



City Council Meeting Schedule December 2018

December 4, 2018

Tuesday, 5:30 p.m.

WORKSHOP MEETING

1. Small Cell Facilities

Tuesday, 6:30 p.m.

REGULAR COUNCIL MEETING

December 11, 2018

Tuesday, 6:30 p.m.

WORKSHOP MEETING - Cancelled

December 18, 2018

Tuesday, 5:30 p.m.

WORKSHOP MEETING

1. Legislative Updates

Tuesday, 6:30 p.m.

REGULAR COUNCIL MEETING

December 25, 2018

Tuesday, 6:30 p.m.

WORKSHOP MEETING - Cancelled

To assure disabled persons the opportunity to participate in or benefit from City services, please provide twenty-four (24) hour advance notice for additional arrangements to reasonably accommodate special needs.

Please be advised that all Kennewick City Council Meetings are Audio Taped

December 2018
Updated 11/21/18

Council Workshop Coversheet



Agenda Item Number	1.	Meeting Date	12/04/2018
Agenda Item Type	Ordinance		
Subject	Small Cell Code Amendments		
Ordinance/Reso #		Contract #	
Project #		Permit #	
Department	City Attorney		

Info Only	☐
Policy Review	☐
Policy DevMnt	☒
Other	☐

Summary

On September 27, 2018, the Federal Communications Commission adopted a Declaratory Ruling and Order (18-133) which dramatically preempts local authority on the siting of cellular wireless technology – specifically small cell facilities in the public rights of way. The effective date of the new FCC rules is January 14, 2019. The new rules will: (1) shorten the time cities have to process small cell applications to either 60 or 90 days depending on whether they are being mounted on an existing or new structure; (2) limit application fees for small cells to \$500, and recurring fees to \$270 per site, per year for small cells attached to city infrastructure in the right of way; (3) prohibit cities from assessing fees that include anything other than a reasonable approximation of reasonable costs directly related to maintaining the rights-of-way and the small cell facility; and (4) limit aesthetic review and requirements (including undergrounding and historic/environmental requirements) to those that are reasonable, comparable to requirements for other right-of-way users, and published in advance.

The proposed amendments to KMC 4.14, 4.16, 5.20 and 18.12 are intended to revise the City's small cell provisions to comply with the FCC Order.

Through

Bonnie Lanning
Nov 28, 10:26:48 GMT-0800 2018

Dept Head Approval

Lisa Beaton
Nov 28, 14:39:34 GMT-0800 2018

City Mgr Approval

Marie Mosley
Nov 29, 23:26:40 GMT-0800 2018

Attachments:

Ordinance 5792
Ordinance 5793
Ordinance 5794
Ordinance 5795
Presentation

CITY OF KENNEWICK
ORDINANCE NO. 5792

AN ORDINANCE RELATING TO SMALL CELL DEPLOYMENTS:
FRANCHISE AND SMALL CELL PERMITS AND AMENDING CHAPTER
4.14 OF THE KENNEWICK MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, DO ORDAIN AS
FOLLOWS:

Section 1. Chapter 4.14 of the Kennewick Municipal Code, be, and the same hereby is, amended
to read as follows:

4.14.010: Overview.

In order to manage its right-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 while complying with the requirements of State and federal law, the City of Kennewick has adopted this process for the deployment of small cell and microcell technology. Service providers who seek to utilize the public right-of-way for small cell deployment in order to provide wireless communication, data transmission or other related services to the citizens of the City must have a valid franchise to provide the specific service and a Small Cell Permit to deploy the technology. Entities with franchises who wish to utilize a small cell deployment to upgrade or expand their services shall utilize the processes set forth in this ordinance and implementing Small Cell Permits to deploy their technology and obtain design approval of specific installations. The Small Cell Permit process administers deployment under the franchise. An entity without a franchise shall apply for a franchise and adjunct Small Cell Permit which shall be processed concurrently as one Master Permit within the meaning of RCW 35.99.010(3) and 35.99.030. For entities with a valid franchise, see KMC 4.14. All required permits for a small cell deployment shall be consolidated for review.

- (1) Nothing in this ordinance revises or diminishes the rights and obligations of an existing franchise.
- (2) The term "small cell deployment" shall include the deployment of small cell facilities and small cell networks as small wireless facilities as that term is those terms are defined by 47 CFR § 1.6002 RCW 80.36.375. Small cell deployment elements which require SEPA, Critical Areas or Shorelines review shall comply with those review processes. may utilize these processes only in conjunction with SEPA review.
- (3) Definitions for terms used in this chapter can be found in KMC Chapter 4.16.

(Ord. 5792 Sec. 1 (part) 2018; Ord. 5733 Sec. 1 (part), 2017)

4.14.020: Application.

Applicants shall apply using the City's franchise application form and submit a \$500 fee deposit commensurate with the estimated administrative costs of processing an application for a franchise. See Chapter 5.20 KMC for basic requirements. The fee deposit level shall be set by the Director of Public Works ("Director"). The Director and his or her designee shall coordinate review with the Planning Director with respect to small cell deployments which require review

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under KMC 18.12.315 in one consolidated process. Phased development is permitted and an applicant is encouraged to specify at least the initial small cell deployment in its application.

The following information shall be provided by all applicants for franchises seeking to utilize small cell deployment in addition to the information provided pursuant to Chapter 5.20 KMC. Existing franchisees who seek to utilize a small cell deployment to expand, assist or implement an existing franchise may provide the information as a part of a Small Cell Permit application for small cell deployment.

- (1) Designation of Facilities. The application shall provide specific locational information including GIS coordinates of all facilities, and specify whether and where small cell facilities are to be located on existing utility poles including City-owned light standards (included in the definition of utility pole), or will utilize replacement utility poles, new poles, towers, and/or other structures. Conduit and/or ground-mounted equipment 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 an infrastructure provider. Detailed schematics and visual renderings of the facilities shall be provided by the applicant. Failure to provide sufficient detail may result in a later finding of a significant change in the facility if the facility is not accurately shown on the originally approved franchise exhibit. Failure to specify elements may also result in the requirement that new or undocumented elements complete the approval processes detailed in this Chapter and/or KMC 4.16.
- (2) Implementation. The rights granted under a franchise are implemented through the issuance of Small Cell Permits. The franchise application may be accompanied by ~~one or more~~ applications for a Small Cell Permit to deploy small cells. An initial franchise and all related Small Cell Permit applications including right-of-way use permits shall be processed concurrently as one Master Permit. See RCW 35.99.010(3) for the definition of "master permit."
 - ~~(a) Up to 20 sites may be specified in one Small Cell Permit application for processing. The Director may approve up to ten additional sites in order to consider small cell sites within one logical service area in one application.~~
 - ~~(ab)~~ Issuance of a Small Cell Permit to install a small cell deployment shall be contingent upon approval of a franchise or the possession of a valid franchise.
 - ~~(c) If more than one application for a Small Cell Permit is submitted by an applicant, they shall be considered in the order received. If multiple applications are submitted on the same date, the applicant shall indicate which application should be considered first.~~
 - ~~(b)~~ All Small Cell Permits which are submitted in conjunction with a franchise application shall be considered as one Master Permit.
 - ~~(i) PROVIDED, HOWEVER, that an applicant with an existing franchise may, at the applicant's sole discretion, elect to utilize the expedited review process set forth in KMC 4.14.090.~~
 - (ii) Any element of a deployment which qualifies as either an Eligible Facilities Request or a collocation shall be specifically designated by the applicant and may be addressed separately by the Director in order to comply with the shot clocks established by federal law and KMC 4.16.

