along with text identifying the proposed use(s) of each structure or area included on the plan;
8. Information necessary to demonstrate the applicant’s compliance with FCC rules, regulations and requirements which are applicable to the proposed macro facility;
9. An explanation of the technical need for the macro facility;
10. If not proposing a collocation, then documentation showing that the applicant has made a reasonable attempt to find a collocation site acceptable to engineering standards and that co-locating was not technically feasible or that it posed a physical problem; and
11. Such additional information as deemed necessary by the Director for proper review of the application, and which is sufficient to enable the Director to make a fully informed decision pursuant to the requirements of this chapter.

**22.38.070** **Macro facility permit review procedures.**

1. Review. The Director shall review the application for conformance with the application requirements and review criteria to determine whether the application is consistent with this chapter.
2. Decision. The Director will issue a decision in writing. The Director may grant a permit, grant the permit with conditions pursuant to this chapter and the code, or deny the permit.
	1. Any condition reasonably required to enable the proposed use to meet the standards of this chapter and code may be imposed.
	2. If no reasonable condition(s) can be imposed that ensure the application meets such requirements, the application shall be denied.
	3. The Director’s decision is final.

**22.38.080** Macro facility **review criteria.**

1. No application for a macro facility may be approved unless all of the following criteria, as applicable, are satisfied:
2. The proposed use will be served by adequate public facilities including roads, water, and fire protection.
3. The proposed use will not be materially detrimental to uses or property in the immediate vicinity of the subject property, and will not materially disturb persons in the use and enjoyment of their property.
4. The proposed use will not be materially detrimental to the public health, safety and welfare.
5. The proposed use is in accord with the comprehensive plan.
6. The proposed use complies with this chapter and all other provisions of this code.

B. The Director shall review the application for conformance with the following criteria:

1. Compliance with prioritized locations pursuant to AMC 22.38.100.
2. Compliance with development standards pursuant to AMC 22.38.110.

**22.38.090 Macro facility permit requirements.**

1. The permittee shall comply with all of the requirements within the macro facility permit.
2. The permittee shall allow collocation of proposed macro facilities on the permittees’ site, unless the permittee demonstrates that collocation will impair the technical operation of the existing macro facilities to a substantial degree.
3. The permittee shall notify the City of any sale, transfer, assignment of a site or macro facility within sixty (60) days of such event.
4. All installations of macro facilities shall comply with any governing construction or electrical code including the National Electrical Safety Code, the National Electric Code or state electrical code, as applicable.
5. A macro facility permit issued under this chapter must be substantially implemented within three (3) years from the date of final approval or the permit shall expire. The permittee may request one (1) extension to be limited to twelve (12) months, if the applicant cannot construct the macro facility within the original three (3) year period.
6. Site safety and maintenance. The permittee shall maintain the macro facilities in safe and working condition. The permittee shall be responsible for the removal of any graffiti or other vandalism and shall keep the site neat and orderly, including but not limited to following any maintenance or modifications on the site.

**22.38.100** Macro facility location **hierarchy.** Macro facilities shall be located in the following prioritized order of preference:

A. Collocated with existing macro facility(ies) or another existing public facility/utility facility (i.e., existing or replacement utility pole or an existing monopole/tower).

B. Collocated on existing buildings and structures located in nonresidential zones.

C. Collocated on existing building and structures in residential zones not used for residential uses (e.g. religious facility or public facility).

D. New monopole structure proposed in a commercial or business zone district, where the sole purpose is for wireless communication facilities. Said monopole structure shall be the minimum height necessary to serve the target area; however, the structure shall be designed to allow extensions to accommodate the future collocation of additional antennas and support equipment. Further, the monopole structure shall comply with the setback requirements of the commercial or business zone districts, as applicable. In no case shall the antenna be of a height that requires illumination by the Federal Aviation Administration (FAA).

E. New monopole structure proposed in a residential zone district, where the sole purpose is for telecommunications facilities, but only if the proposed telecommunications structure is no higher than the minimum height necessary to serve the target area; however, the structure shall be designed to allow extensions to accommodate the future collocation of additional antennas and support equipment. In no case shall the antenna be of a height that requires illumination by the FAA.

**22.38.110 Macro facility design and concealment standards.** All macro facilities shall be constructed or installed according to the following standards:

1. Macro facilities must comply with applicable FCC, Federal Aviation Administration (FAA), state, and city regulations and standards.
2. Antennas shall be located, mounted and designed so that visual and aesthetic impacts upon surrounding land uses and structures are minimized, and so that they blend into the existing environment. Panel and parabolic antennas shall be screened from residential views and city right-of-way.
3. Macro facilities must be screened or camouflaged employing the best available technology, such as compatible materials, location, color, artificial trees and hollow flagpoles, and other tactics to minimize visibility of the facility from public streets and residential properties.
	1. Macro facilities shall be designed and placed or installed on a site in a manner that takes maximum advantage of existing trees, mature vegetation, and structures by:
		1. Using existing site features to screen the macro facility from prevalent views; and
		2. Using existing or new site features as a background in a way that the macro facility blends into the background.
	2. As a condition of permit approval, the City may require the applicant to supplement existing trees and mature vegetation to screen the facility.
	3. A macro facility shall be painted either in a nonreflective color or in a color scheme appropriate to the background against which the macro facility would be viewed from a majority of points within its viewshed, and in either case the color must be approved by the City as part of permit approval.
	4. Macro facilities may be subject to additional screening requirements by the Director to mitigate visual impacts to adjoining properties or public right-of-way as determined by site-specific conditions.
4. Equipment facilities shall be placed underground if applicable, or, if above ground, shall:
	1. Be screened from any street and adjacent property with fencing, walls, landscaping, structures or topography or a combination thereof; and
	2. Not be located within required building setback areas.
5. If a security barrier is installed that includes a fence, wall or similar freestanding structure, the following shall apply:
	1. The height of the barrier shall not exceed six and a half (6.5) feet if located in a setback area, unless the Director determines additional height is necessary and then it can be up to 8 feet. In all other areas the height shall be restricted by the height limitations in the zoning district. The height is measured from the point of existing or finished grade, whichever is lower at the exterior side of the barrier to the highest point of the barrier.
	2. Be screened from adjoining properties and city right-of-way through the use of appropriate landscaping materials including:
		1. Placement of landscape vegetation shall include areas outside of the barrier and shall obscure the site within 3 years; and
		2. Landscaping and the design of the barrier shall be compatible with other nearby landscaping, fencing and freestanding walls; and
		3. If a chain link fence is allowed in the zone district it shall be black vinyl.

