



## Executive Summary

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**Issue Title:** Wireless Communication Facility Code Update  
**Meeting Date:** May 1, 2019  
**Time Required:** 30 minutes  
**Attendees:** Jim Bolger, Dave Ward, Darren Gurnee, Jeff Smith, Lisa Nickel, George Geyer

**Action requested at this meeting:** Work study only - no action required.

### **2018-2019 Wireless Communication Facility Code Update**

The Department of Community Development and the Prosecuting Attorney's Office propose an update to Kitsap County Code regarding wireless facilities. The update will enable the County to stay consistent with new federal rules and to address changing wireless technology. The proposal will address:

- expansion of existing and construction of new wireless facilities.
- compatibility between wireless facilities and surrounding land uses.
- public health, safety, and welfare.
- aesthetic concerns in both urban and rural areas.

### **Background**

Wireless Communication Facilities (wireless facilities) are part of the infrastructure that serves wireless devices (e.g., smartphones, tablets). New rules established by the Federal Communications Commission (FCC) affect the County's ability to review permit applications for wireless facilities. These new rules specifically affect:

- The County's deadlines to review and issue wireless facility permits. Exceeding the permit review times established by the FCC defaults to an approved permit status.
- Permits required to install wireless facilities on public land and small cell facilities on existing structures.

### **Attachments**

1. Staff Report and Recommendation – Update to Kitsap County Code Chapter 17.530 'Wireless Communication Facilities' (updated 4/23/2019) and attachment:
  - A - Existing Facility Map
  - B1 – State Environmental Policy Act (SEPA) Determination
  - B2 – State Environmental Policy Act (SEPA) Checklist
  - C1 – Draft Code for Planning Commission Review (**available upon request**)
  - C2 – Federal Communication Commission (FCC) Regulatory History
  - C3 – Preliminary Feedback and Staff Response (**available upon request**)
  - C4 – Draft Code Feedback Matrix (**full version available upon request**)
  - C5 – Department Suggested Changes to the Proposal (**available upon request**)
  - D – Planning Commission Findings of Fact
  - D – Appendix A – Planning Commission Recommended Draft (**available upon request**)
  - E1 – Department Recommended Final Draft Ordinance
  - E2 – Summary of Changes Between Recommendations
2. Open House Posters



**Staff Report and Recommendation  
Update to Kitsap County Code  
Chapter 17.530 'Wireless Communication Facilities'**

<b>Report Date</b>	1/17/2019; updated 4/24/2019	<b>Revision:</b> N/A
<b>Hearing Date</b>	5/13/2019	
<b>Description</b>	This Kitsap County code update: <ul style="list-style-type: none"><li>• Revises chapter 17.110 'Definitions'</li><li>• Fully repeals and replaces chapter 17.530 'Wireless communication facilities'</li><li>• Revises chapter 21.04 'Project Permit Application Procedures.'</li></ul>	
<b>Geographic Area Affected</b>	Unincorporated Kitsap County	
<b>SEPA</b>	Determination of Non-Significance	
<b>Planning Commission Recommendation</b>	Recommend approval as proposed in Planning Commission Findings of Fact dated April 16, 2019	
<b>Department Recommendation</b>	Recommend approval as proposed in Final Draft Ordinance dated April 24, 2019	

This report and recommendation are based on information available at the time of publication. If new relevant and material facts are discovered, this staff report will be revised and the department recommendation may change.

**1. Background**

The Kitsap County Comprehensive Plan describes the 20-year vision for unincorporated Kitsap County and how that vision will be achieved. The plan covers land use, economic development, environment, housing and human services, transportation, capital facilities and utilities as well as parks, recreation, and open space. The Comprehensive Plan is mandated by the Washington State Growth Management Act (GMA, RCW 36.70A).

A. Authority

The GMA mandates that Kitsap County's Comprehensive Plan and development regulations be reviewed and, if needed, revised at least every 8-years [RCW 90.70A.130(5)]. The most recent Kitsap County 8-year update concluded with the

adoption of the 2016 Kitsap County Comprehensive Plan on June 27, 2016 by Ordinance 534-2016. The GMA also mandates that Kitsap County's Comprehensive Plan and development regulations be subject to continuing review and evaluation, allowing for periodic amendments to development regulations [RCW 36.70A.130(1)].

Kitsap County Code amendments must consider:

- Whether the proposed amendments are consistent with and supports other plan elements and or development regulations, and if not, what additional amendments to the plan and/or development regulations will be required to maintain consistency;
- Whether the proposed amendment to the plan and/or regulation will more closely reflect the goals and policies of the Comprehensive Plan;
- Whether the proposed amendment is consistent with the Kitsap County-wide Planning Policies; and
- Whether the proposed amendment complies with the requirements of the GMA.

Federal Communication Commission (FCC) regulates the telecommunications industry.<sup>1</sup> Federal requirements for wireless facility application processing derive primarily from five pieces of legislation (see Attachment C3 – Federal Communication Commission Legislative Citations). This legislation includes the:

- 1996 Telecommunications Act (1996 Act).
- 2009 Shot Clock Order<sup>2</sup> (2009 Order).
- 2012 Middle Class Tax Relief and Job Creation Act of 2012 (2012 Spectrum Act).
- 2014 Clarifications Order for the 2012 Act (2014 Order).
- 2018 Small Wireless Facilities Order (2018 Order).

The FCC justified the 2018 Order by summarily stating:

- approximately 80 percent of all new deployments will be small wireless facilities.
- Monthly data usage per smartphone subscriber rose to an average of 3.9 gigabytes per subscriber per month. This is an increase of 39 percent from 2015 to 2016.
- Upgrading to 5G infrastructure requires 10 to 100 times more antenna than currently exist in the nation. This means the possible deployment of up to 300,000 small wireless facilities in the next three to four years. That is roughly double the number of macro cells built within the last 30 years.

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<sup>1</sup> "The Federal Communications Commission regulates interstate and international communications by radio, television, wire, satellite, and cable in all 50 states, the District of Columbia and U.S. territories. An independent U.S. government agency overseen by Congress, the Commission is the federal agency responsible for implementing and enforcing America's communications law and regulations". <https://www.fcc.gov/about/overview>

<sup>2</sup> The FCC adopted a shot clock order in 2009 (See Attachment C3 – Federal Communication Commission Regulatory History. The order determined a "reasonable period of time" to review certain types of wireless facility permits (FCC 09-99).

B. Proposed Amendment

To address the FCC rules and implement the goals and policies of the Kitsap County Comprehensive Plan, the Department proposes to amend Kitsap County Code (KCC) as follows:

- Revise chapter 17.110 'Definitions' to maintain consistency with the FCC rulings.
- Repeal and replace chapter 17.530 'Wireless Communication Facilities'. The amendment will establish new section:
  - 17.530.010 'Purpose and Applicability' to address:
    - purpose of the code.
    - exempted facilities.
    - prohibited location and structures.
    - other applicable codes.
  - 17.530.020 'Nonconforming Uses and Structures' to address:
    - applicability of KCC chapter 17.570 'Nonconforming uses, structures and use of structures'.
    - ability to repair or rebuild damaged or destroyed non-conforming structures.
    - allowed collocation on non-conforming structures.
  - 17.530.030 'Permitting' to address:
    - permits required that reflect the FCC "shot clocks." (see Table 2: Wireless Communication Facility Permissibility). This section uses definitions established by the FCC to determine the required shot clock. (eg. collocation, modification, substantial change, small wireless facility)
    - application requirements for each permit type (eg. letter of exemption, ACUP, CUP).
    - noticing requirements by permit type consistent with KCC chapter 21.04 'Project Permit and Application Procedures'. Letters of exemptions do not require noticing.
    - time for review by permit type. This includes completeness of a permit, shot clock tolling, and clock restart after tolling.
    - fees.
    - the ability of the County to hire an expert third party review.
    - Kitsap County as the authority for approval.
    - permit duration and processes for an extension.
    - director's interpretation consistent with KCC 21.04.
    - no ability to appeal a decision due to shot clock requirements.

Table 1: Wireless Communication Facility Permissibility

Table 1 Wireless Communication Facility (facility) Permit Review Summary				
Type of Facility	Number of Days for Decision 17.530.030 (H)	Land Use Permit		
		Letter of Exemption	ACUP	CUP
Replacement of wireless support structure with an identical support structure.	60	X		
<b>Collocation:</b>				
New or replacement non-tower facility that does not substantially change existing facility.	60	X		
New or replacement non-tower facility that substantially changes an existing facility.	90		X	
A new non-tower facility on a structure not previously approved for facility use.	90		X	
Small wireless facility on any existing structure.	60	X		
<b>New facility and support structure:</b>				
Small wireless facility on a new structure.	90		X	
A tower-based facility within 500 feet of an existing tower-based facility.	150		X	
A tower-based facility disguised through stealth technology as a tree, natural feature, or structure (i.e., silo, church steeple, or clock tower) that is compatible with its surroundings and meets the requirements of 17.530.040 B 'Visual Appearance'.	150		X	
Tower-based facility that does not qualify for the Administrative Conditional Use Permit (ACUP) process.	150			X

- 17.530.040 'General Development Standards' to address:
  - height calculation method.
  - visual appearance and the requirement to employ the most current stealth technology. This section includes the visual impact analysis required for an ACUP and CUP (see 17.530.030 'Permitting').
  - lighting limitations.
  - noise compliance with KCC 10.28 'Noise'.
  - agreements.
  - related equipment design criteria including location and size. The proposal requires the shrouding or concealment of all components. An applicant must demonstrate why a facility cannot shroud specific components.
  - standard of care.
  - structural integrity to withstand wind and ice.

- prevention of radio interference.
- radio frequency emission. Facilities, collectively, cannot exceed FCC thresholds.
- agreements for facilities on located on County property. This provision intends to reduce the time required for legal review of agreements.
- 17.530.050 'Regulations for non-tower and small wireless communication facilities' to address:
  - collocation.
  - height.
  - installation in the public right-of-way. Publicly posted prescribed requirements for facility
    - \* location.
    - \* height.
    - \* construction time and manner.
    - \* tree trimming.
- 17.530.060 'Regulations for tower-based wireless communication facilities' to address:
  - modification or collocation.
  - location.
  - height.
  - related equipment.
  - signs.
  - use of property and setbacks.
  - screening, landscaping, and fencing.
  - access road.
  - parking.
  - future use.
  - installation in the public right-of-way:
    - \* location.
    - \* height.
    - \* design requirements.
    - \* construction time and manner.
    - \* tree trimming.
- 17.530.070 'Maintenance and repair' to address:
  - facility automation. Visitation for maintenance or emergency repairs only.
  - facilities maintained to remain in good condition.
  - graffiti removal requirements.
  - process to replace the support structure.
- 17.530.080 'Abandonment and Removal' to address:
  - notice of intent to abandon.
  - presumed abandonment of non-functioning facilities.
  - effective date of abandonment.

- Revise chapter 21.04 'Project Permit Application Procedures' to clarify that applications for wireless facilities follow procedures prescribed in 17.530 'Wireless Communication Facilities'.

C. Geographic Description

The proposal impacts all unincorporated areas of Kitsap County.

## 2. Department Recommendation

Having analyzed the proposed amendment and other alternatives, if applicable, the Department recommends:

- Adoption of the amendment:
  - as proposed above
  - as described in Alternative \_\_\_ below
  - with revisions described below
  - with conditions described below
- Deferral of the amendment
- Denial of the amendment

A. Rational

The Growth Management Act of the State of Washington, RCW 36.70A, requires that the County adopt a Comprehensive Plan. The County must implement the Comprehensive Plan by adopting development regulations that are consistent with the plan. The Comprehensive Plan process includes public involvement as required by law. This involvement allows the public to influence the development of the Comprehensive Plan and regulations.

Pursuant to Kitsap County Code (KCC) section 21.08.100 'Review by planning commission' E. An amendment to all or any part of a plan, development regulation or amendment thereto shall be allowed only if it is consistent with the community vision statements, goals, objectives, and the policy directives of the Comprehensive Plan and the proposal preserves the integrity of the Comprehensive Plan and assures its systematic execution.

Pursuant to KCC 21.08.110 'Review and decision by board' 1. Changes to Plans or Amendments. The board may approve a proposed plan, amendment or development regulation with changes if the changes are within the scope of alternatives considered by the planning commission; are in response to public testimony; or are consistent with the department's recommendation.

The County's current wireless facilities regulations, adopted in 1996, do not contain provisions reflecting the 2012 Spectrum Act, 2018 Small Wireless Facilities Order, or the corresponding implementing rules. The County must amend development regulations related to wireless facilities to comply with the Federal Communication Commission (FCC) standards.