- (cd) The Director may approve, deny or conditionally approve all or any portion of the sites proposed in the Small Cell Permit application.
- (de) Any application for a franchise or Small Cell Permit which contains an element which is not exempt from Critical Areas, Shorelines or SEPA review shall simultaneously apply under Chapter 43.21C RCW and Chapters 4.08 and 18.58 to 18.68. See also KMC 4.08.
- (ef) RF Certification. The applicant shall submit a sworn affidavit signed by an RF Engineer with knowledge of the proposed project affirming that the small cell deployment 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 cell facility will operate. If facilities necessary to the Small Cell Deployment are to be provided by another franchisee, then the Small Cell Deployment in the initial franchise or in a subsequent Small Cell Permit shall be conditioned on an RF Certification showing the cumulative impact of the RF emissions on the entire installation.
- (fg) Regulatory Authorization. Issuance of the Use Permit for the facilities shall also be contingent upon the applicant's provision of proof of FCC and other regulatory approvals required to provide the service(s) or utilize the technologies sought to be installed.
- (g) Recognizing that small cell technology is rapidly evolving, the Public Works Director is authorized to adopt and publish standards for the technological and structural safety of City-owned light standards and utility structures and to formulate and publish application questions for use when an applicant seeks to attach to City-owned utility structures.

([Ord. 5792 Sec. 1 \(part\), 2018](#); [Ord. 5733 Sec. 1 \(part\), 2017](#))

4.14.030: Review Process.

The following provisions relate to applications for a franchise and/or Small Cell Permit for small cell deployments.

- (1) 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 applicable case law. Applicants for franchises and all permits including the Small Cell ~~P~~permits which implement the franchise 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. Franchise and Small Cell Permit review under this chapter shall be conducted in a manner which neither prohibits nor ~~has~~ve the effect of prohibiting the ability of an applicant to provide telecommunications services.
- (2) Concealment. In any zone not designated by KMC 18.12.315 ~~(e)(3)(5)~~ for design review ("design review"), upon application for a Small Cell Permit or for facilities designated within a franchise, the City will permit small cell deployment on existing utility poles and replacement poles conforming to the City's generally applicable pole design standard adopted pursuant to KMC ~~4.14.050~~18.12.315. Accordingly, small

cell facilities installed pursuant to this concealment authorization may not be expanded pursuant to an Eligible Facilities Request.

- (3) Design Review. Small cell deployment in Design Zones and Undergrounded Areas, as well as certain new or replacement facilities, are subject to design review. See KMC 18.12.315.

([Ord. 5792 Sec. 1 \(part\), 2018](#); [Ord. 5733 Sec. 1 \(part\), 2017](#))

4.14.040: Facilities Designated in the Franchise and/or Small Cell Permit Application.

Small cell deployments may be approved by reference to exhibits in an approved franchise. Approval of the franchise shall be deemed to approve the site and the design of small cell facilities set forth in the franchise. This approval is limited to the specific location, facility and design elements shown on the exhibits to the franchise. Any element not shown on an exhibit must be approved by the governing review processes listed in KMC 4.14.050, 4.14.060, [4.14.070](#) and, when applicable, KMC 18.12.315. All facilities shall comply with the concealment standards adopted by the City in KMC 4.14.~~050030(2)~~ and/or KMC 18.12.315. An existing franchisee may, at its option:

- (1) Apply to amend the existing franchise to designate sites for small cell deployment, as well as approve the small cell facilities to be installed and the concealment measures to be utilized; and/or
- (2) Apply for a Small Cell Permit which may include:
 - (a) Small cell facilities to be installed on existing utility poles or replacement poles which do not exceed ten feet in additional height, and which utilize the concealment option provided in KMC 4.14.030(2); and/or
 - (b) Small cell facilities to be installed on existing utility poles or replacement poles which do not exceed ten feet in additional height, and which utilize the concealment option provided in KMC 4.14.030(2); and/or
 - (c) Small cell facilities which comply with generally applicable objective design standards adopted by the City in KMC 18.12.315(2)(b); and/or
 - (d) Small cell facilities which require new utility poles or replacement poles which exceed ten feet in additional height or installations in a Design Zone or Undergrounded Areas, utilize the design approval procedures set forth in KMC ~~18.12.315(5)~~ [4.14.050](#).

([Ord. 5792 Sec. 1 \(part\), 2018](#); [Ord. 5733 Sec. 1 \(part\), 2017](#))

4.14.050: Aesthetic design and concealment standards for small cell deployments.

Small cell deployments whether permitted on the right-of way under this Chapter or permitted in accordance with 18.12.315~~56~~ KMC shall conform to the following design standards:

- (1) **Small cell facilities attached to non-wooden poles.** Small cell facilities attached to existing or replacement non-wooden light poles and other non-wooden poles in the right of way or poles outside of the right of way shall conform to the following design criteria:

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(a) Antennas and the associated equipment enclosures shall be sited and installed in a manner which minimizes the visual impact on the streetscape either by fully concealing the antennae and associated equipment fully within the pole or through a concealment element plan which provides an equivalent or greater impact reduction. This requirement shall be applied in a manner which does not dictate the technology employed by the service provider nor unreasonably impair the technological performance of the equipment chosen by the service provider.

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(b) All conduit, cables, wires and fiber must be routed internally in the light 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.

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(c) 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 needed. The antennas 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 except for canister antennas which shall not require screening. 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.

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(d) 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.

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(e) 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 for adequate clearance from electrical wires, whichever is greater.

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(f) The diameter of a replacement pole shall comply with the City's setback and sidewalk clearance requirements, ADA requirements, and if a replacement light standard then with the City's lighting requirements.

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(g) The use of the pole for the siting of a small cell 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 cell facility becomes unnecessary, the pole shall not be retained for the sole purpose of accommodating the small cell facility and the small cell facility and all associated equipment shall be removed.

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(2) **Wooden pole design standards.** Small cell facilities located on wooden poles shall conform to the following design criteria:

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(a) The wooden pole at the proposed location may be replaced with a taller pole for the purpose of accommodating a small cell 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.

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(b) 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.

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(c) Replacement wooden poles may 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.

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(d) 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.

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(e) Panel antennas shall not be mounted more than twelve (12) inches from the surface of the wooden pole.

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(f) 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.

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(g) A canister antenna may be mounted on top of an existing wooden pole, which may not exceed the height requirements described in subsection B-12(b) above. A canister antenna mounted on the top of a wooden pole shall not exceed sixteen (16) inches, measured at the top of the pole, and shall be colored or painted to match the pole. The canister antenna must 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.

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(h) 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.

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(i) 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.

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(j) Equipment for small cell facilities must be attached to the wooden pole, unless otherwise permitted to be ground mounted pursuant to subsection (4)(5)(a). The equipment must be placed in the smallest enclosure possible for the intended purpose. The equipment enclosure may not exceed seventeen (17) cubic feet. Multiple equipment enclosures may be acceptable if designed to more closely integrate with the pole design and does not cumulatively exceed the volumetric requirements of a small cell facility, as defined by 47 CFR 1.6003. The applicant is encouraged to place the equipment enclosure behind any banners or road signs that may be on the pole, if such banners or road signs are allowed by the pole owner.

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(k) An applicant who desires to enclose its antennas and equipment within a unified enclosure may do so, so long as the facility meets the volumetric requirements of a small cell facility. 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. The unified enclosure may not be placed more than six (6) inches from the surface of the pole, unless a further distance is technically required and confirmed in writing by the pole owner.

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(l) The visual effect of the small cell facility on all other aspects of the appearance of the wooden pole shall be minimized to the greatest extent possible.