F. Macro facilities may not (i) produce noise in excess of the limitation set forth in AMC Chapter 8.28; and (ii) not be used for mounting signs, billboards or message displays of any kind.

G. The Director shall consider the cumulative visual effects of macro facilities mounted on existing structures and/or located on a given permitted site in determining whether the additional permits can be granted so as to not adversely affect the visual character of the city.

**Article III: Eligible Facility Requests**

# **22.38.120 Definitions.**

# The following definitions shall apply to Eligible Facilities Requests only as described in this Article III, 22.38 AMC.

1. “Base Station”: A structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined herein nor any equipment associated with a tower. Base Station includes, without limitation:

a. Equipment associated with wireless communications services as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

b. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems (“DAS”) and small wireless networks).

c. Any structure other than a tower that, at the time the relevant application is filed (with jurisdiction) under this section, supports or houses equipment described in subparagraph (1)(a) and (1)(b) above that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing that support.

d. The term does not include any structure that, at the time the Eligible Facilities Request application is filed with the City, does not support or house equipment described in subparagraph (1)(a) and (1)(b) above.

2. “Collocation”: The mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communication purposes.

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

a. Collocation of new transmission equipment;

b. Removal of transmission equipment; or

c. Replacement of transmission equipment.

4. “Eligible support structure”: Any tower or base station as defined in this section, provided that it is existing at the time the relevant application is filed with the City.

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

6. “Site”: For towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground. The current boundaries of a site are the boundaries that existed as of the date that the original support structure or a modification to that structure was last reviewed and approved by a State or local government, if the approval of the modification occurred prior to the Spectrum Act or otherwise outside of the Section 6409(a) process.

7. “Substantial Change”: A modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

a. For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten (10) feet, whichever is greater;

b. For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty (20) feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet;

c. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and Base Stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;

d. It entails any excavation or deployment outside the current site, except that, for towers other than towers in the public rights-of-way, it entails any excavation or deployment of transmission equipment outside of the current site by more than 30 feet in any direction.  The site boundary from which the 30 feet is measured excludes any access or utility easements currently related to the site;

e. It would defeat the concealment elements of the eligible support structure; or

f. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided, however, that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified above.

8. “Tower”: Any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixes wireless services such as microwave backhaul and the associated site.

9. “Transmission equipment”. Equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

**22.38.130 Application.**  The Director shall prepare and make publicly available an application form used to consider whether an application is an Eligible Facilities Request. The application may not require the applicant to demonstrate a need or business case for the proposed modification.

**22.38.140 Qualification as an eligible facilities request.** Upon receipt of an application for an Eligible Facilities Request, the Director shall review such application to determine whether the application qualifies as an Eligible Facilities Request.

**22.38.150 Timeframe for review.**  Within sixty (60) days of the date on which an applicant submits an Eligible Facilities Request application, the Director shall approve the application unless it determines that the application is not covered by this Article III.

**22.38.160 Tolling of the time frame for review.** The sixty (60) day review period begins to run when the application is filed and may be tolled only by mutual agreement by the Director and the applicant or in cases where the Director determines that the application is incomplete. The timeframe for review of an Eligible Facilities Request is not tolled by a moratorium on the review of applications.

1. To toll the timeframe for incompleteness, the Director shall provide written notice to the applicant within thirty (30) days of receipt of the application, clearly and specifically delineating all missing documents or information required in the application.
2. The timeframe for review begins running again when the applicant makes a supplemental submission in response to the Director’s notice of incompleteness.
3. Following a supplemental submission, the Director will notify the applicant within ten (10) days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in this sub-section. Second or subsequent notice of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.

**22.38.170 Determination that application is not an eligible facilities request.** If the Director determines that the applicant’s request does not qualify as an Eligible Facilities Request, the Director shall deny the application.

**22.38.180 Failure to act.** In the event the Director fails to approve or deny a request for an Eligible Facilities Request within the timeframe for review (accounting for any tolling), the request shall be deemed granted. The deemed grant does not become effective until the applicant notifies the Director in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.

**Article IV: Small Wireless Facilities**

**22.38.190** **Small wireless facility application process.** The City and applicant for a franchise and other permits associated with the deployment of small wireless facilities face challenges in coordinating applicable legislative and administrative processes under the FCC regulations. Accordingly, in order to manage its rights-of-way in a thoughtful manner which balances the need to accommodate new and evolving technologies with the preservation of the natural and aesthetic environment of the City, the City of Algona has adopted this administrative process for the deployment of small wireless facilities.