The 2016 Kitsap County Comprehensive Plan (Land Use, Economic Development, and Capital Facility and Utilities Chapters) includes seven goals and twelve policies applicable to wireless communication facilities. The proposal implements the following Comprehensive Plan goals and policies:

**Land Use Goal 4. Coordinate with other jurisdictions, tribal governments, agencies, special districts, and property owners to ensure coordinated and compatible land use planning and utilize Urban Growth Area Management Agreements with cities, as feasible.**

- Land Use Policy 22. Preserve and protect features of historic, archaeological, cultural, scientific and educational value or significance through coordination and consultation with the appropriate local, state and federal authorities, affected Indian tribes, and property owners, through non-regulatory means.

**Land Use Goal 13: Protect Kitsap County's unique rural character.**

- Land Use Policy 50. Limit the designated rural area to low residential densities that can be sustained by minimal infrastructure improvements, cause minimal environmental degradation, and that will not cumulatively create the future necessity or expectation of urban levels of service.
- Land Use Policy 54. In accordance with RCW 36.70A.070(5)(c):
  - to preserve rural character of the County, emphasize controlling rural development; assuring visual compatibility of rural development with the surrounding rural area,
  - reduce the inappropriate conversion of undeveloped land into sprawling, low-density development in the rural area,
  - protect critical areas, as provided in RCW 36.70A.060, and surface water and groundwater resources, and,
  - protect against conflicts with the use of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170.

**Economic Development Goal 4. Support the further development of the Technology sector and business technology use in Kitsap County.**

- Economic Development Policy 24. Support plans that evaluate and recommend changes that accommodate technology infrastructure for business growth.
- Economic Development Policy 25. Support the technology sector with workforce development programs and policies that meet the needs of technology and technology led businesses.
- Economic Development Policy 27. The County recognizes Internet Service connectivity is a valuable utility for both the urban and rural residents.



**Environment Goal 1. Formally treat natural environments, including forest lands, shorelines, freshwater systems, intact ecosystems, and other critical areas, as an essential asset that is planned for, managed, and invested in to meet the needs of current and future generations.**

- Environment Policy 7. Regularly review relevant codes, development regulations and implementing programs to assure that the natural environment is being managed as an essential asset. Adaptive management strategies will be part of this regular review.

**Environment Goal 3. Reduce the risk of damage to life, property and the natural environment through appropriate regulatory and incentive-based approaches in land use, transportation and development engineering programs.**

- Environment Policy 15. Maintain, and periodically review and revise, scientifically sound maps and data to provide optimal information during the development review process and planning efforts, as well as information regarding barriers to fish passage and other inventory items.

**Capital Facilities and Utilities Goal 8: Ensure utilities are provided in an efficient, coordinated and timely manner between Utility providers to meet the needs of the County's future population.**

- Capital Facilities and Utilities Policy 11: Minimize the visual impact of utility facilities on view corridors, vistas and adjacent properties by developing design standards for cellular towers, antennas and other types of utility facilities.
- Capital Facilities and Utilities Policy 25. Encourage siting of large, above ground utilities (e.g. antennas, towers) in industrial or commercial areas or along appropriate transportation and utility corridors.
- Capital Facilities and Utilities Policy 27: Minimize the visual impact of utility facilities on view corridors, vistas and adjacent properties by developing design standards for cellular towers, antennas and other types of utility facilities.

**Capital Facilities and Utilities Goal 10. Minimize environmental impacts of utility facilities and operations.**

- Capital Facilities and Utilities Policy 35. Encourage the use of underground utilities, and coordinate utility placement with road improvements.

The proposal preserves Kitsap County's rural character by:

- Requiring permits based on facility type. The increments incentivize the installation of smaller facilities that collocate on existing facilities or facilities disguised through stealth technology.
- Providing general design standards for all new facilities in code.
- Providing specific design standards and conditions of approval for various permit types.
- Restricting the location of a facility on park land.
- Requiring the shrouding of related equipment when appropriate.
- Requiring the screening of a facility with a combination of fencing and vegetative

buffers when appropriate.

- Requiring an alteration to the facility design, type, or location if the project proposal creates a significant visual impact or requires Federal Aviation Administration (FAA) lighting.
- Requirement to report and remove abandoned facilities.

The proposal supports the development of wireless infrastructure in both urban and rural areas by:

- Providing clear design criteria by facility type.
- Providing clear application requirements for each facility type. This reduces the time necessary to prepare and process requests for information.
- Adding predictability by adding a table with required permit review times.
- Adding a letter of exemption for facilities that meet prescriptive conditions and definitions.
- Providing clear exemptions for temporary or emergency facilities.
- Incorporating FCC definitions, processing times, and standards for review.

For the previously mentioned reasons, the proposed amendments satisfy the criteria of KCC Chapter 21.08 'Legislative action procedures' and implement the Comprehensive Plan goals and policies.

### 3. Other Alternatives Considered

- A. Not Applicable

### 4. Analysis

- A. Impacts to Kitsap County

Kitsap County received at least 326 permits applications since 2002 to construct new, or modify existing, wireless communication facilities (see Attachment A – Maps). A majority of those applications include collocation of new facilities on existing structures or modification/replacement (see Table 1). The proposal encourages collocation by exempting some facilities outright and conditionally exempting facilities requesting a collocation that don't substantially change an existing structure or facility. New facilities that collocate and shroud or conceal most of the components should reduce the visual impact of new facilities.

Table 2: Wireless Communication Facility Permits (2002 - 2018)<sup>3</sup>

Application Type	Sum of Count
C-CELL	326
Collocation	109
New Tower	18
(blank)	127
Modify/Replace	71
Modification	1
Grand Total	326

The County expects to receive permits for collocation of wireless facilities on poles in the right-of-way and other publicly owned land or structures. This includes collocation on private structures located on public land (eg. Puget Sound Energy transmission line poles in the public right-of-way).

According to the 2016 Kitsap County Capital Facilities Plan “Kitsap County’s public buildings, which include government administrative offices, courtrooms, juvenile justice, maintenance facilities, and community centers, serve the county as a whole, including incorporated and unincorporated populations” (Page 4-33). As of 2018 the Kitsap County Department of Parks owns approximately 132 structures on 10,800 acres of park land. The Department of Public Works owns approximately 429 – 472 poles that can support small wireless facilities. This includes approximately 300 light poles and 43 intersections with 3-4 traffic light poles per intersection. The number of private poles located in the right-of-way is unknown at this time.

The County expects to receive permits to install tower-based facilities on in parks and forested areas. Tower-based facilities can have a large visual impact to surrounding properties or park visitors. Tree canopy and underbrush can conceal these facilities when initially constructed. However, tree harvesting or natural events can result in direct visual access to the facility. The proposal addresses this issue by:

- establishing setback and screening requirements.
- incentivizing the use of more effective stealth technology. (e.g. The proposal allows a tower-based facility within 300 feet of a park boundary through an Administrative Conditional Use Permit (ACUP) if it is disguised through stealth technology as a tree, natural feature, or structure that is compatible with its surroundings and meets the requirements of 17.530.040 B ‘Visual Appearance’.)

The proposal reflects feedback from the Planning Commission public process and industry stakeholder review (see Attachment D – Findings of Fact).

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<sup>3</sup> C-Cell is an application type that includes all permits for wireless communication facilities. Permits without a description or title are considered (Blank) applications. These applications can be new structures or collocated facilities.

B. State Environmental Policy Act (SEPA)

The Kitsap County SEPA official reviewed the SEPA checklist prepared for this amendment (Attachment B2) and issued a SEPA threshold determination of non-significance (DNS; Attachment B1).

Notice of the SEPA threshold determination was:

- Filed with the Washington State Department of Ecology [SEPA Register](#);
- Published in the Kitsap Sun newspaper on March 25, 2019;

In accordance with Kitsap County Code (KCC 18.04.210; KCC 21.04.290.E.2) and the SEPA chapter in the Revised Code of Washington (RCW 43.21C.075; RCW 43.21C.080), appeals of this SEPA threshold determination must be filed by within fourteen days of the published notice of determination in Kitsap County Superior Court.

**5. Public Involvement and Outreach**

Kitsap County's public involvement and outreach in support of this amendment exceeds the requirements of the Growth Management Act (RCW 36.70A) and Kitsap County Code (KCC 21.08).

Kitsap County procured an outside law firm with subject matter expertise to prepare initial draft language. Multiple County departments collaborated to review and revise this language into preliminary draft code. These include the Departments of Community Development, Parks, Public Works, Information Services, and the Prosecuting Attorney's Office. The County solicited and received preliminary feedback from a panel of wireless industry stakeholders to inform the Planning Commission and Board of County Commissioner public processes (see Attachment C3 - Preliminary Feedback and Staff Response). The proposal for Planning Commission review (see Attachment C1 – Draft Code for Planning Commission Review) includes revisions resulting from the preliminary feedback.

Materials and presentations from the planning commission and Board of County Commissioners public processes (see Table 3: Meetings) are available on the Kitsap County Code Updates website <https://www.kitsapgov.com/dcd/Pages/Code-Updates.aspx>. The website also provides links to supplemental information. This approach allows the public to learn about this proposal from the comfort of home.

Table 3: Meetings

Date:	Meeting Type:	Topic:
10/24/2018	BoCC <sup>4</sup> briefing	project awareness and preliminary schedule
11/20/2018	PC <sup>5</sup> briefing	project awareness and preliminary schedule
12/18/2018	PC study session #1	de-mystify and helped people learn about wireless communication facilities
10/24/2018	BoCC briefing	project progress report
1/8/2019	PC study session #2	present the proposed code update and how it will impact Kitsap County
1/22/2019	PC study session #3	answer questions regarding the first two sessions
2/19/2019	PC public hearing	allow the public to comment to the planning commission in a public hearing
3/19/2019	PC deliberations	discuss the proposal, public comments
3/27/2019	BoCC study session #1	project progress report
4/8/2019	Stakeholder technical review	technical review of planning commission recommended code update
4/16/2019	PC approval	recommendations issued to the Department of Community Development
5/1/2019	BoCC study session #2	present the proposed final draft ordinance and technical review of the planning commission recommended draft code
5/13/2019	BoCC public hearing, deliberations, decision	<ul style="list-style-type: none"> <li>• allow the public to comment to the Board of County Commissioners in a public hearing</li> <li>• discuss the proposal, public comments, and issued recommendations to the Board of County Commissioners</li> </ul>

The Planning Commission comment period opened on January 8, 2019 and closed on February 26, 2019. A planning commission held a public hearing on February 19, 2019 and received verbal testimony.

The Department held a stakeholder meeting to complete a technical review of the Planning Commission recommended draft code. Attendees included wireless industry representatives, utility pole owners, owners of other public service structures, and other

<sup>4</sup> Board of County Commissioners (BoCC)

<sup>5</sup> Planning Commission (PC)

interested parties. This meeting prompted changing the planning commission recommended draft (see Attachment E2 – Summary of Changes Between Recommendations) before submitting the final draft ordinance (see Attachment E1 – Department Recommended Final Draft Ordinance) for the Board’s review.

The Board of County Commissioners (Board) comment period opens on April 25, 2019 and closes on May 13, 2019. The Board will review the final draft ordinance (see attachment E1 – Department Recommended Final Draft Ordinance) at a study session on May 1, 2019 and a public hearing on May 13, 2019 at 5:30 pm. The Department will hold an open house event from 4:00 - 5:00 pm to answer questions before the hearing.

To be included in the official record, written comments must be submitted to the Department of Community Development before 11:59 PM on Monday, May 13, 2019 using one of the following methods:

- Entered online via computer or mobile device.
- Emailed to [dgurnee@co.kitsap.wa.us](mailto:dgurnee@co.kitsap.wa.us).
- Mailed to 614 Division Street - MS36, Port Orchard, WA 98366.
- Dropped off at the Permit Center at 619 Division Street, Port Orchard, WA.
- Dropped off at the open houses listed above.

Notifications and announcements regarding this comment period and public hearing include the following:

- Legal notice published in the Kitsap Sun newspaper.
- Broadcast announcements via GovDelivery and Nextdoor.