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(m) The use of the wooden pole for the siting of a small cell 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 cell facility becomes unnecessary, the pole shall not be retained for the sole purpose of accommodating the small cell facility and the small cell facility and all associated equipment shall be removed unless retention of the pole is necessary to prevent an effective prohibition of service.

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(n) 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

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number of conduit shall be minimized to the number technically necessary to accommodate the small cell.

(3) Small cell facilities attached to existing buildings.

Small cell facilities attached to existing buildings, shall conform to the following design criteria:

- (a) Small cell facilities may be mounted to the sides of a building if the antennas do not interrupt the building's architectural theme.
- (b) The interruption of architectural lines or horizontal or vertical reveals is discouraged.
- (c) 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.
- (d) Small cells shall utilize the smallest mounting brackets necessary in order to provide the smallest offset from the building.
- (e) 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.
- (f) Small cell facilities shall be painted and textured to match the adjacent building surfaces.

(4) Small cell facilities mounted on cables strung between existing utility poles shall conform to the following standards.

- (a) Each strand mounted facility shall not exceed three (3) cubic feet in volume;
- (b) Only one strand mounted facility is permitted per cable between any two existing poles;
- (c) 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 instance technically necessary or is required by the pole owner for safety clearance;
- (d) No strand mounted device shall be located in or above the portion of the roadway open to vehicular traffic;
- (e) Ground mounted equipment to accommodate a shared mounted facility is not permitted except when placed in pre-existing equipment cabinets; and

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(f) Pole mounted equipment shall comply with the requirements of sub sections 1 and 2 above.

(g) Such strand mounted devices must be installed to cause the least visual impact and without excess exterior cabling or wires (other than the original stand. The small cell facility shall comply with the construction standards of the owner of the strand/cabling infrastructure.

(5) General requirements.

(a) Ground mounted equipment in the public right-of-way is prohibited, unless such facilities are placed under ground or the applicant can demonstrate that pole mounted or undergrounded equipment is technically infeasible. If ground mounted equipment is necessary, then the applicant shall submit a concealment element plan. Generators are prohibited on the public rights-of-way.

(b) No equipment shall be operated so as to produce noise in violation of Chapter 9.52 KMC.

(c) Small cell 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 §§ 362 and 332.

(d) Replacement poles and new poles shall comply with the American with Disabilities Act (ADA), city construction and sidewalk clearance standards, and state and federal regulations in order to provide a clear and safe passage within the rights-of-way.

(e) Replacement poles shall be located as near as possible to the existing pole with the requirement to remove the abandoned pole.

(f) The design criteria as applicable to small cell facilities described herein shall be considered concealment elements and such small cell facilities may only be expanded upon an eligible facilities request described in Chapter 4.16 KMC, when the modification does not defeat the concealment elements of the facility.

(g) 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, and any such signage on equipment enclosures shall be of the minimum amount possible to achieve the intended purpose; provided that, signs are permitted as concealment element techniques where appropriate.

(h) 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.

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(i) Side arm mounts for antennas or equipment are prohibited.

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(j) The preferred location of a small cell facility on a pole is the location with the least visible impact. The small cell facility must adhere to all the construction standards of the pole owner.

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(k) Antennas, equipment enclosures, and ancillary equipment, conduit and cable, shall not dominate the building or pole upon which they are attached.

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(l) The City may consider the cumulative visual effects of small cells mounted on poles within the rights-of-way in 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 service provider.

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(m) 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 from negative visual impacts to the streetscape.

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(6) New poles in the rights-of-way for small cell facilities and concealment standards installations in the Downtown Historic District.

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(a) New poles within the rights-of-way are only permitted if the applicant can establish that:

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(i) The proposed small cell facility cannot be located on an existing utility pole or light pole in an alley, electrical transmission tower or on a site outside of the public rights of way such as a public park, 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;

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(ii) The proposed wireless communications facility receives approval for a concealment element design, as described in subsection 3 below;

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(iii) The proposed wireless communications facility also complies with Critical Areas, Shorelines and SEPA provisions, if applicable; and

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(iv) No new poles shall be located in a critical area or associated buffer required by the City's Critical Areas ordinance (Chapter 18.58, 18.68 KMC) except when determined to be exempt pursuant to said ordinance.

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(b) An application for a new pole in the right-of-way is subject to an administrative use review as a minor deviation. See KMC 4.14.060.

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(c) 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 wireless communications facility, including but not limited to fiber and power connections.

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(i) The concealment element design should seek to minimize the visual obtrusiveness of wireless communications facility installations. The proposed pole or structure should have similar designs to existing neighboring poles in the rights of way, including to the extent technically feasible similar height. 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 wires are installed internally in the structure or otherwise integrated into the design of the structure. Use of a unified enclosure equal to or less than four (4) cubic feet in volume may be permitted in meeting these criteria.

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(ii) If the Director has already approved a concealment element design either for the applicant or another wireless communications 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 technologically feasible, or that such deployment would undermine the generally applicable design standards.

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(d) Even if an alternative location is established pursuant to subsection 56(a)(i) and (ii) the administrative use permit process 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.

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(e) 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 that are higher than the replaced pole, and the overall height of the replacement pole and the proposed wireless communications facility is more than sixty (60) feet.

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(f) Installation of small cell facilities in a design zone or underground area shall be permitted by an administrative approval of a concealment plan utilizing the design and concealment standards contained in this chapter.

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(g) These aesthetic 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 or effectively prohibit service, alternative forms of concealment or deployment may be permitted which provide similar or greater protections of the streetscape.

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(Ord. 5792 Sec. 1 (part), 2018)

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4.14.0650: - Small Cell Permit and Minor Deviations.

- (1) The Director shall review applications for Small Cell Permits for small cell deployments approved by a franchise or described in a concurrent franchise application. The Director may authorize minor deviations in the Small Cell Permit from the dimensional design and concealment technologies referenced in the exhibits to the franchise or the design standards aesthetic design and concealment standards for small cell facilities set forth in 4.14.050.
- (2) A deviation in height of the pole of up to ten feet above the height of the existing pole, by the franchise or from a design approved for a Design Zone may be permitted. Replacement poles may exceed the height of the existing pole by up to ten feet.
- (3) Deviations in the dimensions or volume of small cell facilities which do not exceed the cumulative total provided by the definition of a small cell facility as small wireless facilities (l) in 47 CFR 1.6002 RCW 80.36.375 may be considered a minor deviation when an applicant replaces components of an existing, approved small cell facility. Similarly, the addition of antennae on a pole, not to exceed a cumulative total of six cubic feet shall be considered a minor deviation. Provided, however, that in each instance the new or revised facilities shall not defeat the concealment features set by City's aesthetic generally applicable pole design and concealment standards adopted pursuant to the franchise, and KMC 4.14.050 48.12.315.
- (4) Small Cell Permits to install facilities including approval of minor deviations shall be processed within the time limits established by 47 CFR 1.6003 unless tolled as provided in the regulation. 90 days of receipt of a complete application and final approval of a franchise, whichever occurs last.
- (5) The decision of the Director to approve a Small Cell Permit with a minor deviation, if any, shall be final.

(Ord. 5792 Sec. 1 (part), 2018; Ord. 5733 Sec. 1 (part), 2017)

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4.14.0760: - Significant Deviations.

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Any request for significant deviations from the approved small cell facilities design designated in the franchise, Small Cell Permit or City's design standards shall be considered ~~an administrative use permit under the provisions of KMC 18.12.310 and if applicable,~~ pursuant to the timelines established by Chapter 4.16 KMC ~~or the presumptive time periods established by 47 CFR § 1.6003.~~ Approval of a significant deviation is permitted only if the Director finds that denial would constitute an effective prohibition of the applicant's provision of services. Unless authorized pursuant to KMC 4.14.050(2) an applicant seeking approval of a new pole or a replacement pole in a Design Zone or Undergrounded Areas designated by KMC 18.12.315(3)(a) shall be subject to the same review process.