1. An application for a small wireless facility is not complete until the applicant has submitted all the applicable items required by AMC 22.38.200 and, to the extent relevant, has submitted all the applicable items in AMC 22.38.190(B) and the City has confirmed that the application is complete. Grantees with a valid franchise for small wireless facilities may apply for a small wireless permit for the initial or additional placement of small wireless facilities at any time subject to the commencement of a new completeness review time period for permit processing.
2. The Director is authorized to establish franchise and other application forms to gather the information required by these ordinances from applicants.
3. Franchise. If any portion of the applicant’s facilities are to be located in the right-of-way, the applicant shall apply for, and receive approval of, a franchise, consistent with the requirements in Chapter 12.02 AMC. An application for a franchise may be submitted concurrently with an application small wireless facility permit(s).
4. Small Wireless Facility Permits. The applicant shall submit a small wireless facility permit application and associated components as required by AMC 22.38.200 and pay the permit fee as set forth in the fee schedule which may be amended by City Council from time to time, or the actual costs incurred by the City in reviewing such permit application. If the applicant desires to locate outside the rights-of-way, or has already obtained a franchise to deploy inside the rights-of-way, the applicant may apply directly for a small wireless facility permit.

1. Associated Permit(s). The applicant shall attach all associated required permit applications including but not limited to applications required under AMC 12.08, and applications or check lists required under the City’s Critical Areas, Shoreline or SEPA ordinances in AMC Title 16. Small wireless facilities proposed in Design Zones or new poles in the right-of-way shall also comply with the requirements in AMC 22.38.270.
2. Leases. An applicant who desires to attach a small wireless facility to any structure owned by the City shall include an application for a lease as a component of its application. Leases for the use of public property, structures, or facilities shall be submitted to the City Council for approval.

**22.38.200 Small wireless facility application requirements.** The following information shall be provided by all applicants for a small wireless permit:

1. The application shall provide specific locational information including GIS coordinates of all proposed small wireless facilities and specify where the small wireless facilities will utilize existing, replacement or new poles, towers, existing buildings and/or other structures. Ground mounted equipment, conduit, junction boxes and fiber and electrical connections necessary for and intended for use in the deployment shall also be specified regardless of whether the additional facilities are to be constructed by the applicant or leased from a third party. Detailed schematics and visual renderings of the small wireless facilities, including engineering and design standards, shall be provided by the applicant. The application shall have sufficient detail to identify:
2. The location of overhead and underground public utility, telecommunication, cable, water, adjacent lighting, sewer drainage and other lines and equipment within 50 feet of the proposed project area (which the project area shall include the location of the fiber source and power source). Further, the applicant shall include all existing and proposed improvements related to the proposed location, including but not limited to poles, driveways, ADA ramps, equipment cabinets, street trees and structures within 50 feet of the proposed project area;
3. The specific trees, structures, improvements, facilities, lines and equipment, and obstructions, if any, that applicant proposes to temporarily or permanently remove or relocate and a landscape plan for protecting, trimming, removing, replacing, and restoring any trees or areas to be disturbed during construction.
4. Compliance with the siting and aesthetic requirements of AMC 22.38.250 and 22.38.270, as applicable.
5. The applicant must show written approval from the owner of any pole or structure for the installation of its small wireless facilities on such pole or structure. To extent that the pole or structure is not owned by the property owner, the applicant shall demonstrate in writing that they have authority from the property owner to install the small wireless facility on the pole or structure. Such written approval shall include approval of the specific pole, engineering and design standards from the pole owner, unless the pole owner is the City. Submission of the lease agreement between the owner and the applicant is not required. For City-owned poles or structures, the applicant must obtain a lease from the City prior to or concurrent with the small wireless permit application and must submit as part of the application the information required in the lease for the City to evaluate the usage of a specific pole.
6. If the application is for a new light pole, then the applicant must provide a photometric analysis.
7. The applicant can batch multiple small wireless facility sites in one application. The applicant is encouraged to batch the small wireless facility sites within an application in a contiguous service area.
8. Any application for a small wireless facility located in the right-of-way adjacent to a parcel zoned for residential use shall demonstrate that it has considered the following:
	1. Whether the proposed small wireless facility could be located on a street corner rather than in the middle of a block.
	2. Whether a small wireless facility is currently installed on an existing pole in front of the same residential parcel. If a small wireless facility exists, then the applicant must demonstrate that no technically feasible alternative location exists which is not in front of the same residential parcel.
	3. Whether the proposed small wireless facility can be screened from residential view by choosing a pole location that is not directly in front of a window or views.
9. The applicant shall submit a sworn affidavit signed by an RF Engineer with knowledge of the proposed project affirming that the small wireless facilities will be compliant with all FCC and other governmental regulations in connection with human exposure to radio frequency emissions for every frequency at which the small wireless facility will operate. If facilities which generate RF radiation necessary to the small wireless facility are to be provided by a third party, then the small wireless permit shall be conditioned on an RF Certification showing the cumulative impact of the RF emissions on the entire installation. The applicant may provide one emissions report for the entire small wireless deployment if the applicant is using the same small wireless facility configuration for all installations within that batch or may submit one emissions report for each subgroup installation identified in the batch.
10. The applicant shall provide proof of FCC and other regulatory approvals required to provide the service(s) or utilize the technologies sought to be installed.
11. A professional engineer licensed by the State of Washington shall certify in writing, over his or her seal, that both construction plans and final construction of the small wireless facilities and structure or pole and foundation are designed to reasonably withstand wind and seismic loads as established by the International Building Code.
12. The small wireless facility permit shall include those elements that are typically contained in the right-of-way permit pursuant to AMC 12.08, including a traffic control plan, to allow the applicant to proceed with the build-out of the small wireless facility deployment.
13. Recognizing that small wireless facility technology is rapidly evolving, the City is authorized to adopt and publish standards for the technological and structural safety of City-owned structures and to formulate and publish application questions for use when an applicant seeks to attach to City-owned structures.