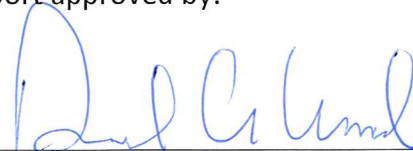
## 6. Staff Contact

Report prepared by:



Darren Gurnee, Planner  
(360) 337-5777  
dgurnee@co.kitsap.wa.us

Report approved by:




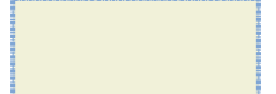
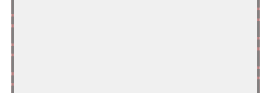




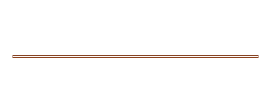






Dave Ward, Manager

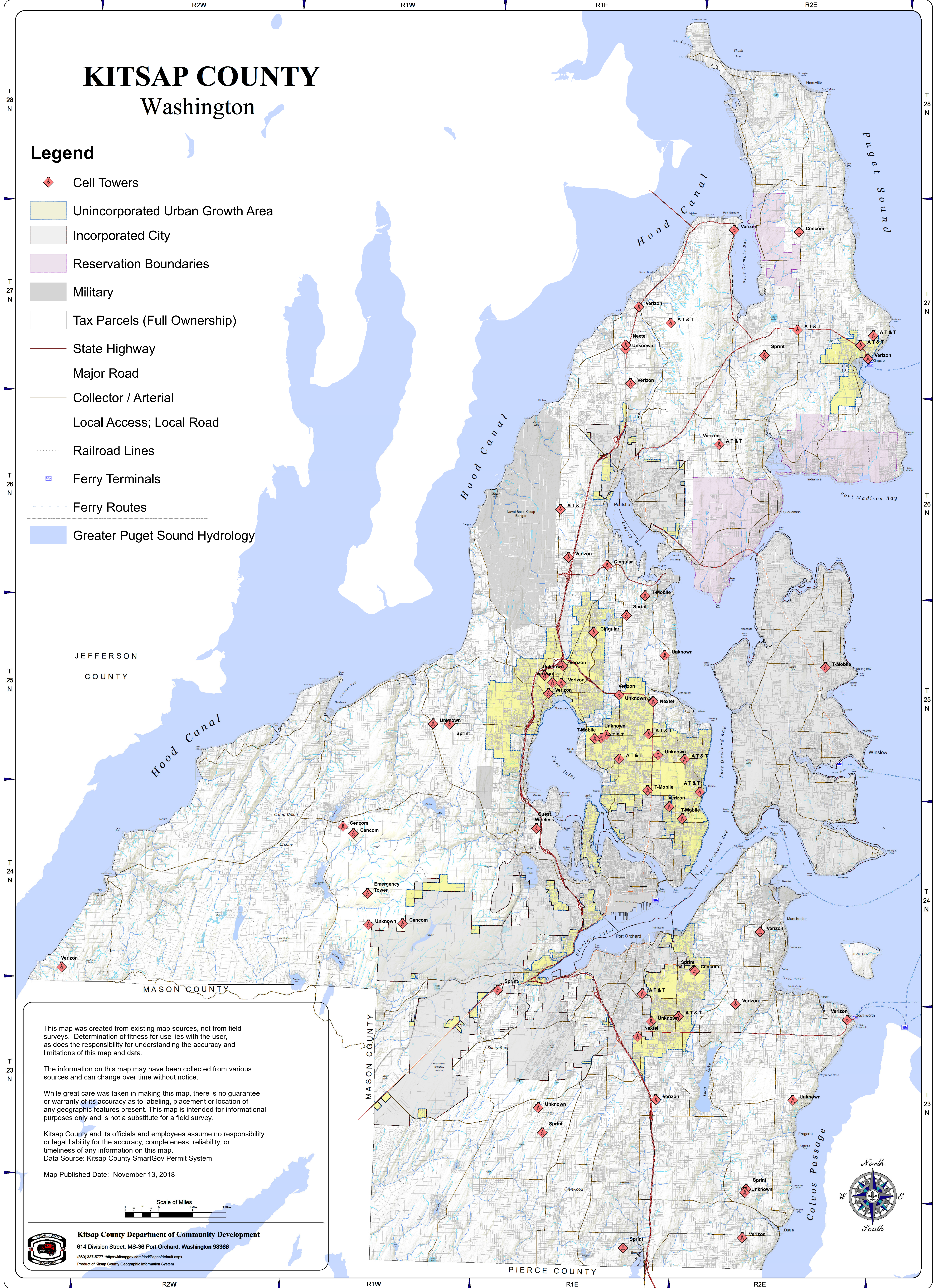
## Attachments

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# KITSAP COUNTY Washington

## Legend

-  Cell Towers
-  Unincorporated Urban Growth Area
-  Incorporated City
-  Reservation Boundaries
-  Military
-  Tax Parcels (Full Ownership)
-  State Highway
-  Major Road
-  Collector / Arterial
-  Local Access; Local Road
-  Railroad Lines
-  Ferry Terminals
-  Ferry Routes
-  Greater Puget Sound Hydrology



JEFFERSON COUNTY

MASON COUNTY

MASON COUNTY

PIERCE COUNTY

This map was created from existing map sources, not from field surveys. Determination of fitness for use lies with the user, as does the responsibility for understanding the accuracy and limitations of this map and data.

The information on this map may have been collected from various sources and can change over time without notice.

While great care was taken in making this map, there is no guarantee or warranty of its accuracy as to labeling, placement or location of any geographic features present. This map is intended for informational purposes only and is not a substitute for a field survey.

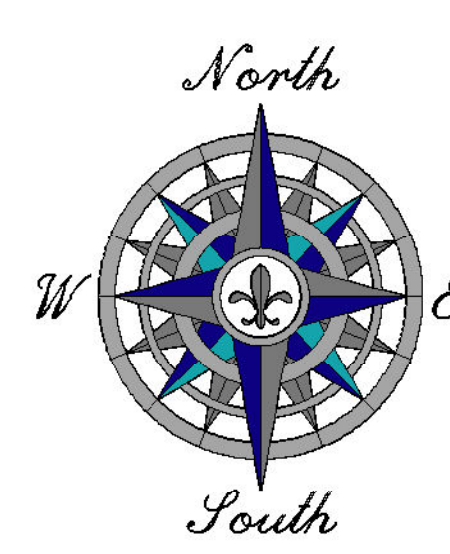
Kitsap County and its officials and employees assume no responsibility or legal liability for the accuracy, completeness, reliability, or timeliness of any information on this map.

Data Source: Kitsap County SmartGov Permit System

Map Published Date: November 13, 2018



**Kitsap County Department of Community Development**  
 614 Division Street, MS-36 Port Orchard, Washington 98366  
 (360) 337-5777 <https://kitsapgov.com/ids/Pages/default.aspx>  
 Product of Kitsap County Geographic Information System







## KITSAP COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

614 DIVISION STREET MS-36, PORT ORCHARD WASHINGTON 98366-4682 LOUISA GARBO, DIRECTOR  
(360) 337-5777 HOME PAGE - [www.kitsapgov.com/dcd/](http://www.kitsapgov.com/dcd/)

### DETERMINATION OF NONSIGNIFICANCE

Description of Proposal: The Kitsap County Department of Community Development proposes an update to Kitsap County Code Title 17 'Zoning', Section 17.530, Wireless Communications Facilities. The Federal Communications Commission (FCC) recently adopted new rules that impact the way local governments review and regulate small wireless facilities (Declaratory Ruling and Third Report and Order FCC 18-133). A motion to postpone and challenge the new rules may affect definitions, permit review times, and permit review fees found in the proposal. The State Department of Commerce will be notified. This is a non-project action.

The update proposes to amend Kitsap County Code, Chapter 17.530 'Wireless Communications facilities', to remain consistent with new federal standards. The proposal impacts all existing and proposed wireless communication facilities located in unincorporated Kitsap County. The proposal amends:

- Definitions. The update aligns Kitsap County Code with industry terms and definitions.
- Required permits by type of facility proposed. Factors that affect the type of permit needed for development include:
  - Build form (tower vs non-tower).
  - Location (ROW vs private land).
  - Existing facilities (colocation vs new facility).
  - Substantial changes to an existing facility.
  - Maintenance, repair, abandonment, removal.
  - Permit review times and duration.
- Exemptions from State Environmental Protection Act (SEPA) and the permit process.
- Prohibited location and structure types.
- General development standards (height, visual appearance, lighting, noise, agreements).
- Development standards for non-tower facilities vs tower-based facilities.

Staff contact: Darren Gurnee, Planner, Department of Community Development

Lead Agency: Kitsap County

Location of proposal, including street address, if any: The proposed action covers the geographical jurisdiction of unincorporated Kitsap County.

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

This DNS is issued under 197-11-340(2); the lead agency will not act on this proposal for 14 days from the date below. Comments must be submitted by April 8, 2019.

#### COMMENTS:

This is a nonproject action per WAC 197-11-704(2)(b). Adoption of the code by the Kitsap County Board of Commissioners is expected in May of 2019.

Responsible Official: Scott Diener

SEPA Coordinator: Steve Heacock

Position/Title: SEPA Coordinator, Dept. of Community Development Phone: (360) 337-5777

Address: 619 Division Street, Port Orchard, WA 98366

DATE: 03/25/2019

Signature: \_\_\_\_\_

A handwritten signature in cursive script, appearing to read "Steve Heacock".

## **SEPA Environmental Checklist**

### ***Purpose of checklist:***

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

### ***Instructions for applicants:***

This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. You may use "not applicable" or "does not apply" only when you can explain why it does not apply and not when the answer is unknown. You may also attach or incorporate by reference additional studies reports. Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

### ***Instructions for Lead Agencies:***

Please adjust the format of this template as needed. Additional information may be necessary to evaluate the existing environment, all interrelated aspects of the proposal and an analysis of adverse impacts. The checklist is considered the first but not necessarily the only source of information needed to make an adequate threshold determination. Once a threshold determination is made, the lead agency is responsible for the completeness and accuracy of the checklist and other supporting documents.

### ***Use of checklist for non-project proposals:***

For non-project proposals (such as ordinances, regulations, plans and programs), complete the applicable parts of sections A and B plus the [SUPPLEMENTAL SHEET FOR NON-PROJECT ACTIONS \(part D\)](#). Please completely answer all questions that apply and note that the words "project," "applicant," and "property or site" should be read as "proposal," "proponent," and "affected geographic area," respectively. The lead agency may exclude (for non-projects) questions in Part B - Environmental Elements –that do not contribute meaningfully to the analysis of the proposal.

**A: Background** [\[HELP\]](#)

**1. Name of proposed project, if applicable:**

Update to Kitsap County Code Chapter 17.530 'Wireless Communications Facilities'

**2. Name of applicant:**

Kitsap County, Washington

**3. Address and phone number of applicant and contact person:**

619 Division Street, MS-36  
Port Orchard, WA 98366  
Darren Gurnee, Planner and Project Lead  
(360) 337-4844

**4. Date checklist prepared:**

January 10, 2019

**5. Agency requesting checklist:**

Kitsap County, Washington

**6. Proposed timing or schedule (including phasing, if applicable):**

Adoption is anticipated in March 2019.

**7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.**

Not at this time.

**8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.**

None.

**9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.**

Yes. On September 26, 2018 the Federal Communications Commission (FCC) adopted new rules that impact the way local governments review and regulate small wireless facilities (Declaratory Ruling and Third Report and Order FCC 18-133). A motion to postpone and challenge the new rules may affect definitions, permit review times, and permit review fees found in the proposal.

**10. List any government approvals or permits that will be needed for your proposal, if known.**

Not applicable for this non-project proposal. The Washington State Department of Commerce will be notified of the proposal.

**11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not**

**need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)**

The proposal is a non-project action that will amend Kitsap County Code, Chapter 17.530 'Wireless Communication Facilities', to remain consistent with new federal standards. The proposal impacts all existing and proposed wireless communication facilities located in unincorporated Kitsap County. The proposal amends:

- Definitions. The update aligns Kitsap County Code with industry terms and definitions.
- Required permits by the type of facility proposed. Factors that affect the type of permit needed for development include:
  - o Built form (tower vs non-tower).
  - o Location (ROW vs private land).
  - o Existing facilities (collocation vs new facility).
  - o Substantial changes to an existing facility.
  - o Maintenance, repair, abandonment, removal.
  - o Permit review times and duration.
- Exemptions from State Environmental Protection Act (SEPA) and the permit process.
- Prohibited location and structure types.
- General development standards (height, visual appearance, lighting, noise, agreements).
- Development standards for non-tower facilities vs. tower based facilities.

**12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.**

The proposal impacts all future development of wireless communication facilities in unincorporated Kitsap County.