(Ord. 5792 Sec. 1 (part), 2018; Ord. 5733 Sec. 1 (part), 2017)

4.14.0870: - Wireless Communication and Small Cell Deployment Facility Approvals and Processes.

Approval of a franchise, Small Cell Permit and/or other approval referenced in this chapter shall be considered in a consolidated administrative process are conditioned on the following requirements:

- (1) Satisfaction of applicable performance standards such as noise and light regulations.
- (2) Comply with adopted design and concealment standards, applicable to ~~replacement utility poles and new~~ utility poles and structures in a Design Zone or Undergrounded Areas.
- (3) Obtain the written approval of the owner of any utility pole for the installation of its facilities on such utility pole. Approval of a franchise does not authorize attachment to City-owned utility poles or other structures.
- (4) Unless specifically provided for in a franchise, obtain a lease from the City to utilize the City's ground space for the installation of any new pole, a replacement utility pole over 60 feet or to locate any new ground--based structure, base station or other attendant equipment on City right-of-way or City property.
- (5) Comply with all City construction standards and State and federal codes when operating in the right-of-way and obtain a required permit to enter the right-if-way.
- (6) A franchise which includes a facility which is not exempt from Critical Areas, Shorelines or SEPA review shall be processed in the provisions of Chapters 4.08 and Chapters 18.58 to 18.68 KMC.
- (7) Small Cell facilities approved pursuant to this chapter shall be considered as an outright permitted use when located within the right-of-way.

(Ord. 5792 Sec. 1 (part), 2018; Ord. 5733 Sec. 1 (part), 2017)

~~4.14.080: - Additional Review Procedures.~~

~~Wireless communication facilities in Critical Areas or Shorelines Management Zones are subject to review as provided in Chapters 18.58 et seq. and 18.68 KMC.
(Ord. 5733 Sec. 1 (part), 2017)~~

~~4.14.090: Expedited Review.~~

~~An applicant, at its option, may opt for expedited review. Absent such a request, the City will process applications on a first come, first served basis, taking into account its resources and the federal shot clocks incorporated by Chapter 4.16 KMC. An applicant requesting expedited review may select a third party consultant from a list established by the City through requests for qualifications or may propose an independent reviewing entity for review by the City. Such entity shall be engaged pursuant to a third party contract. The applicant shall be responsible for paying all costs incurred in the expedited review process. Nothing herein shall be deemed to require an applicant to utilize expedited review.~~

~~(Ord. 5733 Sec. 1 (part), 2017)~~

~~4.14.100: Compliance with State Processing Limitations.~~

~~Review of franchise and Small Cell Permits shall comply with the provisions of RCW 35.99.030. Applications shall be reviewed, completeness determined and the timeframe tolled as provided in Chapter 5.20 and Chapter 4.16 KMC if applicable.~~

~~(Ord. 5733 Sec. 1 (part), 2017)~~

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Section 2. This ordinance shall be in full force and effect five days from and after its passage, approval and publication as required by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, this 18th day of December, 2018, and signed in authentication of its passage this 18th day of December, 2018.

Attest:

DON BRITAIN, Mayor

TERRI L. WRIGHT, City Clerk

ORDINANCE NO. 5792 filed and recorded
in the office of the City Clerk of the City of
Kennewick, Washington this 19th day of
December, 2018.

Approved as to Form:

LISA BEATON, City Attorney

TERRI L. WRIGHT, City Clerk

DATE OF PUBLICATION _____

CITY OF KENNEWICK
ORDINANCE NO. 5793

AN ORDINANCE RELATING TO FEDERALLY REQUIRED REVIEW
PERIODS AND AMENDING SECTIONS 4.16.020 AND 4.16.050 OF THE
KENNEWICK MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, DO ORDAIN AS
FOLLOWS:

Section 1. Section 4.16.020 of the Kennewick Municipal Code, be, and the same hereby is,
amended to read as follows:

4.16.020: - Definitions.

For the purposes of this chapter as well as KMC [4.14](#), [18.12.310](#) and [315](#), the following
terms shall have the meaning ascribed to them below:

- (1) *Antenna*: Any exterior apparatus designed for telephonic, radio, data, Internet or other communications through the sending and/or receiving of radio frequency signals including, but not limited to, equipment attached to a tower, pole, light standard, building or other structure for the purpose of providing wireless services.
- (2) *Antenna height*: The vertical distance measured from average building elevation to the highest point of the antenna, or if on a rooftop or other structure, from the top of the roof or structure to the highest point of the antenna. For replacement structures, antenna height is measured from the top of the existing structure to the highest point of the antenna or new structure, whichever is greater.
- (3) *Approved small cell facility*: Any small cell facility that has received all required permits.
- (4) *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 cell 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 (a) and (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.

The term does not include any structure that, at the time the relevant application is filed with the City under this section, does not support or house equipment described in subparagraph (a) and (b) above.

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- (5) *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.
- (6) *Concealment elements*: Transmission facilities designed to look like some feature other than a wireless tower or base station or which minimizes the visual impact of an antenna by use of nonreflective materials, appropriate colors and/or a concealment canister.
- (7) *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.
- (8) *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.
- (9) *Equipment structure*: A facility, shelter, cabinet or vault used to house and protect electronic or other associated equipment necessary for processing wireless communications signals. "Associated equipment" may include, for example, air conditioning, backup power supplies and emergency generators.
- (10) *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 reviewed because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.
- (11) *Microcells*: Is defined in accord with RCW 80.36.375.
- (12) *Service provider*: Is defined in accord with RCW 35.99.010(6). Service provider shall include those infrastructure companies that provide telecommunications services or equipment to enable the deployment of personal wireless services.
- (13) *Small cell and small cell network*: Are defined in accord with [47 CFR §1.6002 RCW 80.36.375](#) and its definition of "small cell wireless facilities."
- (14) *Structure*. 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 services (whether on its own or co-mingled with other types of services).
- (15) *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 ten percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than ten percent or more than ten 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 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 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 ten percent 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;
- (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.

(165) *Telecommunications service*: Is defined in accord with RCW 35.99.010(7).

(176) *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 fixed wireless services such as microwave backhaul and the associated site.

(187) *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.

(198) *Utility pole*: A structure designed and used primarily for the support of electrical wires, telephone wires, television cable, traffic signals, or lighting for streets, parking areas, or pedestrian paths.

(Ord. 5793 Sec. 1, 2018; Ord. 5733 Sec. 2 (part), 2017)

Section 2. Section 4.16.050 of the Kennewick Municipal Code, be, and the same hereby is, amended to read as follows:

4.16.050: - New Wireless Communication Facilities.

Applications for New wireless communications facilities shall be processed within 150 days of receipt of a complete application unless a shorter time period is established by 47 CFR § 1.6003 (b) and (c) as presumptively reasonable. The Director will notify the applicant within ten (10) 30-days of receipt of an application whether it is complete or if additional information is required. Tolling shall occur as provided in 47 CFR § 1.6003 for small cell facility applications (Ord. 5793 Sec. 2, 2018; Ord. 5733 Sec. 2 (part), 2017)

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Section 3. This ordinance shall be in full force and effect five days from and after its passage, approval and publication as required by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, this 18th day of December, 2018, and signed in authentication of its passage this 18th day of December, 2018.