**22.38.210 Small wireless facility application review procedure.**

1. Permitted locations. In any zone, upon application for a small wireless permit, the City will permit small wireless deployment conforming to the City's generally applicable siting, development and design, and concealment standards in AMC 22.38.250 except as provided in subsection B below.
2. Installments on new poles or in Design Zones. Small wireless facilities proposed on new non-City owned poles, or replacement poles, or in Design Zones shall comply with the design and concealment standards in AMC 22.38.270.
3. Eligible Facilities Requests. Small wireless facilities may be expanded pursuant to an eligible facility request so long as the expansion:
	1. does not defeat concealment elements specifically designated as stealth techniques,
	2. it incorporates the aesthetic elements required as conditions of approval set forth in the original small wireless facility approval in a manner consistent with the rights granted an eligible facility, and
	3. does not exceed the conditions of a small wireless facility as defined by 47 CFR 1.6002(l).
4. Review of Facilities. Review of the site locations proposed by the applicant shall be governed by the provisions of 47 USC 253 and 47 USC 332 and other applicable statutes, regulations and case law. As applicable, applicants for franchises and the small wireless facility permits shall be treated in a competitively neutral and non-discriminatory manner with other service providers, utilizing supporting infrastructure which is functionally equivalent, that is, service providers whose facilities are similarly situated in terms of structure, placement, or cumulative impacts. Small wireless facility permit review under this chapter shall neither prohibit nor have the effect of prohibiting the ability of an applicant to provide telecommunications services.
5. Final Decision. The Director shall review and make a determination on all applications to site small wireless facilities, consistent with this chapter as well as other applicable code provisions and the siting and design standards in the AMC 22.38.250 through .270. The Director’s decision shall be final.
6. Withdrawal. Any applicant may withdraw a small wireless facility permit application at any time, provided the withdrawal is in writing and signed by all persons who signed the original application or their successors in interest. When a withdrawal is received, the application shall be deemed null and void. If such withdrawal occurs prior to the Director’s decision, then reimbursement of fees submitted in association with said application shall be prorated to withhold the amount of City costs incurred in processing the application prior to time of withdrawal. If such withdrawal is not accomplished prior to the Director’s decision, there shall be no refund of all or any portion of such fee.
7. Supplemental Information. Failure of an applicant to provide additional information as requested pursuant to AMC 22.38.200 by the Director within sixty (60) days of notice by the Director shall be deemed a denial of that application, unless an extension period has been approved by the Director.

**22.38.220 Small wireless facility application review criteria.**

1. No small wireless facility permit shall be approved unless the following criteria, as applicable, is demonstrated:
	1. The small wireless facility’s vertical clearance does pose a hazard to other users of the rights-of-ways.
	2. Replacement poles and new poles comply with the ADA, City construction and sidewalk clearance standards, traffic warrants, City ordinances, and state and federal statutes and regulations in order to provide a clear and safe passage within the rights-of-way.
	3. The location of any replacement pole or new pole must be physically possible, cannot obstruct vehicular or pedestrian traffic or the clear zone, not interfere with utility or safety fixtures (e.g., fire hydrants, traffic control devices), and not adversely affect the public welfare, health, or safety.
	4. No equipment shall be operated so as to produce noise in violation of Chapter 8.28 AMC.
	5. Small wireless facilities may not encroach onto or over private property or property outside of the right of way without the property owner's express written consent.

**22.38.230 Small wireless facility permit requirements.**

1. The permittee shall comply with all of the requirements within the small wireless permit.
2. Governing construction or electrical code. All installations of small wireless facilities shall comply with any governing construction or electrical code including the National Electrical Safety Code, the National Electric Code or state electrical code, as applicable.
3. Electrical connection. The permittee is responsible for providing or arranging for electricity to small wireless facilities. Any third party utility providing such electricity shall obtain a Franchise from the City prior to operating in the rights-of-way.
4. Transport/telecommunications connection. The permittee is responsible for providing transport connectivity (i.e. fiber) to small wireless facilities. Any third party utility providing such transport connectivity shall obtain a Franchise from the City prior to operating in the rights-of-way.
5. Post-Construction as-builts. Upon request, the permittee shall provide the City with as-builts of the small wireless facilities within thirty (30) days after construction of the small wireless facility, demonstrating compliance with the permit and site photographs.
6. Permit time limit. Construction of the small wireless facility must be completed within twelve (12) months after the approval date by the City. The permittee may request one (1) extension to be limited to six (6) months, if the permittee cannot construct the small wireless facility within the original twelve (12) month period.
7. Site safety and maintenance. The permittee must maintain the small wireless facilities in safe and working condition. The permittee shall be responsible for the removal of any graffiti or other vandalism and shall keep the site neat and orderly, including but not limited to following any maintenance or modifications on the site.
8. Operational activity. The grantee shall commence operation of the small wireless facility no later than six (6) months after installation and may request one (1) extension for an additional six (6) month period if grantee can show that such operational activity is delayed due to inability to connect to electrical or backhaul facilities.
9. Modifications. If a grantee desires to make a modification to an existing small wireless facility, including but not limited to expanding or changing the antenna type, increasing the equipment enclosure, placing additional pole-mounted or ground-mounted equipment, or modifying the concealment elements, then the applicant shall apply for a small wireless facility permit.
10. Exceptions to modifications. A small wireless facility permit shall not be required for routine maintenance and repair of a small wireless facility within the rights-of-way, or the replacement of an antenna or equipment of similar size, weight, and height, provided that such replacement does not defeat the concealment elements used in the original deployment of the small wireless facility, does not impact the structural integrity of the pole, and does not require pole replacement. Further, a small wireless facility permit shall not be required for replacing equipment within the equipment enclosure or reconfiguration of fiber or power to the small wireless facility. Right-of-way use permits may be required for such routine maintenance, repair or replacement consistent with AMC 12.08 Chapter.