**B: Environmental Elements** [\[HELP\]](#)

**1. Earth** [\[help\]](#)

a. General description of the site

(circle one): Flat, rolling, hilly, steep slopes, mountainous, other \_\_\_\_\_

Not applicable to this non-project proposal. To be determined on an individual project basis.

b. What is the steepest slope on the site (approximate percent slope)?

Not applicable to this non-project proposal. To be determined on an individual project basis.

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.

Not applicable to this non-project proposal. To be determined on an individual project basis.

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

Not applicable to this non-project proposal. To be determined on an individual project basis.

e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill.

Not applicable to this non-project proposal. To be determined on a project specific basis.

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

Not applicable to this non-project proposal. To be determined on a project specific basis.

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

Not applicable to this non-project proposal. To be determined on an individual project basis.

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

Not applicable to this non-project proposal. To be determined on an individual project basis.

**2. Air** [\[help\]](#)

a. What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known.

Not applicable to this non-project proposal. To be determined on an individual project basis.

b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

Not applicable to this non-project proposal. To be determined on an individual project basis.

c. Proposed measures to reduce or control emissions or other impacts to air, if any:

Project proposals must comply with Kitsap County code regarding emissions and impacts to air. To be determined on an individual project basis.

3. Water [\[help\]](#)

a. Surface Water: [\[help\]](#)

- 1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

Not applicable to this non-project proposal. To be determined on an individual project basis.

- 2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

Not applicable to this non-project proposal. To be determined on an individual project basis.

- 3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

Not applicable to this non-project proposal. To be determined on an individual project basis.

- 4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

Not applicable to this non-project proposal. To be determined on an individual project basis.

- 5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.

Not applicable to this non-project proposal. To be determined on an individual project basis.

- 6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

Not applicable to this non-project proposal. To be determined on an individual project basis.

b. Ground Water: [\[help\]](#)

- 1) Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.

Not applicable to this non-project proposal. To be determined on an individual project basis.

- 2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals. . . ; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

Not applicable to this non-project proposal. To be determined on an individual project basis.

c. Water runoff (including stormwater):

- 1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

Not applicable to this non-project proposal. To be determined on an individual project basis.

- 2) Could waste materials enter ground or surface waters? If so, generally describe.

Not applicable to this non-project proposal. To be determined on an individual project basis.

- 3) Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.

Not applicable to this non-project proposal. To be determined on an individual project basis.

d. Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any:

Project proposals must comply with Kitsap County code regarding water controls and drainage pattern impacts. To be determined on an individual project basis.

4. **Plants** [\[help\]](#)

a. Check the types of vegetation found on the site:

- Deciduous tree: alder, maple, aspen, other
- Evergreen tree: fir, cedar, pine, other
- Shrubs
- Grass
- Pasture
- Crop or grain
- Orchards, vineyards or other permanent crops.
- Wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other
- Water plants: water lily, eelgrass, milfoil, other
- Other types of vegetation: ferns and sorrel

Not applicable to this non-project proposal. To be determined on an individual project basis.

b. What kind and amount of vegetation will be removed or altered?

Not applicable to this non-project proposal. To be determined on an individual project basis.

c. List threatened and endangered species known to be on or near the site.

Not applicable to this non-project proposal. To be determined on an individual project basis.

- d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

Not applicable to this non-project proposal. To be determined on an individual project basis.

- e. List all noxious weeds and invasive species known to be on or near the site.

Not applicable to this non-project proposal. To be determined on an individual project basis.

**5. Animals [\[help\]](#)**

- a. List any birds and other animals which have been observed on or near the site or are known to be on or near the site. Examples include:

Birds:

hawk,  heron,  eagle,  songbirds,  other:

Mammals:

deer,  bear,  elk,  beaver,  other:

Fish:

bass,  salmon,  trout,  herring,  shellfish,  other

Not applicable to this non-project proposal. To be determined on an individual project basis.

- b. List any threatened and endangered species known to be on or near the site.

Not applicable to this non-project proposal. To be determined on an individual project basis.

- c. Is the site part of a migration route? If so, explain.

Not applicable to this non-project proposal. To be determined on an individual project basis. The Pacific Flyway is a major north-south flyway for migratory birds in America, extending from Alaska to Patagonia. Flyway route stopover sites typically include wetlands, shorelines, or beaches.

- d. Proposed measures to preserve or enhance wildlife, if any:

The proposal prohibits guy wire towers which potentially reduces the number of bird in-flight wire strikes that cause injury or death. Other measures to preserve or enhance wildlife will be determined on an individual project basis. Future development will be required to comply with Kitsap County Code Title 19 'Critical Areas Ordinance'.

- e. List any invasive animal species known to be on or near the site.

Not applicable to this non-project proposal. To be determined on an individual project basis.

**6. Energy and natural resources [\[help\]](#)**

- a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.



Wireless communication facilities require electricity to power antenna and cooling fans.

Individual projects may use small solar elements to power the equipment. Installations can include backup electricity generators that function on gasoline.

To be determined on an individual project basis.

- b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

Individual tower-based facilities or collocation of equipment that increases the height of a building may shadow adjacent properties. Kitsap County authority regarding placement of these facilities is limited in the right of way.

To be determined on an individual project basis.

- c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

Project proposals must comply with Kitsap County code regarding energy conservation. To be determined on an individual project basis.

7. **Environmental health** [\[help\]](#)

- a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe.

Future development and anticipated discharge of any materials would be subject to the requirements and regulations governing the Kitsap Health District disposal methods. Discharge of materials may occur during construction of the facility.

Radio frequencies are emitted from facilities during operation and may be considered hazardous. Federal standards regulate the standards regarding these emissions.

To be determined on an individual project basis.

- 1) **Describe any known or possible contamination at the site from present or past uses.**

Not applicable to this non-project proposal. To be determined on an individual project basis.

- 2) **Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.**

Not applicable to this non-project proposal. To be determined on an individual project basis.

**3) Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project.**

Not applicable to this non-project proposal. To be determined on an individual project basis.

**4) Describe special emergency services that might be required.**

Not applicable to this non-project proposal. To be determined on an individual project basis.

**5) Proposed measures to reduce or control environmental health hazards, if any:**

The proposal requires that "the proposed facility, in conjunction with other facilities, shall not generate radio frequency emissions that exceed the standards and regulations of the FCC. These regulations include at least the FCC Office of Engineering Technology Bulletin 65 entitled 'Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields'". Future development and anticipated discharge of any materials would be subject to the requirements and regulations governing the Kitsap Health District disposal methods. Discharge of materials may occur during construction of the facility but would be determined on an individual project basis.

A SEPA checklist may also identify measures at a project specific level.

b. Noise

**6) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?**

Not applicable to this non-project proposal. To be determined on an individual project basis.

**7) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.**

Not applicable to this non-project proposal. To be determined on an individual project basis.

**8) Proposed measures to reduce or control noise impacts, if any:**

The proposal requires facility construction, operation, and maintenance to comply with Chapter 10.28 'Noise'. Additional measures, if necessary, will be evaluated and determined on an individual project basis.

**8. Land and shoreline use [\[help\]](#)**

a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe.

New wireless facilities may be incompatible with adjacent uses. Permits would require conditions of approval to maintain the visual quality for surrounding properties. These conditions will also mitigate other impacts such as noise. Compliance with

Kitsap County Code title 19 'Critical Areas Ordinance' and title 22 'Shoreline Management Program' would protect the impacts to adjacent shoreline properties. Additional conditions may be required on an individual project basis.

To be determined on an individual project basis.

- b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses as a result of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use?

Not applicable to this non-project proposal. To be determined on an individual project basis.

- 1) Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how:**

Not applicable to this non-project proposal. To be determined on an individual project basis.

- c. Describe any structures on the site.

Not applicable to this non-project proposal. To be determined on an individual project basis.

- d. Will any structures be demolished? If so, what?

Not applicable to this non-project proposal. To be determined on an individual project basis.

- e. What is the current zoning classification of the site?

Not applicable to this non-project proposal. To be determined on an individual project basis. Some projects may be within the county right-of-way and without a zone.

- f. What is the current comprehensive plan designation of the site?

Not applicable to this non-project proposal. To be determined on an individual project basis. Some projects may be within the county right-of-way and without a zone.

- g. If applicable, what is the current shoreline master program designation of the site?

Not applicable to this non-project proposal. To be determined on an individual project basis.

- h. Has any part of the site been classified as a critical area by the city or county? If so, specify.

Not applicable to this non-project proposal. To be determined on an individual project basis.

- i. Approximately how many people would reside or work in the completed project?

Not applicable to this non-project proposal. To be determined on an individual project basis.

j. Approximately how many people would the completed project displace?

The proposal prohibits locating new wireless communication facilities on a residence. No displacement would occur.

k. Proposed measures to avoid or reduce displacement impacts, if any:

The proposal prohibits locating new wireless communication facilities on a residence. No displacement would occur.

l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:

The proposal may increase compatibility with surrounding zoning designations through prescribed conditions of approval that include setbacks from property lines, screening where necessary, and requiring the use of stealth technology.

m. Proposed measures to ensure the proposal is compatible with nearby agricultural and forest lands of long-term commercial significance, if any:

The proposal may increase compatibility with surrounding zoning designations through prescribed conditions of approval that include setbacks from property lines, screening where necessary, and requiring the use of stealth technology.

9. **Housing** [\[help\]](#)

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.

Not applicable to this non-project proposal. To be determined on an individual project basis.

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

Not applicable to this non-project proposal. To be determined on an individual project basis.

c. Proposed measures to reduce or control housing impacts, if any:

The proposal prohibits locating new wireless communication facilities on a residential structure.

10. **Aesthetics** [\[help\]](#)

a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

Not applicable to this non-project proposal. To be determined on an individual project basis.

b. What views in the immediate vicinity would be altered or obstructed?

Not applicable to this non-project proposal. To be determined on an individual project basis.

c. Proposed measures to reduce or control aesthetic impacts, if any:

The proposal requires:

- a visual analysis for facilities likely to have an increased visual impact (e.g., towers)

- that all facilities “employ the most current stealth technology to be the least visually and physically intrusive. All facilities shall also be aesthetically and architecturally compatible with the surrounding environment and shall be designed to blend with the existing surroundings.”
- the use of fencing, screening, and lighting to minimize visual impacts of a facility.

**11. Light and glare [\[help\]](#)**

- a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

Not applicable to this non-project proposal. To be determined on an individual project basis. Future development will comply with Kitsap County Code regarding light and glare. Tower based facilities may include artificial lighting on a daily basis at all hours of the day. Conditions of approval will address light or glare on a project specific basis.

- b. Could light or glare from the finished project be a safety hazard or interfere with views?

Not applicable to this non-project proposal. To be determined on an individual project basis. Most facilities that require lights will reduce the safety hazard of a facility, these same lights may produce glare and impede views. The code requires compliance with Federal standards, state standards, and Kitsap County Code regarding light and glare. Compliance with standards minimizes the safety hazards and interference of views.

- c. What existing off-site sources of light or glare may affect your proposal?

Not applicable to this non-project proposal. To be determined on an individual project basis.

- d. Proposed measures to reduce or control light and glare impacts, if any:

The proposal requires all new wireless communication facilities to demonstrate that lighting will not negatively impact adjacent properties and comply with state and federal regulations for artificial lighting.

**12. Recreation [\[help\]](#)**

- a. What designated and informal recreational opportunities are in the immediate vicinity?

Not applicable to this non-project proposal. To be determined on an individual project basis.

- b. Would the proposed project displace any existing recreational uses? If so, describe.

Not applicable to this non-project proposal. To be determined on an individual project basis. Wireless facilities may be allowed to locate on publicly owned land or structures. This can include parks or park structures. Kitsap County Parks Department owns over 10,800 acres of land with active and passive recreation uses. Impacts to recreational uses will be determined on an individual project basis.

- c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

Not applicable to this non-project proposal. To be determined on an individual project basis. The proposal requires a conditional use permit for new tower-based facilities and administrative conditional use permits for new small wireless communication facilities or collocations that significantly change the support structure. These permits will require conditions to reduce or control impacts to recreation.

**13. Historic and cultural preservation [\[help\]](#)**

- a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers located on or near the site? If so, specifically describe.

Not applicable to this non-project proposal. To be determined on an individual project basis.

- b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources.

Not applicable to this non-project proposal. To be determined on an individual project basis.

- c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc.

Not applicable to this non-project proposal. To be determined on an individual project basis. Future excavation of the sites that reveal an artifact of noteworthy historical significance will require a state agency evaluation the impact.

- d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.

The proposal prohibits locating facilities on real property or structures listed, or eligible for listing, on the:

- National or Washington Registers of Historic Places.
- Official historic structures or historic districts lists maintained by the County.