Attest:

DON BRITAIN, Mayor

TERRI L. WRIGHT, City Clerk

ORDINANCE NO. 5793 filed and recorded
in the office of the City Clerk of the City of
Kennewick, Washington this 19th day of
December, 2018.

Approved as to Form:

LISA BEATON, City Attorney

TERRI L. WRIGHT, City Clerk

DATE OF PUBLICATION _____

CITY OF KENNEWICK
ORDINANCE NO. 5794

AN ORDINANCE RELATING TO FRANCHISE FOR USE OF RIGHT-OF-
WAY AND AMENDING SECTION 5.20.050 AND ADDING A NEW
SECTION 5.20.055 TO THE KENNEWICK MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, DO ORDAIN AS
FOLLOWS:

Section 1. Section 5.20.030 of the Kennewick Municipal Code, be and the same hereby is
amended to read as follows:

5.20.030: Application – Contents.

.030: - Application—Contents.

The director is authorized to establish an application form or forms appropriate for telecommunications entities, public utilities and other qualified service providers to apply for a franchise. The form shall contain at a minimum:

- (1) Information identifying the applicant, its corporate or other organizational structure, and the agent or individual filling out the application.
- (2) Property and facility information including, but not limited to:
 - (a) The nature of the application as an application for a new franchise, an application for renewal or amendment or an application for the transfer of a franchise.
 - (b) A description of the specific services that the applicant expects to provide within the City including whether the services will be provided to the general public, to commercial and/or residential customers or to other utilities and service providers.
 - (c) A general description of the facilities to be located in the right-of-way including, but not limited to, wireline facilities, cable service, telecommunications service facilities, conduits, pipelines, and other facilities appropriate to the specific utility or service providers' utilization of the right-of-way.
 - (d) Where appropriate, information relating to pole attachment or lease agreements with the owners of other facilities located in the right-of-way.
 - (e) Any licenses, certificates or authorizations required from the Federal Communications Commission, the Washington Utilities and Transportation Commission and any other federal or state agency with jurisdiction over the proposed activities to be conducted in the right-of-way.
 - (f) Information relating to utility taxes including a description of the services provided and any and all state and local taxes which may apply.
 - (g) The service area for which the franchise is requested, including a map of the area to be covered by the franchise and specific locations of the initial build out and, if

known, proposes future build out locations including which proposed facilities will be underground, ground based and/or aerial.

- (h) Upon request from the City, financial statements prepared in accordance with generally accepted accounting principles demonstrating the applicant's financial ability to construct, operate, maintain, relocate and remove its telecommunications facilities. This provision shall not apply when prohibited by the Federal Telecommunications Act.
- (i) A representative list of all up to 5 cities or towns in the State of Washington in which the applicant holds a franchise.
- (j) Such other information as the director, in his/her discretion shall deem appropriate.

Section 2. Section 5.20.050 of the Kennewick Municipal Code, be, and the same hereby is, amended to read as follows:

5.20.050: Completeness.

Completeness of the application shall be determined in accordance with this section unless the KMC 5.20.050. Franchise is an application for the deployment of small cell facilities. See KMC 5.20.055. and Small Cell Applications. The Director or his/her designee shall review an application for completeness and notify the applicant within 30 days of submission whether the application is complete, provided, however, that an applicant may consent to a different completeness review period. A service provider may resubmit an incomplete application within 60 days of notice by the Director. Failure to resubmit an application in a timely manner shall be deemed a withdrawal of that application. An applicant shall be notified in writing of the approval or denial of the application. No application shall be deemed complete without the fee deposit set by the Director.

(Ord. 5794 Sec. 1, 2018; Ord. 5734 Sec. 1 (part), 2017)

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Section 3. There is hereby added a new Section 5.20.055 to the Kennewick Municipal Code, to read as follows:

5.20.055: Small Cell Franchises – Completeness.

An application to utilize the Public Right-of-Way for the deployment of small cell facilities shall be reviewed and written notice of completeness provided on or before the tenth day after submission. Tolling and resubmittal shall be governed by 47 CFR § 1.6003 (d).
(Ord. 5794 Sec. 2, 2018)

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Section 4. This ordinance shall be in full force and effect five days from and after its passage, approval and publication as required by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, this 18th day of December, 2018, and signed in authentication of its passage this 18th day of December, 2018.

DON BRITAIN, Mayor

Attest:

TERRI L. WRIGHT, City Clerk

ORDINANCE NO. 5794 filed and recorded
in the office of the City Clerk of the City of
Kennewick, Washington this 19th day of
December, 2018.

Approved as to Form:

LISA BEATON, City Attorney

TERRI L. WRIGHT, City Clerk

DATE OF PUBLICATION_____

CITY OF KENNEWICK
ORDINANCE NO. 5795

AN ORDINANCE ZONE DISTRICTS AND STANDARDS AND AMENDING
SECTIONS 18.12.310 AND 18.12.315 OF THE KENNEWICK MUNICIPAL
CODE

THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, DO ORDAIN AS
FOLLOWS:

Section 1. Section 18.12.310 of the Kennewick Municipal Code, be, and the same hereby is,
amended to read as follows:

18.12.310: Wireless Communication Facilities.

The purpose of this section is to provide predictability to service providers in the permitting process and to allow for site development issues to be addressed through clear and objective siting criteria and development standards. Collocation on existing structures is strongly encouraged to allow for the increased need for wireless communication facilities while minimizing the adverse visual impacts of such facilities. The following facilities are exempt from the coverage of this section; Small cell facilities when located on new existing utility or replacement structures, ~~within the public right-of-way~~. Collocations and Eligible Facilities Requests outside of the public right-of-way are outright permitted uses, provided they comply with the requirements below. See KMC 4.16.020 for definitions applicable to this section and Chapter 4.16 for time limitations on such requests.

- (1) Collocation of wireless antennas on existing structures is allowed in all zoning districts. The parent structure can be a cellular tower, building, public power line, light pole, other public utility structure, or any multiple-family structure of four units or more. Approval is subject to the following:
 - (a) The addition of a wireless facility with antenna cannot extend more than 20 feet above the highest point of the parent structure.
 - (b) The property owner must provide written permission and the total height of the parent structure must be provided to and approved by the city.
 - (c) Location on a single-family, duplex and triplex dwelling is not permitted.
 - (d) License agreements must be obtained if in a public right-of-way
 - (e) All antennas must be painted a neutral non-reflective color that will blend with the surrounding landscaping and parent facility. Recommended shades are gray, beige, sand, taupe, or light brown. A color chip or other sample of the proposed color must be approved by the Planning Director.
 - (f) All collocations of wireless antenna must comply with the noise standards contained in KMC 9.52.
 - (g) The parent structure shall have been occupied or completed at least six months prior to installation of the subject wireless facility and/or antenna.
- (2) Applications for collocations must include:
 - (a) The type and dimensions of proposed antenna.
 - (b) Written confirmation that upon abandonment of the site, the City of Kennewick will receive a copy of the notice supplied to FCC. The owner of the wireless facility will be responsible for removing the facility and accessory structures

within 60 days of the receipt of that notice by the City. Written confirmation for each operational site is required by February 1 of every calendar year.