**22.38.240 Small wireless facility permit – Consolidated.**

1. The issuance of a small wireless permit grants authority to construct small wireless facilities in the rights-of-way in a consolidated manner to allow the applicant, in most situations, to avoid the need to seek duplicative approval by both the public works and the development services department. As an exercise of police powers pursuant to RCW 35.99.040(2), the small wireless facility permit is not a right-of-way use permit, but instead a consolidated public works and land use permit and the issuance of a small wireless facility permit shall be governed by the time limits established by federal law for small wireless facilities.
2. The general standards applicable to the use of the rights-of-way described in AMC 12.08 shall apply to all small wireless facility permits.

**22.38.250 Small wireless facilities design and concealment standards.** Small wireless facilities permitted in accordance with this Chapter shall conform to the following design standards.

A. Small wireless facilities attached to existing or replacement non-wooden utility poles located inside and outside the right-of-way shall conform to the following design criteria:

1. Upon adoption of a city standard small wireless facility pole design(s) within the City’s Engineering, Design, and Construction Manual, an applicant shall first consider using or modifying the standard pole design to accommodate its small wireless facility without substantially changing the outward visual and aesthetic character of the design. The applicant, upon a showing that use or modification of the standard pole design is either technically or physically infeasible, or that the modified pole design will not comply with the city’s ADA, sidewalk clearance requirements and/or would violate electrical or other safety standards, may deviate from the adopted standard pole design and use the design standards as further described in AMC 22.38.250(A).

2. The applicant shall minimize to the extent possible the antenna and equipment space and shall use the smallest enclosure technically necessary to fit the equipment and antennas. The antennas and equipment shall be located using the following methods:

a. Concealed completely within the pole or pole base. Antennas and the associated equipment enclosures (including disconnect switches and other appurtenant devices) shall be fully concealed within the pole, unless such concealment is otherwise technically infeasible, or is incompatible with the pole design. If within the pole base, the base shall meet the ADA requirements and not impact the pedestrian access route. In addition, if the equipment enclosure is concealed completely within the pole or pole base, the equipment enclosure may not exceed twenty-eight (28) cubic feet.

b. Underground in a utility vault. If located underground, the access lid to the equipment enclosure shall be located outside the footprint of any pedestrian curb ramp and shall have a nonskid surface meeting ADA requirement if located within an existing pedestrian access route. In addition, the associated equipment enclosures may not exceed twenty-eight (28) cubic feet.

c. Located on a pole. Antennas and the associated equipment enclosures (including disconnect switches and other appurtenant devices) shall conform to the following:

i. The antenna(s) shall be placed as close to the surface of the pole as possible, meaning that the interior edge may not be more than twelve (12) inches off the surface of the pole, and only if such distance is necessary for antenna tilt and technical need. Each antenna may not exceed three (3) cubic feet in volume.

ii. The equipment shall be placed as close to the surface of the pole as possible, but may not be more than six (6) inches off the surface of the pole. The equipment must be placed in the smallest enclosure possible for the technical need of the small wireless facility. The equipment enclosure and all other wireless equipment associated with the utility pole, including wireless equipment associated with the antenna (including conduit) and any pre-existing associated equipment on the pole, may not exceed twenty-eight (28) cubic feet. Multiple equipment enclosures may be acceptable if designed to more closely integrate with the pole design and does not cumulatively exceed twenty-eight (28) cubic feet. The applicant is encouraged to place the equipment enclosure behind any banners or road signs that may be on the pole, provided that such location does not interfere with the operation of the banners or signs, or the operation of the small wireless facility.

iii. A unified enclosure housing both antenna and equipment shall be placed as close to the surface of the pole as possible, but the interior edge of the unified antenna and equipment enclosure shall not extend more than twelve (12) inches off the pole if necessary for antenna tilt and technical need. The unified antenna and equipment enclosure shall be the smallest size technically necessary, but shall not exceed the dimensional requirements of subsection (A)(2)(b)(ii) above.

iv. To the extent possible, the equipment enclosures shall be placed so as to appear as an integrated part of the pole or behind banners or signs, provided that such location does not interfere with the operation of the banners or signs, or the operation of the small wireless facility.

v. The applicant may place a side mounted canister antenna, so long as the inside edge of the antenna is no more than six (6) inches from the surface of the pole.

d. On private property. If located on private property, the applicant shall provide documentation establishing the lease or easement right and permission of the property owner to locate the small wireless facility on the private property. In addition, the associated equipment enclosures may not exceed twenty-eight (28) cubic feet.

3. The furthest point of any equipment enclosure may not extend more than twenty-eight (28) inches from the face of the pole. Any equipment or antenna enclosures shall meet WSDOT height clearance requirements. Applicants are encouraged to place the equipment enclosure as close to the antennas as physically and technically possible, unless such placement would cause a greater aesthetic impact.

4. All conduit, cables, wires and fiber shall be routed internally in the non-wooden pole. Full concealment of all conduit, cables, wires and fiber is required within mounting brackets, shrouds, canisters or sleeves if attaching to exterior antennas or equipment.