Future excavation of the sites that reveal an artifact of noteworthy historical significance will require a state agency evaluation the impact.

**14. Transportation [\[help\]](#)**

- a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any.

Not applicable to this non-project proposal. To be determined on an individual project basis.

- b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?

Not applicable to this non-project proposal. To be determined on an individual project basis.

- c. How many additional parking spaces would the completed project or non-project proposal have? How many would the project or proposal eliminate?

Not applicable to this non-project proposal. To be determined on an individual project basis.

- d. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private).

Not applicable to this non-project proposal. To be determined on an individual project basis.

- e. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

Not applicable to this non-project proposal. To be determined on an individual project basis.

- f. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates?

Not applicable to this non-project proposal. To be determined on an individual project basis.

- g. Will the proposal interfere with, affect or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe.

No.

- h. Proposed measures to reduce or control transportation impacts, if any:

The proposal requires that all facilities be fully automated and unattended. Some maintenance and emergency repairs are allowed. The number of average daily trips generated during operation is negligible. Commercial traffic generated to construct a facility will be determined on an individual project basis.

#### 15. **Public services** [\[help\]](#)

- a. Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe.

Not applicable to this non-project proposal. To be determined on an individual project basis.

- b. Proposed measures to reduce or control direct impacts on public services, if any.

The proposal will support public services that depend on wireless communication. Individual project sites may increase the need for police and fire protection. The measures to control these impacts will be determined on an individual project basis.

16. **Utilities** [\[help\]](#)

a. Circle utilities currently available at the site:

- electricity    natural gas    water    refuse service  
 telephone    sanitary sewer    septic system    other

b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

Most installations require electricity (eg. Puget Sound Energy) and fiberoptic communication lines (eg. Kitsap Public Utility District) to function. Wireless carriers typically delegate installation of these items to the company that provides the utility. The carriers and providers are determined on an individual project basis.

To be determined on an individual project basis.



**Signature**

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature:

Date: January 10, 2019

Name of signee: Darren Gurnee

Position and Agency/Organization:  
Planner and Project Lead, Kitsap County Department of Community  
Development

Date Submitted: January 10, 2019

**D. Supplemental sheet for non-project actions**

**(IT IS NOT NECESSARY to use this sheet for project actions)**

**Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment. When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.**

- 1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?**

Future development and anticipated discharge of any materials are subject to the requirements and regulations governing the Kitsap Health District disposal methods. Discharge of materials is most likely to occur during construction of the facility.

Radio frequencies are emitted from facilities during operation and may be considered hazardous.

**Proposed measures to avoid or reduce such increases are:**

Facility construction, operation, and maintenance must comply with Chapter 10.28 'Noise'.

The proposal requires that "the proposed facility, in conjunction with other facilities, shall not generate radio frequency emissions that exceed the standards and regulations of the FCC. These regulations include at least the FCC Office of Engineering Technology Bulletin 65 entitled 'Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields'".

A SEPA checklist would also identify and mitigate the increases at a project specific level.

- 2. How would the proposal be likely to affect plants, animals, fish, or marine life?**

New facilities may interfere with bird flight paths and shade adjacent areas.

**Proposed measures to protect or conserve plants, animals, fish, or marine life are:**

All facilities must comply with Kitsap County Code title 19 'Critical Areas Ordinance' and title 22 'Shoreline Management Program'. The proposal prohibits guy wired towers and restricts allowable height to 125 feet.

- 3. How would the proposal be likely to deplete energy or natural resources?**

A new facility will increase energy usage as a result of operation.

**Proposed measures to protect or conserve energy and natural resources are:**

New projects will comply with Kitsap County Code requirements for energy conservation.

**4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?**

Wireless facilities may be located on public owned land or structures with limited permit review, this includes parks and rights of way.

**Proposed measures to protect such resources or to avoid or reduce impacts are:**

Tower-based wireless communication facilities must obtain a conditional use permit (CUP). The CUP process allows for public input and conditions of approval tailored to the specific project site. Conditions may include the location of equipment on a facility, location of a facility on a site, or the color, shape, and size of a facility.

New federal rules will reduce the amount of time and public input during the permit review process. The proposal includes design standards that will regulate height, visual appearance, lighting, noise, related equipment, maintenance, structural engineering, radio frequency emissions and interference, and location of facilities on County property.

**5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?**

Visual impacts to surrounding land uses will vary by project type. Height and design of the facility, surrounding land uses, and visual access to the project site all contribute to the level of visual impact.

Noise sources during operation may include backup generators and cooling fans.

**Proposed measures to avoid or reduce shoreline and land use impacts are:**

All facilities must comply with Kitsap County Code title 19 'Critical Areas Ordinance' and title 22 'Shoreline Management Program'.

The most impactful facilities, tower based wireless communication facilities, must complete a conditional use permit process. This allows for public input and conditions of approval tailored to the specific project site. These conditions address issues related to land use compatibility, environmental impacts, and operational characteristics. Conditions may include the location of equipment on a facility, location of a facility on a site, or the color, shape, and size of a facility.

Projects that must be decided in less time, as dictated by the Federal Communications Commission, require less public input during the permit review process. Some standard conditions are still required to reduce impacts.

**6. How would the proposal be likely to increase demands on transportation or public services and utilities?**

The number of average daily trips generated during operation is negligible. Commercial traffic generated to construct a facility will be determined on an individual project basis. Impacts to transportation would be negligible.

The proposal allows for the expansion of wireless infrastructure. This expansion may help public services that depend on wireless communication. Individual project sites may increase the need for police and fire protection.

Most installations require electricity (eg. Puget Sound Energy) and fiberoptic communication lines (eg. Kitsap Public Utility District) to function. Wireless carriers typically delegate installation of these items to the company that provides the utility.

**Proposed measures to reduce or respond to such demand(s) are:**

The proposal requires that all facilities be fully automated and unattended. Some maintenance and emergency repairs are allowed.

Permanent and temporary facilities will increase or maintain the ability of emergency response services to communicate.

**7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.**

The proposal will not conflict with requirements for the protection of the environment.



## Federal Communication Commission (FCC) Regulatory History

### **1996 Telecommunications Act (1996 Act)**

**Citation: 47 USC 151 et seq.**

The 1996 Telecommunications Act (1996 Act) overhauled the industry with broad regulations to allow equitable access to the emerging telecommunications market. The 1996 Act preempted many regulatory aspects of the telecommunications business and displaced state law or local ordinances that conflicted with federal standards. The County can develop regulations determined to best serve the public interest of its citizens. However, the 1996 Act preemption reduces the ability of local authorities to regulate communication facilities. The FCC modified the 1996 Act incrementally over the past 20 years. These changes made deployment of industry technology easier for telecommunication businesses.

Specific Citations:

- 47 USC 253 “removal of barriers to entry”
  - (a) regulations cannot effectively prohibit a business from providing telecom services.
  - (c) jurisdictions can manage the right-of-way and require fair and reasonable compensation through non-discriminatory fees. These fees must be published in advance.
- 47 USC 332 (c)(7) “preservation of local authority”. Regulations cannot unreasonably discriminate and decisions for permit requests must occur within a reasonable amount of time.

### **2009 Shot Clock Order (2009 Order)**

**Citation: FCC 09-99.**

In 2009 the FCC adopted a declarative ruling that determined a “reasonable period of time” needed to process communication facility applications. The ruling required jurisdictions to:

- process applications requesting collocation on an existing wireless structure within 90 days. Collocation was interpreted as the use or addition of one or more wireless communications facilities on any existing structure previously approved as a wireless facility. The 2018 Order (described below) defines collocation to include structures not previously approved as facilities.<sup>1</sup>
- process applications requesting new installations within 150 days.

### **2012 Middle Class Tax Relief and Job Creation Act of 2012 (2012 Spectrum Act).**

In 2012 congress passed Section 6409(a) of the "Middle Class Tax Relief and Jobs Creation Act" (2012 Spectrum Act), codified at 47 USC §1455(a). The 2012 Spectrum Act builds on the preemptions authorized by the 1996 Act and intended to accelerate the speed of the

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<sup>1</sup> “Collocation” means the use or addition of one or more wireless communications facilities on any existing structure, whether or not already used as a wireless communication facility. (see Attachment C – Planning Commission Draft Proposed Code).

collocation application approval processes. It required that state and local authorities approve qualifying requests for modifications to eligible facilities.

The 2012 Spectrum Act rules allows the County to:

- condition approval of a permit that requires compliance with building and other structural or safety codes.
- ask only for information reasonably necessary to qualify the application under Section 6409(a). The County cannot request other types of information, such as justification to support the need for the project.

**2014 Clarifications Order for the 2012 Act (2014 Order)** **Citation: FCC 14-153**

In 2014 the FCC adopted rules to clarify elements of the 2012 Spectrum Act (2014 Order). The 2014 Order provided greater flexibility for the wireless industry to collocate new wireless facilities.

The 2014 Order rules define, wireless tower, base station, modification, substantial change, collocation. These rules also establish:

- a new 60 day shot clock. The county must complete permit review within 60 days of receiving an application for facilities that do not substantially change the existing facility. This includes new facilities proposed to collocate on a non-conforming wireless communication facility.
- day 1 of the shot clock as the date of application, not date of completed application.
- limited tolling. Tolling refers to the stopping the clock when the county requests information to complete the application. A request for information may only stop the clock once and does not restart.
- an automatic approval for facility permit applications that exceed the “reasonable period of time for review” (shot clocks) from previous rulings.

**2018 Small Wireless Facilities Order (2018 Order)** **Citation: FC 18-133**

In 2018 the FCC adopted rules regarding small wireless facilities for the impending 5G technology rollout (2018 Order). The 2018 Order establishes:

- the definition of a “small wireless facility”.
- new shot clock criteria that includes:
  - a 90 day shot clock for a small wireless facility on a new structure.
  - a 60 day shot clock for a small wireless facility collocated on an existing structure. This includes structures not previously approved as the location for a wireless facility.
  - a shot clock that restarts when the applicant submits materials requested by the County. The ruling only allows one restart of the clock.
  - a 30 day appeal period for facility permit applications that exceed the “reasonable period of time for review” (shot clocks).
- application batching. Multiple small wireless facility applications for different deployment locations can batch into one permit.

- new fee structures. The county must publish non-discriminatory reasonable fees in advance. The new fee structure:
  - Restricts one time fees (e.g. permit, street closure).
  - Restricts recurring fees (e.g. rental fees for facilities).
- aesthetic requirements and other regulations. (e.g. stealth technology, undergrounding, spacing). These requirements must be:
  - published in advance.
  - non-discriminatory.
  - objectively reasonable.
  - no more burdensome than other wireless infrastructure.

The 2018 Order also allows the placement of small wireless facilities on public land and public structures with less permit review. Under the order, “small wireless facilities” can collocate on County owned non-wireless facility support structures (eg. light poles, water towers, well houses, community buildings) with limited permit review. Public land and structures can include Federal, State, or Local jurisdictions.



## Draft Code Feedback and Department Response Matrix

This attachment summarizes feedback and provides the Department’s response to public comments received between January 8 and February 26, 2019. The end of this document provides the detailed comments submitted during the public comment period. Some comments provided suggested revisions through redline and comments in the proposal. These individual comments are referenced as enumerated in each redline document. The public process may change the proposal and Department responses in this matrix.

Comments received generally addressed one or more of the following topics:

- Reduce the proliferation of new cell site deployments because of health risks related to Radio Frequency Emissions.
- Allow more macrosite options to ensure primary coverage to all areas of Kitsap County.
- Remove the gap analysis requirements.
- Remove or revise the related equipment shrouding requirements.
- Reduce permitting and design requirements for collocations and small wireless facilities.

The staff report dated 1/17/2019 referenced consistency with the 2016 Comprehensive Plan goals and policies (Page 7). The following goals and policies provide additional support for the proposal and Department responses to comments in this matrix.