- (3) New wireless communication facilities, as defined in KMC 18.09.2220 up to 55 feet in height, are permitted uses in all Commercial, Industrial and Public Facility Districts except "CN" (Commercial, Neighborhood) Districts. The only type of tower allowed for wireless communication facilities are monopoles. New guyed towers or latticed towers are prohibited. New wireless communication facilities, other than collocated facilities, are prohibited in all other zoning districts. A site plan must be approved in accord with KMC 18.42.
- (4) An application for site plan approval of a new wireless telecommunication facility must include the following information in addition to that required as per KMC 18.42.110:
 - (a) The type and dimensions of proposed antenna.
 - (b) Written confirmation that upon abandonment of the site, the City of Kennewick will receive a copy of the notice supplied to FCC. The owner of the wireless facility will be responsible for removing the facility and accessory structures within 60 days of the receipt of that notice by the city. Written confirmation for each operational site is required by February 1 of every calendar year.
 - (c) A hold harmless agreement indemnifying the City of Kennewick from damage caused by structure failure of a wireless communication facility must be filed with the City for each new wireless communication facility site by the telecommunication provider.
- (5) The following development standards are required for site plan approval for new monopoles. These development standards do not apply to collocated facilities;
 - (a) No wireless communication facility may be located within 100 feet of any residential zoning district as measured from the base of the monopoles. Monopoles in Commercial, Industrial and Public Facility zones need only to comply with the setbacks required in the specific zone.
 - (b) All mechanical and technical appurtenances visible from a public street must be screened with a sight-obscuring fence at least six feet in height. Fencing must be provided around the base of the facility and any accessory buildings. The fencing material must be wood or masonry. Chain link fencing with inserted slats does not fulfill the sight-obscuring requirement. Electric fences and barbed wire are not permitted. A locking gate is required.
 - (c) When wireless communication facilities are located on parcels of land that abut residentially-zoned parcels, a five-foot landscaped area is required outside of the fenced area of the site when there is an above-ground accessor building provided. Trees are to be provided at the ratio of one for each ten feet of fencing distance. Climbing evergreen shrubs or vines can be substituted for the required trees and must be planted at the ratio of one for each three feet of fencing distance. The ground cover must be live vegetative planting. All landscaping must be maintained as per KMC 18.21.
 - (d) All wireless facilities must comply with the noise standards contained in KMC 9.52.

(6) Modification or Waiver. The provisions of this Section may be modified or waived if strict application of a provision would effectively prohibit the provision of wireless service by an applicant.

(Ord. 5795 Sec. 1, 2018; Ord. 5735 Sec. 1, 2017; Ord. 5180 Sec. 1, 2007)

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Section 2. Section 18.12.315 of the Kennewick Municipal Code, be, and the same hereby is, amended to read as follows:

18.12.315: - Wireless Communication Design Standards.

In order to implement the purposes and policy set forth in the City's Comprehensive Plan, this Section provides design and review procedures for the wireless communications facilities qualifying as small cells. These provisions are intended to ~~provide~~establish objective aesthetic design criteria to assist in minimizing the visually obtrusive impacts which can be associated with wireless communications facilities and to encourage creative approaches in the location and construction of wireless communications facilities. See KMC 4.16.020 for definitions applicable to this section.

- (1) Exclusions. The following antennas and related facilities are expressly excluded from the provisions of this chapter.

- (a) Amateur radio antennas and related facilities. See KMC 18.09.120.

- (b) Dispatch Communication Facilities of a Public Safety Entity.

- (2) Small Cell Deployment. Small cell deployment is the deployment of facilities defined as small wireless facilities by 47 CFR § 1.6002 (1). Small cell facilities, whether within or outside of the public right-of-way, shall conform to the provisions of 4.14.050 KMC. includes small cell facilities, microcells and small cell networks. The following provisions establish design and concealment standards for wireless communications and in appropriate situations, criteria for the establishment of standards for small cell deployments, provided, however, that aAny small cell, microcell, or small cell network component which is not exempt from SEPA review shall comply with chapter 4.08 KMC.

- ~~(a) Existing Utility Poles in Areas Other Than Design Zones and Undergrounded Areas. Eligible small cell facilities opting in under the provisions of KMC 4.14.030(2). Concealment shall be considered to have satisfied the design and concealment standards when installed on existing utility poles.~~

- ~~(b) Small Cell Deployments on Existing Utility Poles Not Approved Pursuant to a Franchise. Small cell deployments on existing utility poles which have not been approved as an exhibit to the franchise or as a minor deviation thereto, shall comply with these provisions. Except to the minimum extent necessary to fulfill its technological purpose, all antennas and supporting structures shall be concealed within a canister of the smallest possible dimension and volume necessary to house the antenna structure or in the alternative within a spatial volume of the same dimension. The small cell facility shall, to the full extent permitted under the state electrical code and the utilities' requirements be flush-mounted if feasible on the utility pole, provided, however, if the utility which owns the pole prohibits the location of a small cell facility within the communication zone, the antenna portion of the small cell facility may be located on the top of the pole. In that event, up to ten feet in height over the existing pole height or the height of a replacement pole as approved herein is permitted. The Director shall consult with the owner of the utility pole and applicant to determine the minimum height extension required for installation of the antenna. Flush mount includes use of brackets that offset the inside edge of such equipment from the utility pole and be 12 inches or less from the pole,~~

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- except as otherwise required by the pole owner such as the National Electrical Code or similar regulation and when approved by the city.
- ~~(c) Ground Mounted Equipment; ADA Compliance Required. In Undergrounded Areas, Design Zones and where necessary to permit full use of the public right-of way by pedestrians, bicycles and other users, all ground mounted equipment shall be undergrounded in a vault meeting the City's construction standards. The location of ground mounted equipment (to the extent undergrounding such equipment is not technologically feasible), a replacement pole and/or any new pole shall comply with the Americans with Disabilities Act (ADA), city construction standards, and State and federal regulations in order to provide a clear and safe passage within the public right of way.~~
- ~~(d) Replacement Utility Pole Street Lighting. With the express permission of the City, a replacement utility pole or a new utility pole may be permitted in the form of a new street light standard. The design of the street light standard shall be in accordance with adopted City construction standards when located outside of a Design Zone or in an undergrounded area. Replacement utility poles/street light standards located within a Design Zone shall conform to the adopted streetscape design standard for the Design Zone. Wherever technologically feasible, all equipment and cabling shall be internal to the replacement street lighting standard.~~
- ~~(e) Undergrounded Area. In areas in which electrical and other utilities have been undergrounded, a service provider or infrastructure company desiring to locate any above-ground infrastructure in support of a small cell deployment shall submit a concealment element plan in accordance with the provisions of Section (5) below.~~
- (3) Designated Design Zones.
- (a) Design Zones. The following zones are designated as Design Zones for the purpose of the application of the provisions of Chapter 4.14 KMC and this section.
- (i) Central Business District (CBD); and
- (ii) Urban Mixed Use (UMU).
- (4) Additional Small Cell Requirements.
- (a) Federal Regulatory Requirements.
- (i) These provisions shall be interpreted and applied in order to comply with the provisions of federal law. By way of illustration and not limitation, any small cell facility which has been certified as compliant with all FCC and other government regulations regarding the human exposure to radio frequency emissions will not be denied on the basis of RF radiation concerns. See 4.14.020(2)(~~ef~~).
- (ii) Wireless communication facilities shall be subject to the provisions of this section following requirements to the full extent that such requirements (i) do not unreasonably discriminate among providers of functionally equivalent services, and (ii) do not have the effect of effectively prohibiting personal wireless services within the City.
- (b) ~~Replacement Utility Poles and Monopoles. Monopoles, as well as facilities, including replacement poles, which are not exempt from SEPA review shall be processed under the provisions of Section 18.12.310 KMC.~~

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~~(c) Replacement, New Poles and Undergrounded Areas or Design Zones. Replacement poles over 45 feet in height within the specific zone, new poles and facilities to be constructed in any undergrounded area or Design Zone are permitted only when the applicant establishes that:~~