5. An antenna on top of an existing pole may not extend more than six (6) feet above the height of the existing pole and the diameter may not exceed sixteen (16) inches, measured at the top of the pole, unless the applicant can demonstrate that more space is technically necessary. The antennas and any extension shall be integrated into the pole design so that it appears as a continuation of the original pole, including colored or painted to match the pole, and shall be shrouded or screened to blend with the pole. All cabling and mounting hardware/brackets from the bottom of the antenna to the top of the pole shall be fully concealed and integrated with the pole.

6. Any replacement pole shall substantially conform to the design of the pole it is replacing or the neighboring pole design standards utilized within the contiguous right-of-way.

7. The height of any replacement pole may not extend more than ten (10) feet above the height of the existing pole or the minimum additional height necessary, whichever is less; provided that the height of the replacement pole cannot be extended further by additional antenna height.

8. The diameter of a replacement pole shall comply with the City's setback and sidewalk clearance requirements and shall, to the extent technically feasible, not be more than a 25% increase of the existing non-wooden pole measured at the base of the pole, unless additional diameter is needed in order to conceal equipment within the base of the pole, and shall comply with the requirements in AMC 22.38.250(E)(5) below.

9. The use of the pole for the siting of a small wireless facility shall be considered secondary to the primary function of the pole. If the primary function of a pole serving as the host site for a small wireless facility becomes unnecessary, the pole shall not be retained for the sole purpose of accommodating the small wireless facility and the small wireless facility and all associated equipment shall be removed.

B. Wooden pole design standards. Small wireless facilities attached to wooden utility poles located inside or outside the right-of-way, and in public easements, shall conform to the following design criteria:

1. The wooden pole at the proposed location may be replaced with a taller pole for the purpose of accommodating a small wireless facility; provided, that the replacement pole shall not exceed a height that is a maximum of ten (10) feet taller than the existing pole, unless a further height increase is required and confirmed in writing by the pole owner and that such height extension is the minimum extension possible to provide sufficient separation and/or clearance from electrical and wireline facilities.

2. A pole extender may be used instead of replacing an existing pole but may not increase the height of the existing pole by more than ten (10) feet, unless a further height increase is required and confirmed in writing by the pole owner and that such height increase is the minimum extension possible to provide sufficient separation and/or clearance from electrical and wireline facilities. A “pole extender” as used herein is an object affixed between the pole and the antenna for the purpose of increasing the height of the antenna above the pole. The pole extender shall be painted to approximately match the color of the pole and shall substantially match the diameter of the pole measured at the top of the pole.

3. Replacement wooden poles shall either match the approximate color and materials of the replaced pole or shall be the standard new wooden pole used by the pole owner in the City.

4. Antennas, equipment enclosures, and all ancillary equipment, boxes and conduit shall be colored or painted to match the approximate color of the surface of the wooden pole on which they are attached.

5. The interior edge of an antenna shall not be mounted more than twelve (12) inches from the surface of the wooden pole.

6. Antennas should be placed in an effort to minimize visual clutter and obtrusiveness. Multiple antennas are permitted on a wooden pole provided that each antenna enclosure shall not be more than three (3) cubic feet in volume.

7. A canister antenna may be mounted on top of an existing wooden pole, which may not exceed the height requirements described in subsection B(1) above. A canister antenna mounted on the top of a wooden pole shall not exceed sixteen (16) inches in diameter, measured at the top of the pole, and shall be colored or painted to match the pole. The canister antenna shall be placed to look as if it is an extension of the pole. In the alternative, the applicant may propose a side mounted canister antenna, so long as the inside edge of the antenna is no more than twelve (12) inches from the surface of the wooden pole. All cables shall be concealed either within the canister antenna or within a sleeve between the antenna and the wooden pole.

8. The furthest point of any antenna or equipment enclosure may not extend more than twenty-eight (28) inches from the face of the pole. Any equipment or antenna enclosures shall meet WSDOT height clearance requirements. Applicants are encouraged to place the equipment enclosure as close to the antennas as physically and technically possible, unless such placement would cause a greater aesthetic impact.

9. An omni-directional antenna may be mounted on the top of an existing wooden pole, provided such antenna is no more than four (4) feet in height and is mounted directly on the top of a pole or attached to a sleeve made to look like the exterior of the pole as close to the top of the pole as technically feasible. All cables shall be concealed within the sleeve between the bottom of the antenna and the mounting bracket.

10. All related equipment, including but not limited to ancillary equipment, radios, cables, associated shrouding, microwaves, and conduit which are mounted on wooden poles shall not be mounted more than six (6) inches from the surface of the pole, unless a further distance is technically required, and is confirmed in writing by the pole owner.

11. Equipment for small wireless facilities shall be attached to the wooden pole, unless otherwise permitted to be ground mounted pursuant to AMC 22.38.250(E)(2). The equipment must be placed in the smallest enclosure possible for the intended purpose. The equipment enclosure and all other wireless equipment associated with the utility pole, including wireless equipment associated with the antenna and any pre-existing associated equipment on the pole, may not exceed twenty-eight (28) cubic feet. Multiple equipment enclosures may be acceptable if designed to more closely integrate with the pole design and does not cumulatively exceed twenty-eight (28) cubic feet. The applicant is encouraged to place the equipment enclosure behind any banners or road signs that may be on the pole, provided that such location does not interfere with the operation of the banners or signs, or the small wireless facility.

12. A unified enclosure housing both antenna and equipment may be utilized and shall be placed as close to the surface of the pole as possible, but the interior edge of the unified antenna and equipment enclosure shall not extend more than twelve (12) inches off the pole if necessary for antenna tilt and technical need. The unified enclosure shall be the smallest size technically necessary, but shall not exceed the dimensional requirements of AMC 22.38.250(B)(11) above. To the extent possible, the unified enclosure shall be placed so as to appear as an integrated part of the pole or behind banners or signs, provided that such location does not interfere with the operation of the small wireless facility or operations of the banners or signs.