- **Environment Goal 1. Formally treat natural environments, including forest lands, shorelines, freshwater systems, intact ecosystems, and other critical areas, as an essential asset that is planned for, managed, and invested in to meet the needs of current and future generations.**
  - Environment Policy 7. Regularly review relevant codes, development regulations and implementing programs to assure that the natural environment is being managed as an essential asset. Adaptive management strategies will be part of this regular review.
- **Environment Goal 3. Reduce the risk of damage to life, property and the natural environment through appropriate regulatory and incentive-based approaches in land use, transportation and development engineering programs.**
  - Environment Policy 15. Maintain, and periodically review and revise, scientifically sound maps and data to provide optimal information during the development review process and planning efforts, as well as information regarding barriers to fish passage and other inventory items.
- **Capital Facilities and Utilities Goal 8: Ensure utilities are provided in an efficient, coordinated and timely manner between Utility providers to meet the needs of the County’s future population.**
  - Capital Facilities and Utilities Policy 25. Encourage siting of large, above ground utilities (e.g. antennas, towers) in industrial or commercial areas or along appropriate transportation and utility corridors.
  - Capital Facilities and Utilities Policy 27: Minimize the visual impact of utility facilities on view corridors, vistas and adjacent properties by developing design standards for cellular towers, antennas and other types of utility facilities.
- **Capital Facilities and Utilities Goal 10. Minimize environmental impacts of utility facilities and operations.**
  - Capital Facilities and Utilities Policy 35. Encourage the use of underground utilities, and coordinate utility placement with road improvements.





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PLANNING COMMISSION PUBLIC COMMENT MATRIX: SUMMARY AND RESPONSE			
Topic #	Issue description and code reference	Department response or proposed change to draft code	Detailed Comment
1.	<p><b>General statements</b></p> <ul style="list-style-type: none"> <li>Rural areas of Kitsap County need more coverage.</li> <li>Will the County deploy new cell sites as part of this code?</li> </ul>	<p>Individual carriers provide wireless service and typically develop their infrastructure independently. The proposal includes design standards intended to allow deployment of future wireless facilities by:</p> <ul style="list-style-type: none"> <li>increasing the ability to collocate facilities in the future.</li> <li>clarifying code to add consistency and predictability to the permit process.</li> </ul>	2, 3, 7
2.	<p><b>Purpose statement</b></p> <p><b>17.530.010 A.2.</b>  <b>17.530.010 A.5.</b>            Remove A.2. “eliminate visual impacts” from the purpose statement. Eliminating visual impacts is an unattainable goal.</p> <p>Remove A.5. Network need determines site location. The process cannot be comprehensive because it is based on individual carrier need.</p> <p>Revise A.6. to “encourage” not “require” stealth technology.</p>	<p>The purpose statements indicate the intent of the code and provide a basis for interpreting and applying code. The purpose statements do not establish requirements. This is why the proposal reduces permit requirements for facilities that minimize visual impacts (i.e., a tower-based facility disguised to look like a tree, natural feature, or structure compatible with its surroundings).</p>	5: LV1 6: MP1 18







PLANNING COMMISSION PUBLIC COMMENT MATRIX: SUMMARY AND RESPONSE			
Topic #	Issue description and code reference	Department response or proposed change to draft code	Detailed Comment
3.	<p><b>Exemptions - redefine replacement and reconstruction requirements.</b></p> <p><b>17.530.010 B.</b>  <b>17.530.030 A.1.</b>  <b>17.530.070 D.</b></p> <p>Replace “identical dimensions or smaller dimensions and less intrusive appearance” with “do not significantly change the visual impacts” or “substantially similar structure”. Identical dimensions or structures is overly restrictive when considering changes to industry technology. Minor variations in dimensions and appearance of replacement equipment should not cause the loss of an exemption.</p>	<p>The County requires clear language and criteria to make consistent and predictable decisions. The shortened time to review permits reinforces this need for clear criteria.</p> <p>The County worked with members of the Washington Association of Telecommunication Officers and Advisors (WATOA) and the National Association of Telecommunication Officers and Advisors (NATOA). “Identical or of smaller dimension” assures that Kitsap County receives the newest modular equipment similar to large municipalities.</p> <p>Emergency or routine repairs may occur through the letter of exemption permits. Repairs and reconstruction are subject to the required land use approvals relative to substantial change criteria in section 17.530.030 A ‘Permits required’.</p>	6: MP1 18
4.	<p><b>Exemptions - Exempt first responder facilities.</b></p> <p><b>17.530.010 B.</b></p> <p>Add subsection B.9. to exempt facilities constructed to serve first responders.</p>	<p>The Department suggests changing the proposal to exempt wireless facilities constructed to serve only first responders:</p> <p><i>17.530.010 B. “9. <u>Wireless communication facilities constructed to serve only first responders, such as fire, police and emergency medical response services.</u>”</i></p>	6



PLANNING COMMISSION PUBLIC COMMENT MATRIX: SUMMARY AND RESPONSE			
Topic #	Issue description and code reference	Department response or proposed change to draft code	Detailed Comment
5.	<p><b>Prohibited facility types - allow facilities on historic sites.</b></p> <p><b>17.530.010 C.1</b></p> <p>Allow facilities on historic sites through detailed review. A full prohibition limits a providers ability to serve historic places where people congregate.</p>	<p>To remove this prohibition and still protect historic places, the county must add detailed provisions to code. Developing new code provisions will require additional analysis and consistency review against federal and state law.</p> <p>2016 Comprehensive Plan Land Use Strategy 3 suggests considering the establishment of a historic review board for Kitsap County. Prohibiting the construction of wireless facilities on historic structures remains consistent with Land Use Policy 22 until the County establishes a historic review board. Land Use Policy 22 states:</p> <p><i>“Preserve and protect features of historic, archaeological, cultural, scientific and educational value or significance through coordination and consultation with the appropriate local, state and federal authorities, affected Indian tribes, and property owners, through non-regulatory means.”</i></p> <p>This prohibition does not contradict state law. The National Historic Preservation Act (NHPA) of 1966, 54 U.S.C. § 300101 et seq., provides an extensive process for applicants regarding adverse impacts to a historic place (Section 106 review). However, not all applications require section 106 review (e.g., the FCC exempted all small wireless facilities from the Section 106 review through FCC 18-30A1).</p> <p>The Department suggests changing the proposal to only allow facilities in historic places if the NHPA conducts a section 106 review:</p> <p><i>17.530.010 C.1.b. “On real property or structures listed, or eligible for listing, on the:</i></p> <ul style="list-style-type: none"> <li><i>i. National or Washington Registers of Historic Places.</i></li> <li><i>ii. Official historic structures or historic districts lists maintained by the county.</i></li> </ul> <p><u><i>A facility that conducts a Section 106 review through the National Historic Preservation Act (NHPA) of 1966, 54 U.S.C. § 300101 et seq., shall not be prohibited.”</i></u></p>	<p>5: LV2</p> <p>6: MP2</p>



PLANNING COMMISSION PUBLIC COMMENT MATRIX: SUMMARY AND RESPONSE			
Topic #	Issue description and code reference	Department response or proposed change to draft code	Detailed Comment
6.	<p><b>Prohibited facility types - allow guy wire towers.</b></p> <p><b>17.530.010 C.2.a</b></p> <p>Guy wire towers should be allowed. These facilities are a useful technology in rural areas with significant winds. Detailed review and required bird strike mitigation can address visual and environmental impacts.</p>	<p>The Migratory Bird Treaty Act (MBTA) associates communication towers with unintentional bird strikes. The County designed the proposed code to allow the deployment of shorter towers such that guy wire towers become unnecessary. This prevents Kitsap County from allowing structures that may be considered a taking under the MBTA.</p> <p>The Department of Interior provides conflicting interpretations from 2016 to 2017 regarding incidental takings (see attached MBTA factsheet dated May 12, 2016, MBTA Temporary Suspension dated 2/6/2017, and MBTA Incidental Taking Interpretation 12/22/2017). The interpretations don't restrict the County from prohibiting guy wire towers.</p> <p>The proposal implements the intent of the MBTA as referenced in Section 3.e.1(9) of executive order 13186 from 1/10/2001 "Federal agency responsibilities...identify where unintentional take reasonably attributable to agency actions is having, or is likely to have, a measurable negative effect on migratory bird populations...the agency shall develop and use principles, standards, and practices that will lessen the amount of unintentional take" (Page 3).</p> <p>The attached FCC factsheet suggests mitigation of bird strikes through lighting strategies and placing visual obstructions on guy wires. These strategies conflict with:</p> <ul style="list-style-type: none"> <li>• 2016 Kitsap County Comprehensive Plan goals and policies.</li> <li>• Section 17.530.040 B and C (General development standards: visual appearance and lighting).</li> </ul> <p>     </p> <p> <a href="#">MBTA_ExecOrder_2001_0110.pdf</a> <a href="#">MBTA_factsheet_2016_0512.pdf</a> <a href="#">MBTA_temp_suspension_2017_0206.pdf</a> <a href="#">MBTA_IncidentalTake_m_37050_2017_12</a> </p>	5: LV3



PLANNING COMMISSION PUBLIC COMMENT MATRIX: SUMMARY AND RESPONSE			
Topic #	Issue description and code reference	Department response or proposed change to draft code	Detailed Comment
7.	<p><b>Prohibited facility locations - allow tower-based facilities in more locations.</b></p> <p><b>17.530.010 C.2.b.</b>  <b>17.530.010 C.2.d.</b>  <b>17.530.010 C.2.e.</b></p> <ul style="list-style-type: none"> <li>• Undergrounding of utilities in the ROW should not bar WCF towers elsewhere in the entire undergrounded area.</li> <li>• Allow within buffers to the extent allowed for other development, with mitigation.</li> <li>• Don't limit stealth technology to natural features. Matching building architecture should qualify as stealth technology.</li> </ul>	<p>The proposal reduces permit requirements for facilities that minimize visual impacts.</p> <p>Undergrounding. The County's definition for towers could apply to small wireless facilities, but that was not the intent. The Department suggests changing the definition of towers to not include small wireless facilities. This change allows small wireless facilities where utilities are otherwise underground.</p> <p>Title 19 'Critical Areas Ordinance' regulates construction in critical area buffers. However, section 19.200.225 G. may allow the placement of utilities within wetlands or buffers. This includes communication facilities as a utility as defined in section 19.150.630. This intends to allow wires or small poles in specific circumstances, not a tower-based facility. Changing the proposal to allow a wireless communication facility in a critical area or its buffer would require detailed design standards.</p> <p>The Department suggests changing the proposal to qualify building architecture and structure as stealth technology:</p> <p><i>17.530.010 C.2.e. "...a tree <del>or</del> natural feature, <u>or structure (i.e., silo, church steeple, or clock tower)</u> that is compatible with its surroundings and meets the requirements of 17.530.040 B 'Visual Appearance'."</i></p>	<p>5: LV4</p> <p>6: MP4 - MP6</p> <p>18</p>



PLANNING COMMISSION PUBLIC COMMENT MATRIX: SUMMARY AND RESPONSE			
Topic #	Issue description and code reference	Department response or proposed change to draft code	Detailed Comment
8.	<p><b>Permitting (P) - stealth technology should include built features.</b></p> <p><b>17.530.030 A.2.e.</b> <b>17.110.687</b></p> <p>Don't limit stealth technology to natural features. Matching building architecture, color, or deploying structures that fit with surroundings (e.g., silo on a farm, steeple on a church, clock tower) should qualify as stealth technology and allowed through an ACUP permit.</p>	<p>The Department suggests changing the proposal.</p> <p><i>17.530.030 A.2.e. "...a tree <del>or</del> natural feature, <u>or structure (i.e., silo, church steeple, or clock tower)</u> that is compatible with its surroundings and meets the requirements of 17.530.040 B 'Visual Appearance'."</i></p> <p>The Department suggests changing the definition of stealth technology:</p> <p><i>17.110.687 "Stealth technology" means...building-mounted antennas painted to match the existing structure, <u>tower based facilities colored to match or be compatible with natural or built features</u>, and facilities constructed to resemble trees, shrubs, light poles, flag poles, chimneys, church crosses, clock towers, gas station signs, statues, or rocks as appropriate to the surrounding environment.</i></p>	<p>5: LV5</p> <p>6: MP7, MP8</p>
9.	<p><b>P - reduce permit requirements for collocations and small wireless facilities.</b></p> <p><b>17.530.030 A.</b> <b>17.530.030 M.</b></p> <p>An administrative appeal of an ACUP to the hearing examiner is part of the shot clock. A permit appealed to a CUP will exceed the allowed permit review time of 90 days.</p> <p>Reduce land use permit requirements for these facility types. Building permits, right of way permits, and franchise agreements requirements still apply. This still protects public health, safety, and welfare and removes barriers for deployment of collocated facilities.</p>	<p>The FCC rulings and limited case law do not clearly address whether the time required for an administrative appeal process factors into the calculation of a shot clock. The County understands the issue and suggests changing the proposal to not allow for administrative appeals. The Revised Code of Washington (RCW) 36.70B.110(9) allows the county to do this.</p> <p><i>17.530.030 M. "Appeals. A decision on a letter of exemption or an ACUP may <u>not</u> be appealed to the Hearing Examiner in accordance with Section 21.04.290 'Appeals'.</i></p> <p>Requiring an ACUP still allows Kitsap County to solicit and receive public comment. Changing the permit type to a letter of exemption removes the public opportunity to comment in addition to removing the opportunity to appeal the permit.</p>	<p>5: LV5</p> <p>6: MP7, MP8</p>