~~(i) The small cell facility cannot be located on an electrical transmission tower, existing pole, or on a site outside of the public right-of-way such as a public park, public property, or in or on a non-residential use in a residential zone whether by roof or panel mount or separate structure; and~~

~~(ii) The proposed facility complies with an approved Concealment Element Plan for the Undergrounded Area or Design Zone; and~~

~~(iii) The facilities shall also comply with critical areas requirements and SEPA.~~

~~(5) Concealment Element Plan.~~

~~(a) Concealment Element Plan Required. Applications for proposed installations in Undergrounded Area and Design Zones which deviate from existing City design standards (or if the City has not created a design standard for that particular area) shall be required to submit a concealment element plan. Such plan shall include the design of the screening, fencing or other concealment technology for a base station, tower, utility pole, or equipment structure, and all related transmission equipment or facilities associated with the proposed wireless facility, including, but not limited to, fiber and power connections.~~

~~(b) Purpose of Concealment Element Plan, Generally. Concealment Element Plans should seek to minimize the visual obtrusiveness of installations using methods including, but 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.~~

~~Other concealment element approaches may include, but not be limited to, use of architectural concealment products, fencing or screening materials, and where appropriate, landscape design, or any other camouflage strategies appropriate for the type of installation. Additionally, the use of a concealment support or device, such as a clock tower, steeple, flagpole, tree, street sign, or other applicable concealment structure may be approved.~~

~~The Director shall apply this section, as well as all design guidelines applicable in the Undergrounded Area or Design Zone in which an installation is proposed.~~

~~(c) Review of Concealment Element Plan for Non-Substantial Change Collocations. Where a proposed collocation does not constitute a substantial change, a Concealment Element Plan shall be subject to ministerial review to ensure the proposed collocation does not defeat the concealment features approved as part of the initial installation at that location.~~

~~(d) Review of Concealment Element Plan for Initial Installations and Substantial Change Collocations. For initial installations and substantial change collocations in Undergrounded Area and Design Zones, the Director shall conduct an administrative review pursuant to of Concealment Element Plans for compliance with this section and all applicable City design guidelines.~~

([Ord. 5795 Sec. 2, 2018](#); [Ord. 5735 Sec. 2, 2017](#))

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Section 2. This ordinance shall be in full force and effect five days from and after its passage, approval and publication as required by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, this 18th day of December, 2018, and signed in authentication of its passage this 18th day of December, 2018.

Attest:

DON BRITAIN, Mayor

TERRI L. WRIGHT, City Clerk

ORDINANCE NO. 5795 filed and recorded
in the office of the City Clerk of the City of
Kennewick, Washington this 19th day of
December, 2018.

Approved as to Form:

LISA BEATON, City Attorney

TERRI L. WRIGHT, City Clerk

DATE OF PUBLICATION _____

Small Cell Code Amendments

FCC Order Discussion

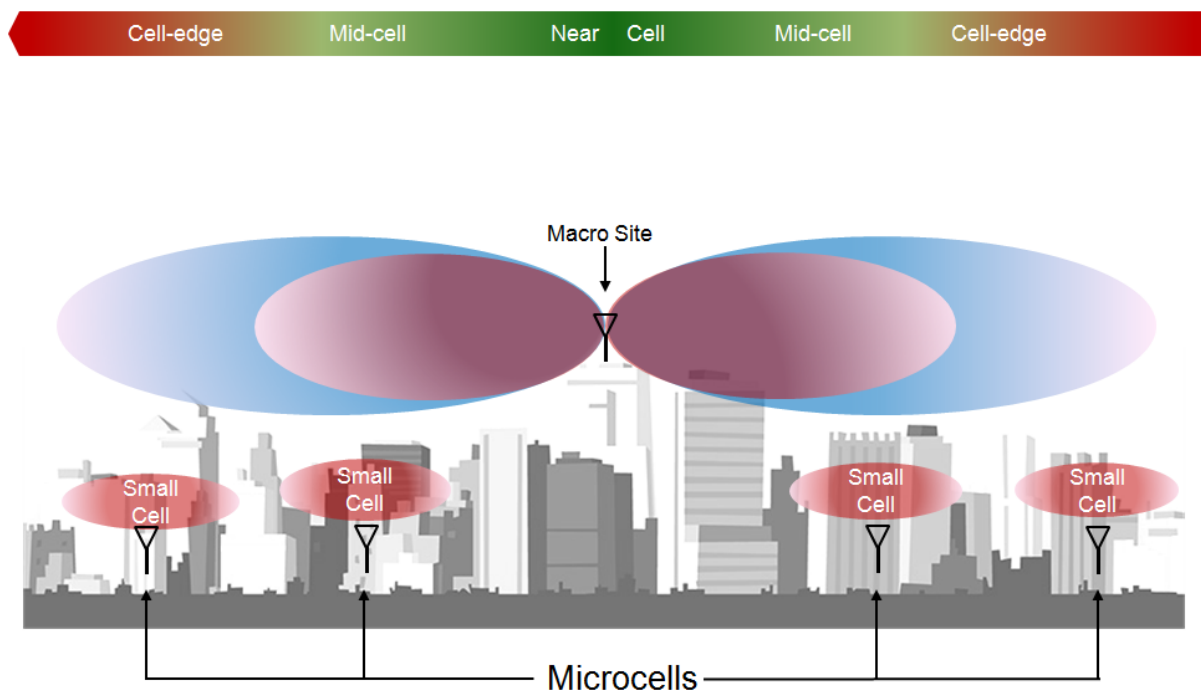
Proposed Amendments

City Council Workshop

December 4, 2018

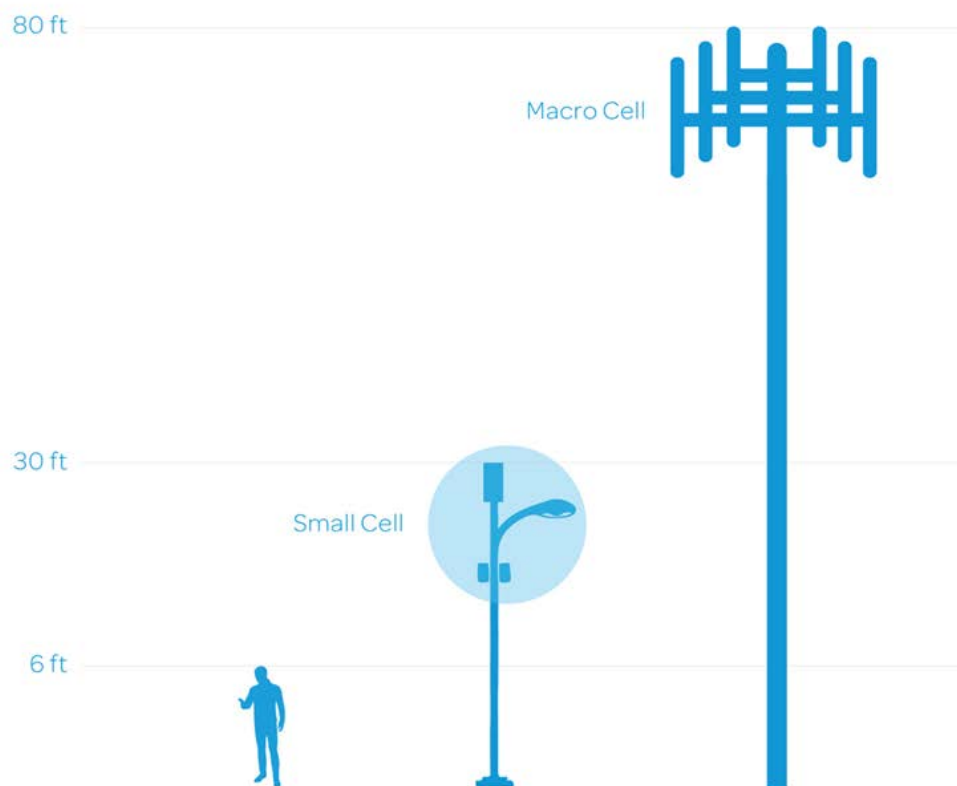
Small Cell Facilities

Macro vs Small Cell



Small Cell Facilities

Different technology, different process



FCC Preemption Order

Small Cell Facilities

- FCC Preemption Order Issued September 27, 2018;
- Establishes new shot clocks for processing applications for franchise, small cell permit, right of way permit;
 - 60 days collocation – placement of small cells on existing facilities;
 - 90 days for new structures;
 - Shot clocks apply to all aspects of the approval and siting process;
 - Shot clock starts from the date the application is declared complete;
 - No need for expedited review option.