13. The visual effect of the small wireless facility on all other aspects of the appearance of the wooden pole shall be minimized to the greatest extent possible

14. The small wireless facility shall be considered a secondary use to the primary use of the utility pole. If the primary use of a utility pole serving as the host site for a small wireless facility becomes unnecessary, the utility pole shall not be retained for the sole purpose of accommodating the small wireless facility and the small wireless facility and all associated equipment shall be removed.

15. The diameter of a replacement pole shall comply with the requirements listed in AMC 22.38.250(E)(6) below.

16. All cables and wires shall be routed through conduit along the outside of the pole. The outside conduit shall be colored or painted to match the pole. The number of conduits shall be minimized to the number technically necessary to accommodate the small wireless facility.

C. Small wireless facilities attached to existing buildings. Small wireless facilities attached to existing buildings, shall conform to the following design criteria:

1. Small wireless facilities may be mounted to the sides of a building if the antennas do not interrupt the building’s architectural theme.

2. The interruption of architectural lines or horizontal or vertical reveals is discouraged.

3. New architectural features such as columns, pilasters, corbels, or other ornamentation that conceal antennas may be used if it complements the architecture of the existing building.

4. Small wireless facilities shall utilize the smallest mounting brackets necessary in order to provide the smallest offset from the building.

5. Skirts or shrouds shall be utilized on the sides and bottoms of antennas in order to conceal mounting hardware, create a cleaner appearance, and minimize the visual impact of the antennas. Exposed cabling/wiring is prohibited.

6. Small wireless facilities shall be colored, painted and textured to match the adjacent building surfaces, to the extent technically feasible.

7. Small wireless facilities must meet the height requirement of the underlying zoning district.

8. Feed lines and coaxial cables shall be located below the parapet of the rooftop or otherwise concealed from view.

9. If a cabinet enclosure cannot be located within the building where the small wireless facilities will be located, then the City’s first preference is for the wireless telecommunication carrier to locate the equipment on the roof of the building. If the equipment can be screened by placing the equipment below the parapet walls, no additional screening is required. If screening is required, the proposed screening must be consistent with the existing building in terms of color, design, architectural style, and material. If the cabinet equipment cannot be located on the roof or within the building, then it shall be located underground consistent with AMC 22.38.250(E)(2).

D. Small wireless facilities attached to cables. Small wireless facilities mounted on cables strung between existing utility poles inside the right-of-way shall conform to the following standards:

1. Each strand mounted facility shall not exceed three (3) cubic feet in volume;

2. Only one strand mounted facility is permitted per cable between any two existing poles;

3. The pole must be able to support the necessary load requirements of the strand mounted facility;

4. The strand mounted devices shall be placed as close as possible to the nearest utility pole, in no event more than five (5) feet from the pole unless a greater distance is technically necessary or is required by the pole owner for safety clearance;

5. No strand mounted device shall be located in or above the portion of the roadway open to vehicular traffic;

6. Ground mounted equipment to accommodate a shared mounted facility is not permitted except when placed in pre-existing equipment cabinets; and

7. Pole mounted equipment shall comply with the requirements of AMC 22.38.250(D)(1) and (2) above.

8. Such strand mounted devices shall be installed to cause the least visual impact and without excess exterior cabling or wires (other than the original strand).

9. Strand mounted facilities are prohibited on non-wooden poles, unless the existing pole has pre-existing communication wirelines.

E. General requirements.

1. In the event power is later undergrounded in an area where small wireless communication facilities are located above ground on utility or light poles, the small wireless communication facilities shall be removed and may be replaced with a facility meeting the design standards for new poles in AMC 22.38.270.

2. Ground mounted equipment in the right-of-way is prohibited, unless the applicant can demonstrate that pole mounted, completely concealed within the pole, or undergrounded equipment is technically infeasible. If ground mounted equipment is necessary, then the applicant shall submit a concealment element plan. Generators located in the right-of-way are prohibited.

3. Small wireless facilities are not permitted on traffic signal poles unless denial of the siting could be a prohibition or effective prohibition of the applicant’s ability to provide telecommunications service in violation of 47 USC §§ 253 and 332.

4. Replacement poles and new poles shall comply with the ADA, City construction and sidewalk clearance standards, city ordinance, and state and federal laws and regulations in order to provide a clear and safe passage within the right-of-way. Further, the location of any replacement or new pole shall: be physically possible, comply with applicable traffic warrants, not interfere with utility or safety fixtures (e.g., fire hydrants, traffic control devices), and not adversely affect the public welfare, health or safety.

5. Replacement poles shall be located no more than five (5) feet from the existing pole with the requirement to remove the abandoned pole.

6. No signage, message or identification other than the manufacturer’s identification or identification required by governing law is allowed to be portrayed on any antenna or equipment enclosure or on the pole. Any permitted signage shall be located either on the equipment enclosures or in the location required by law and be of the minimum size necessary to achieve the intended or required purpose (no larger than 4x6 inches unless required by law); provided that, signs are permitted as concealment element techniques where appropriate.

7. Antennas and related equipment shall not be illuminated except for security reasons, required by a federal or state authority, or unless approved as part of a concealment element plan.

8. Side arm mounts for antennas or equipment shall be the minimum extension necessary and the inside edge of the antenna may be no more than twelve (12) inches from the surface of the pole.

9. The preferred location of a small wireless facility on a pole is the location with the least visual impact.

10. Antennas, equipment enclosures, and ancillary equipment, conduit and cable, shall not dominate the structure or pole upon which they are attached.