PLANNING COMMISSION PUBLIC COMMENT MATRIX: SUMMARY AND RESPONSE			
Topic #	Issue description and code reference	Department response or proposed change to draft code	Detailed Comment
10.	<p><b>P - update CFR reference.</b></p> <p><b>17.530.030 C.1.</b> Change reference from 47 CFR 1.40001 to CFR 16100.</p>	<p>The Department suggests changing the proposal as stated.</p> <p><i>17.530.030 C.1. "... with 47 USC 1455(a) and 47 CFR 1. <del>1610040001</del>, as now or hereafter amended..."</i></p>	6: MP10
11.	<p><b>P - revise ACUP application requirements.</b></p> <p><b>17.530.030 D.3.</b> <b>17.530.030 D.7.</b> <b>17.530.030 D.8.</b> <b>17.530.030 D.9.</b></p> <ul style="list-style-type: none"> <li>A report should describe, not justify, the height, dimensions, and location. The FCC order doesn't allow a jurisdiction to require a coverage gap analysis or justification of design.</li> <li>Building permit applications should satisfy the structural engineering submittal requirements. Other jurisdictions will typically allow this.</li> <li>A letter of authorization from the property owner should be allowed instead of lease documents. Lease negotiations and permit approval typically occur in parallel to reduce time to deployment. Sometimes the lease agreements requires permit approval first.</li> <li>Do not require submittal of an agreement between a carrier and the applicant. This is not appropriate or practical. Change this to a condition of approval.</li> </ul>	<p>Regarding the reports, see additional responses provided for Topic # 22: Propagation study and justification. The Department suggests changing the proposal to require defining minimum functional height only for a tower more than 60 feet tall that requires a CUP.</p> <p><i>17.530.030 D.3. "Except for small wireless facilities, a report describing the proposed facility with technical reasons for its design. The report shall <u>describe justify</u> the height, dimension, and location of the proposed facility."</i></p> <p>Receiving building permit information later in the permit process can change the processing required for the permit. This can increase permit processing time beyond the allowed FCC shot clock.</p> <p>The County requires proof of authority when the property owner is not the applicant. If the authority is granted by a lease, then it should be provided. Authorizing documents not only ensures the County that the applicant has permission, but also provides an understanding of the long term requirements, such as buffer requirements.</p> <p>Proof of an agreement between a carrier and the applicant will reduce the potential of constructing facilities that may not be used (speculative building).</p> <p>Receiving lease information or agreements later in the permit process can change the processing required for the permit. This can increase permit processing time beyond the allowed FCC shot clock.</p>	<p>5: LV6</p> <p>6: MP11, MP13, MP14</p> <p>18</p>





PLANNING COMMISSION PUBLIC COMMENT MATRIX: SUMMARY AND RESPONSE			
Topic #	Issue description and code reference	Department response or proposed change to draft code	Detailed Comment
12.	<p><b>P - remove or reduce the requirement to document efforts to collocate.</b></p> <p><b>17.530.030 E.2.</b></p> <ul style="list-style-type: none"> <li>Requirement to attempt collocation for non-tower and small wireless communication facilities is inconsistent with FCC rulings.</li> <li>change requirement to attempt collocation from one (1) mile to one-half (½) mile. Network densification tends to require more sites at lower heights to add more capacity to a smaller area. Targeted search areas are now less than one mile.</li> </ul>	<p>The County requires a documented attempt to collocate to reflect the “collocation” first approach to new wireless facilities.</p> <p>The FCC ruling doesn’t prohibit the County from requiring applicants to attempt collocation first. The proposal allows the construction of facilities after an applicant exhausts this option. This does not materially inhibit the construction of wireless facilities.</p> <p>However, the proposal only requires documented efforts to collocate for CUP applications. This and the Department suggested changes in Topic #11 remove the requirement to document collocation efforts for non-tower facilities, small wireless facilities, and tower facilities that do not require a conditional use permit (i.e., use of stealth technology). This change promotes the construction of facilities that will likely have a reduced visual impact.</p>	<p>5: LV7, LV22</p> <p>18</p>



PLANNING COMMISSION PUBLIC COMMENT MATRIX: SUMMARY AND RESPONSE			
Topic #	Issue description and code reference	Department response or proposed change to draft code	Detailed Comment
13.	<p><b>P - clarify fees by including language from the FCC ruling.</b></p> <p><b>17.530.030 F.</b></p>	<p>A separate resolution establishes all permit fees as required by KCC Section 21.10.010. 'Fees' for land use development and procedures' states "All applications for permits or actions by the county shall be accompanied by a filing fee in an amount established by county resolution." The Department tracks its costs in reviewing permits and generally adopts a fee schedule each year to reflect updates. Thus, the County already complies with the FCC Order requirement on fees. Cost recovery is generally included in that process. However, the Department suggests changing the proposal to clarify the FCC ruling regarding fees. The language below reflects FCC 18-133 at ¶ 50.</p> <p><i>17.530.030 F. "Fees. All applications for permits or requests for actions by the county shall be accompanied by a filing fee in an amount established by county resolution. <u>Fees for small wireless facilities must be:</u></i></p> <ol style="list-style-type: none"> <li><i>1. a reasonable approximation of the County's costs.</i></li> <li><i>2. only objectively reasonable costs.</i></li> <li><i>3. no higher than the fees charged to similarly-situated competitors in similar situations."</i></li> </ol>	<p>WCF</p> <p>6: MP18</p>
14.	<p><b>P - remove required response to requests for information.</b></p> <p><b>17.530.030 H.</b></p> <p>Remove the requirement to respond within 30 days of receiving a request for information from the County.</p>	<p>The FCC rulings start a shot clock at the time of application. The ruling explicitly states that the shot clock applies to all permits required to construct a facility. This provision intends to reduce the number of incomplete applications received by the county.</p>	<p>6</p>



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15.	<p><b>P - add severability to batching.</b></p> <p><b>17.530.030 H.6.</b></p> <p>Decisions for each application should be separate. The denial of one application should not mean the denial of the entire batch of applications.</p>	<p>A single batch of multiple applications yields only one permit number. Official denial requires denial of the permit, not an application within the permit. However, an application with an expected denial can be removed by the applicant from the permit.</p>	5: LV9
16.	<p><b>P - revise permit expiration requirements.</b></p> <p><b>17.530.030 K.</b></p> <ul style="list-style-type: none"> <li>Permits should expire four years after issuance – not one year. This is consistent with existing Kitsap County standards.</li> <li>Tangible process should be measured towards the application for a building permit, right-of-way permit, or other construction permit.</li> </ul>	<p>Kitsap County conditional use permits expire four years after issuance. Building permits for a wireless facility expire six months after issuance with an option to extend the permit for another six months. The proposal allows more time to construct a facility through the submittal of an extension. This extension requires an applicant to construct a facility or facilities within two years.</p>	6: MP20 20
17.	<p><b>P - exempt small wireless facilities and collocated facilities from general development standards.</b></p> <p><b>17.530.040</b></p> <p>FCC rule 6409, eligible facility requests, doesn't allow the County to apply these standards to collocations or small wireless facilities. The ruling only requires compliance with the substantial change criteria and building and safety codes. The remainder of local zoning codes do not apply.</p> <p>Compliance with FCC rule 6409 requires more exceptions than just A, B, and D (e.g., subsection E does not apply to eligible facility requests). Suggest describing what does apply to an "eligible facility request".</p>	<p>The FCC ruling related to Section 6409(a) of the Spectrum Act, 47 USC 1455(a), is FCC 14-153. The County reviewed this ruling and interprets it to allow not only the application of the substantial modification criteria in 47 CFR 1.40001 (now 47 CFR 1.6100), but also that the county may continue "to enforce and condition approval on compliance with generally applicable building, structural, electrical, and safety codes and with other laws codifying objective standards reasonably related to health and safety." FCC 14-153 at ¶188.</p> <p>The proposal intends to provide general and "objectively reasonable" wireless standards relating to concealment/aesthetics, lighting, noise, and other construction requirements. The ruling allows the County to apply these "objectively reasonable" general development standards when explicitly stated in code.</p>	6: MP11 18



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Topic #	Issue description and code reference	Department response or proposed change to draft code	Detailed Comment
18.	<p><b>General Development Standards (GDS) - Revise measurement method for height.</b></p> <p><b>17.530.040 A.</b></p> <p>Do not include lightning rods when measuring the height of a facility.</p>	<p>The Federal Aviation Administration (FAA) regulates lighting by structure height. The FAA definitions indicate that height measurement includes any structure that may be struck by an aircraft. Measuring height should include all elements of a wireless structure, including a lightning rod.</p> <p>The FAA website for Obstruction Evaluation/Airport Airspace Analysis (OE/AAA) provides a:</p> <ul style="list-style-type: none"> <li>• General frequently asked questions (FAQ) sheet at <a href="https://oeaaa.faa.gov/oeaaa/external/searchAction.jsp?action=generalFAQs">https://oeaaa.faa.gov/oeaaa/external/searchAction.jsp?action=generalFAQs</a></li> </ul> <p><i>Question 11. For building proposals, what do I submit for the AGL height, just the building or any equipment/structures on top of the building?</i></p> <p><i>Response. The height above ground level should be the highest point, including any appurtenance or object on top of the building.</i></p> <ul style="list-style-type: none"> <li>• Advisory Circular Marking and Lighting frequently asked questions (FAQ) sheet at <a href="https://oeaaa.faa.gov/oeaaa/external/searchAction.jsp?action=malFAQs">https://oeaaa.faa.gov/oeaaa/external/searchAction.jsp?action=malFAQs</a></li> </ul> <p><i>Question 18 and Question 19 directly reference lightning rods and include them in height calculations.</i></p>	6



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Topic #	Issue description and code reference	Department response or proposed change to draft code	Detailed Comment
19.	<p><b>GDS - Revise requirements for visual appearance review.</b></p> <p><b>17.530.040 B.1.a.</b></p> <ul style="list-style-type: none"> <li>This provision violates the FCC ruling by effectively prohibiting small wireless facilities.</li> <li>Only tower-based facilities located only in residential zones should require:               <ul style="list-style-type: none"> <li>stealth technology or substantially screening.</li> <li>visual analysis.</li> </ul> </li> <li>Allow photo simulations to replace balloon or crane tests.</li> </ul>	<p>Non-tower facilities and small wireless facilities can have visual impacts to surrounding uses. This provision implements comprehensive plan goals and policies by minimizing visual impacts. Steps taken to fully disguise a facility through stealth technology will likely reduce visual impacts to less than moderate.</p> <p>Photosimulations do not provide a realistic context for neighbors, primarily for large lattice towers or mono-poles that don't qualify for an ACUP. Balloon or crane simulations provide a more realistic depiction of tower height relative to surrounding trees and structures.</p>	6: MP22, MP23  18
20.	<p><b>GDS - Revise definition of moderate visual impact and visually sensitive areas</b></p> <p><b>17.530.040 B.2.b.</b></p> <p>More than a moderate visual impact is too vague. Section identifies almost all views in Kitsap County. This provision effectively prohibits towers anywhere in the county.</p>	<p>The proposal prohibits some facilities to implement the 2016 Comprehensive Plan Land Use Goal 13: Protect Kitsap County's unique rural character and Capital Facilities and Utilities Policy 11 to minimize visual impact.</p> <p>The proposal allows tower-based and non-tower based facilities with specific size limitations. An applicant may use stealth technology to disguise the facility as a tree, natural feature, or architectural feature consistent with the surroundings. These types of facilities reduce the visual impacts to less than moderate.</p>	5: LV10  6: MP13  18
21.	<p><b>GDS - Revise requirement that effectively prohibits small wireless facilities.</b></p> <p><b>17.530.040 B.2.f</b></p> <p>Prohibiting non-wireless facilities that cannot be fully enclosed may limit small wireless facilities with advanced ultra wideband technology. Antenna faces cannot be screened.</p>	<p>Shrouding requirements in 17.530.040 E. will reduce visual impacts for small wireless facilities to less than moderate. The Department suggests changing the proposal to exempt small wireless facilities.</p> <p><i>17.530.040 B.2.f. "Except for small wireless facilities, a non-tower facility is proposed in a visually sensitive area and cannot be completely enclosed within the existing structure or camouflaged as another structure compatible with the surrounding environment."</i></p>	5: LV11  18