FCC Preemption Order

Small Cell Facilities

- Small Cell Wireless Facilities definition differs from State definition, enlarges the equipment box to 28 cubic feet;
- Cities must publish aesthetic standards for pole attachments, replacement poles, attachments to structures – cities have 180 days from publication of the order to adopt standards;
- Defines “effective prohibition” – “whether the ordinance materially inhibits or limits the ability of any competitor to compete in a fair and balanced legal and regulatory environment.”

FCC Preemption Order

Small Cell Facilities

- Order sets a maximum presumptively reasonable fees for usage of the right-of-way, permit fees and access to city structures within the ROW:
 - \$500 one time application fee for up to 5 applications for small wireless facilities;
 - Recurring fees for attachment to city structures in the ROW \$270 per small cell facility annually;
 - FCC Order Effective date January 14, 2019.

Proposed Amendments

- KMC 4.14:
 - Consolidation of review to meet shot clock;
 - Incorporate definition of small cell from the FCC order;
 - Allows for PW Director to adopt rules addressing the integrity of city structures;
 - Aesthetic standards moved from 18.12.315 to 4.14 – adds additional standards depending upon attachment to wood or metal poles.
- KMC 4.16:
 - Definition section amended to reflect the proper cross reference;
 - Adopts the federal shot clocks.

Proposed Amendments

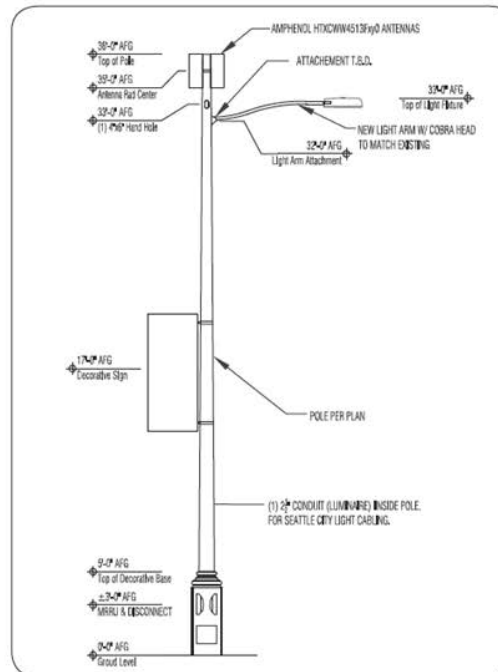
- FCC Order requires that Aesthetic Standards be:
 - Reasonable;
 - No more burdensome than those applied to other types of infrastructure deployments;
 - Objective;
 - Published in Advance.

Small Cell Facilities



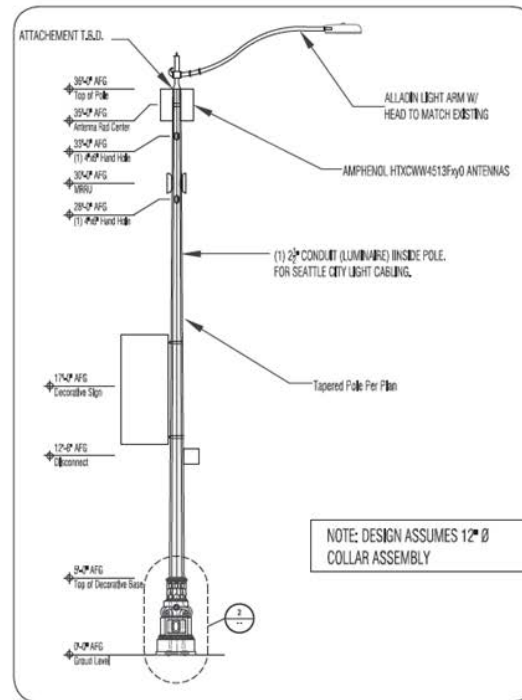
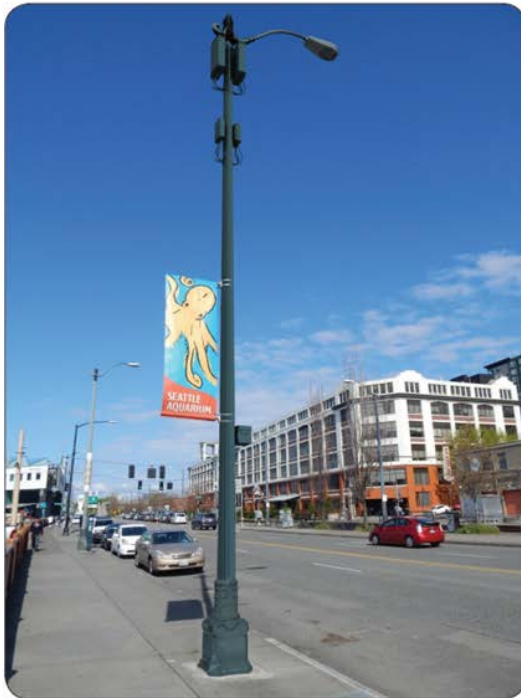
Small Cell Facilities

Small Cell Deployment: Simulation for Seattle (equipment in base)



Small Cell Facilities

Small Cell Deployment: Simulation for Seattle (pole mounted)



Proposed Amendments

- KMC 5.20:
 - Adopts new tolling provision consistent with FCC Order; ten days to determine completeness if it's a small cell franchise application.
- KMC 18.12.310:
 - Housekeeping amendments related to application of the FCC Order to small cell facilities outside of the right of way.
- KMC 18.12.315:
 - Amended to move the aesthetic standards to KMC 4.14.

Small Cell Code Amendments

- Planning Commission Workshop November 19th
- Planning Commission Public Hearing December 3rd
- City Council Workshop December 4th
- City Council adoption December 18th

Questions?





City Council Meeting Schedule January 2019

January 1, 2019 Tuesday, 6:30 p.m.	REGULAR COUNCIL MEETING - Cancelled due to holiday
January 8, 2019 Tuesday, 6:30 p.m.	WORKSHOP MEETING 1. Hanford Communities Update 2. TRIDEC Update 3. Historic Downtown Kennewick Partnership
January 15, 2019 Tuesday, 6:30 p.m.	REGULAR COUNCIL MEETING
January 22, 2019 Tuesday, 6:30 p.m.	WORKSHOP MEETING 1.
January 29, 2019 Tuesday, 6:30 p.m.	WORKSHOP MEETING 1.

To assure disabled persons the opportunity to participate in or benefit from City services, please provide twenty-four (24) hour advance notice for additional arrangements to reasonably accommodate special needs.

Please be advised that all Kennewick City Council Meetings are Audio Taped

January 2019
Updated 11/30/18