11. Except for locations in the right-of-way, small wireless facilities are prohibited on any property containing a residential use in the residential zones; provided that where small wireless facilities are intended to be located more than 400 feet from a right-of-way and within an access easement over residential property, the location may be allowed if: (i) the applicant affirms that they have received an access easement from property owner to locate the facility in the desired location, (ii) the property owner where the facility will be installed has authority to grant such permission to locate the facility and related equipment at the designated location pursuant to the terms of the access easement, (iii) that the installation is allowed by, and consistent with, the access easement, (iv) that such installation will not frustrate the purpose of the easement or create any access or safety issue, and (v) shall be in compliance with all land use regulations such as, but not limited to, setback requirements.

12. The City may consider the cumulative visual effects of small wireless facilities mounted on poles within the right-of-way when assessing proposed siting locations so as to not adversely affect the visual character of the City. This provision shall not be applied to limit the number of permits issued when no alternative sites are reasonably available nor to impose a technological requirement on the applicant.

13. These design standards are intended to be used solely for the purpose of concealment and siting. Nothing herein shall be interpreted or applied in a manner which dictates the use of a particular technology. When strict application of these requirements would effectively prohibit the applicant from providing a wireless service, alternative forms of concealment or deployment may be permitted which provide similar or greater protections from negative visual impacts to the streetscape.

**22.38.260 Small wireless facility design zones.**

A. Design Zones. The following zones are designated as Design Zones for the purposed of siting small wireless facilities:

 1. City Hall & Matchett Park located at 200 Washington Boulevard;

 2. Waffle Park located at 319 1st Avenue North;

 3. Stanley Avenue Park located at 222 Stanley Avenue;

 4. Stanley Avenue Tot Park located at 225 Junction Boulevard;

 5. 3rd & Bike Trail Park located at 419 Iron Avenue;

 6. 7th Avenue Pocket Park located at 7th Avenue North and Main Street.

B. Any applicant who desires to locate a small wireless facility in a Design Zone shall comply with the requirements and standards in AMC 22.38.270.

**22.38.270 Requirements for small wireless facilities in design zones or located on new poles in the rights-of-way.**

1. New poles within the right-of-way or for installations in Design Zones are only permitted if the applicant can establish that:
	1. The proposed small wireless facility cannot be located on an existing utility pole, electrical transmission tower or on a site outside of the Design Zones or outside public right of way such as public property, building, transmission tower or in or on a non-residential use in a residential zone whether by roof or panel-mount or separate structure;
	2. The proposed small wireless facility complies with the applicable requirements of AMC 22.38.250(E);
	3. The proposed small wireless facility receives approval for a concealment element design, as described in AMC 22.38.270(C) below;
	4. The proposed small wireless facility complies with SEPA, if applicable;
	5. Any new pole shall be installed at the point closest to the side property line so as not to impact the property’s views; and
	6. No new poles shall be located in a critical area or associated buffer required by AMC Title 16.18A (Critical Areas Management ordinance), except when determined to be exempt pursuant to said ordinance.
2. An application for a new pole in the right-of-way or for an installation in a Design Zone is subject to review and approval or denial by the Director.
3. The concealment element design shall include the design of the screening, fencing or other concealment technology for a tower, pole, or equipment structure, and all related transmission equipment or facilities associated with the proposed small wireless facility, including but not limited to fiber and power connections.
	1. If the Director has already approved a concealment element design either for the applicant or another small wireless facility along the same public right-of-way or for the same pole type, then the applicant shall utilize a substantially similar concealment element design, unless it can show that such concealment element design is not physically or technically feasible, or that such deployment would undermine the generally applicable design standards, in such case, the applicant shall propose a concealment element design consistent with AMC 22.38.270(C)(2) below.
	2. The concealment element design should seek to minimize the visual obtrusiveness of the small wireless facility. The proposed pole or structure should have similar designs to existing neighboring poles in the right of way, including similar height to the extent technically feasible. If the proposed small wireless facility is placed on a replacement pole, then the replacement pole shall be of the same general design as the pole it is replacing unless the Director otherwise approves a variation due to aesthetic or safety concerns. Any concealment element design for a small wireless facility should attempt to mimic the design of such pole and integrate the small wireless facility into the design of the pole. Other concealment methods include, but are not limited to, integrating the installation with architectural features or building design components, utilization of coverings or concealment devices of similar material, color, and texture - or the appearance thereof - as the surface against which the installation will be seen or on which it will be installed, landscape design, or other camouflage strategies appropriate for the type of installation. Applicants are required to utilize designs in which all conduit and wirelines are installed internally in the structure.
4. Even if an alternative location is established pursuant to AMC 22.38.270(A)(1), the Director may determine that a new pole in the right-of-way is in fact a superior alternative based on the impact to the City, the concealment element design, the City’s Comprehensive Plan and the added benefits to the community.
5. Prior to the issuance of a permit to construct a new pole or ground mounted equipment in the right-of-way, the applicant must obtain a site-specific agreement from the City to locate such new pole or ground mounted equipment. This requirement also applies to replacement poles when the replacement is necessary for the installation or attachment of small wireless facilities, the replacement structure is higher than the replaced structure, and the overall height of the replacement structure and the small wireless facility is more than sixty (60) feet.
6. These design standards are intended to be used solely for the purpose of concealment and siting. Nothing herein shall be interpreted or applied in a manner which dictates the use of a particular technology. When strict application of these requirements would unreasonably impair the function of the technology chosen by the applicant, alternative forms of concealment or deployment may be permitted which provide similar or greater protections of the street scape.