<p>22.</p>	<p><b>GDS - Remove requirements for propagation study, gap coverage, and justification of design.</b></p> <p><b>17.530.030 E.3.</b>  <b>17.530.040 B.3.</b>  <b>17.530.060 A.1.a.</b>  <b>17.530.060 A.1.b.</b>  <b>17.530.060 A.2.</b>  <b>17.530.060 A.3.a.</b>  <b>17.110.484</b></p> <p>The 2018 FCC order doesn't allow the County to require justification to locate a facility or justify the height. The 9th Circuit significant gap in service test was rejected for all facilities in the latest FCC order. The County should align the language with the 10th circuit "materially inhibit" test.</p> <p>New facilities require significant capital investment. Providers propose facilities where a legitimate need exists. Customer demands and network performance establish the need. In Kitsap County, wireless coverage can provide a high capacity wireless network where landlines are cost prohibitive.</p> <p>Typical propagation maps don't include capacity deficits. A provider may have sufficient coverage yet insufficient capacity to serve its customers. Incentivize collocation and locating towers in preferred zones (e.g., commercial and industrial).</p> <p>Remove the definition and references to minimal functional height as it relates to propagation studies.</p>	<p>These provisions require coverage through antenna adjustments if possible instead of constructing a new tower that requires a CUP.</p> <p>The latest FCC Order, FCC 18-133, primarily addressed small wireless facilities and did not prohibit propagation or gap coverage studies for macrosite towers. The proposal exempts small wireless facilities from this requirement.</p> <p>The proposal intends to reduce the proliferation of unnecessary towers and preserve the rural aesthetic. SEPA requires additional review for towers taller than 60 feet. The Department suggests requiring gap coverage analysis and justification only for towers that require a CUP and will be more than 60 feet tall. This change allows the construction of all wireless facility types without requiring a propagation study.</p> <p><i>17.530.030 E.3. "Propagation studies. The application shall include at least one propagation study that shows wireless coverage or capacity <u>for a tower-based facility that exceeds sixty feet in height.</u>"</i></p> <p><i>17.530.060 A.1.a. "New tower-based facilities <u>that exceed sixty feet in height and require a CUP</u> are prohibited unless a propagation study shows coverage gaps cannot be filled through other means."</i></p> <p><i>17.530.060 A.1.b. "A new tower-based facility <u>that requires a CUP and is within one mile of an existing wireless support structure may not exceed 40 feet in height unless collocation has been actually and reasonably considered...</u>"</i></p> <p><i>17.530.060 A.2.a. "The location of a tower-based facility <u>that exceeds sixty feet in height and requires a CUP</u> shall be necessary to provide coverage for the gap..."</i></p> <p><i>17.530.060 A.2.b. The location shall be the least visually intrusive to the surrounding community or shall be the only viable location to provide coverage for <u>the gap shown in a the-propagation study, when required through section 17.530.030 E.3.</u>"</i></p>	<p>5: LV24 - LV26</p> <p>6: MP15, MP16, MP31, MP33, MP34</p> <p>18, 20, 23</p>
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Topic #	Issue description and code reference	Department response or proposed change to draft code	Detailed Comment
		<p>17.530.060 A.3.a. <del>The propagation study will state a minimum functional height necessary for a tower-based facility to fill a gap in coverage.</del> A tower-based facility shall be constructed to:</p> <p>i. <u>the minimum functional height when applicable. A propagation study, when required through section 17.530.030 E.3., will state a minimum functional height necessary for a tower-based facility to fill a gap in coverage.</u></p> <p>ii. <del>not to</del> exceed 40 feet taller than surrounding tree height.</p> <p>iii. <del>and not to</del> exceed 200 feet.”</p>	
23.	<p><b>GDS - Revise or remove lighting section to allow artificial lighting.</b></p> <p><b>17.530.030 C.1.</b></p> <p>This regulation effectively prohibits deployment of towers in large areas near airports. The height needed to achieve coverage and capacity objectives can trigger the requirement to artificially light the facility per Federal Aviation Administration (FAA) standards.</p>	<p>The proposal intends to prevent light pollution in Kitsap County and retain the rural character aesthetic. This provision implements many goals and policies intended to minimize the visual impact of development in the County.</p> <p>Towers can exceed the 200 foot height limitation above a 700 foot elevation and more than ½ mile from a residential area. This restricts taller towers to the Green Mountain area as the existing code allows.</p>	5: LV12 6, 18



<p>24.</p>	<p><b>GDS - Revise or remove requirements for related equipment location and shrouding.</b></p> <p><b>17.530.040 E.</b></p> <p>The FCC order contradicts the proposed location and shrouding requirements by establishing standards:</p> <ul style="list-style-type: none"> <li>• different than those applied to other similar infrastructure in the right of way.</li> <li>• With dimensions inconsistent with definition of small wireless facilities, FCC order 18-133 volume allowances.</li> <li>• That effectively prohibit deployment of small wireless facilities by requiring shrouding of antenna.</li> <li>• that don't allow for antenna tilt. The hills, trees, and other obstructions in Kitsap County may require tilting antenna to achieve the necessary coverage or capacity.</li> </ul> <p>These design standards are technically infeasible for macrosites and small wireless facilities. Replace with language provided (See WCF-21).</p> <ul style="list-style-type: none"> <li>• In nearly all cases a small wireless facility shroud must be larger than 14 inches.</li> <li>• Cut off switches cannot be placed in a locked radio enclosure.</li> <li>• Specifically allow T-mobile unified enclosure provided in the detailed comments.</li> <li>• Ensure that regulations allow standard types of facilities from all providers. Don't dictate the choice of equipment to the provider.</li> </ul>	<p>The County worked with members of the Washington Association of Telecommunication Officers and Advisors (WATOA) and the National Association of Telecommunication Officers and Advisors (NATOA) to determine antenna and shrouding dimensions. These organizations work with the National League of Cities to provide input for current and proposed wireless facility design standards. The proposal reflects these dimensions.</p> <p>The county interprets the FCC 18-133 ruling of “similar infrastructure” to mean other wireless providers, not other utilities.</p> <p>These provisions intend to affect small wireless facilities only. The dimensional standards for related equipment intend to disguise or hide the related equipment. Wireless facilities are regularly shown with shrouds or covers that hide the antenna and related equipment. The proposal provides a tiered approach towards shrouding a facility. The applicant can demonstrate at each tier that the shrouding requirements are infeasible.</p> <p>The Department suggests changing the proposal to clarify the application to only small wireless facilities, allow dyed film covers, 12 inch antenna offsets, and allow cut off switches to remain outside of the base shroud. Enclosures shown in the detailed comments fit within the related equipment dimensional standards.</p> <p><i>17.530.040 E. “Related equipment <u>for small wireless facilities.</u>”</i></p> <p><i>17.530.040 E.2. “Antennas and antenna elements unable to be enclosed within the facility require the applicant to demonstrate the inability to do so. In such cases, the antenna and antenna elements shall be within a shroud mounted at the top of <u>the facility. An opaque cover (i.e., dyed film) may be used to cover the antenna face. The offset distance between an antenna and pole must not exceed 12 inches. The shroud and opaque cover facility. The shroud.</u>”</i></p> <p><i>17.530.040 E.2.c. “Shall be cylindrical for pole facilities and match the pole shaft diameter, when feasible. The shroud diameter shall not exceed <u>1614 inches. Once transitioned from the support structure shaft, the shroud diameter shall remain consistent.</u>”</i></p>	<p>WCF</p> <p>5: LV13 - LV21</p> <p>6: MP24</p> <p>18, 20, 21, 23</p>
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		<p>17.530.040 E.4. “A base shroud shall fully enclose all remaining equipment located on the structure. This may include radios not mounted at top of structure, electric meters, <u>and grounding equipment</u>, <del>and cut-off switches.</del>”</p> <p>The Department suggests changing the proposal to add a subsection to clarify related equipment design standards for non-small wireless facilities.</p> <p>17.530.040 F. <u>Related equipment for non-small wireless facilities.</u></p> <ol style="list-style-type: none"> <li><u>Antenna and antenna elements must match the support structure color, finish, and visually conceal all contents and/or wiring to the greatest extent possible.</u></li> <li><u>Remaining equipment must be placed underground, or enclosed and screened through stealth technology or fencing and landscaping in a screening buffer. The buffer requirement shall be contained in a recorded easement. Vegetation shall not be removed without approval by the department of community development. Fencing shall be a nonobtrusive material such as a dark coated chain link to blend in with the surroundings.</u></li> </ol>	
25.	<p><b>GDS - Remove requirement for engineer signed construction documents submittal with land use permit.</b></p> <p>17.530.040 G.</p>	<p>Receiving building permit information later in the permit process can change the processing required for the permit. This can increase permit processing time beyond the allowed FCC shot clock.</p> <p>See response to Topic #11 ACUP permit requirements.</p>	6: MP25
26.	<p><b>GDS - Remove interference regulations.</b></p> <p>17.530.040 I.</p> <p>The FCC preempts the regulation of radio frequency interference.</p>	<p>The County reviewed the FCC rulings. The preemption is implied, not explicit, in federal law. However, the Department suggests changing the proposal and refer to FCC regulations.</p> <p>17.530.040 I. <u>Interference. Facilities shall <del>comply with Federal Communication Commission regulations regarding interference. not cause interference with:</del></u></p> <ol style="list-style-type: none"> <li><del>The county’s radio frequency, wireless network, or Kitsap 911 (collectively “county operations”).</del></li> <li><del>Other facilities or any FCC-licensed devices.</del></li> <li><del>Any similar third-party equipment.</del></li> </ol>	6: MP26



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27.	<p><b>GDS - Limit future cell site deployment to reduce Radio Frequency Emissions</b></p> <p><b>17.530.040 J.</b></p> <p>These emissions are known to be harmful to humans. Please include strict safety guidelines to protect against radio frequency emissions. Multiple articles indicate potential deleterious health effects of radio frequency emissions to humans. Read the articles before adopting this code.</p>	<p>The County understands the concerns expressed in articles provided in comments. However, the Federal Communications Commission (FCC) rulings limit the County’s ability to regulate new facilities regarding radiofrequency emissions. The proposal requires that radio frequency emission comply with federal guidelines in 17.530.040 (language provided below).</p> <p><i>17.530.040 J. “Radio frequency emissions. The proposed facility, in conjunction with other facilities, shall not generate radio frequency emissions that exceed the standards and regulations of the FCC. These regulations include at least the FCC Office of Engineering Technology Bulletin 65 entitled “Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields,” as amended.”</i></p> <p>The FCC provides answers questions regarding radio frequency emission safety at <a href="https://www.fcc.gov/engineering-technology/electromagnetic-compatibility-division/radio-frequency-safety/faq/rf-safety">https://www.fcc.gov/engineering-technology/electromagnetic-compatibility-division/radio-frequency-safety/faq/rf-safety</a> . The bulletin is available on the FCC website - <a href="https://www.fcc.gov/general/oet-bulletins-line">https://www.fcc.gov/general/oet-bulletins-line</a> navigate down the page to OET Bulletin 65.</p> <p>An ACUP and CUP require documentation that the proposed facility comply with radio frequency emissions. The Department suggests changing the proposal to require demonstrated compliance with radio frequency emissions when applying for a letter of exemption:</p> <p><i>17.530.030 C.1. “All applications must include documentation that the proposed facility, in conjunction with other facilities, shall not generate radio frequency emissions that exceed the standards and regulations of the FCC.”</i></p>	<p>WCF</p> <p>1, 4, 8, 10-16, 18, 24, 25</p>



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28.	<p><b>Non-Tower or small wireless facilities - above ground related equipment.</b></p> <p><b>17.530.050 B.2.a.</b></p> <ul style="list-style-type: none"> <li>Clarify this provision. Restricting related equipment to a height limitation should not apply to pole mounted equipment. Effectively prohibits small wireless facilities.</li> <li>Eliminate inconsistencies and excessively restrictive provisions.</li> <li>Code must allow facilities on existing utility poles taller than the allowed zone height.</li> </ul>	<p>The height limitation applies to related equipment located above ground. However, this section intends to regulate equipment not mounted or incorporated into the base of a pole. The Department suggests changing the proposal to:</p> <p><i>17.530.050 B.2.a. “Height. Related equipment located above ground, <u>not mounted to the facility support structure</u>, in the public ROW...”</i></p>	5
29.	<p><b>Non-Tower, small wireless, and tower based facility regulations - clarify tree trimming requirements.</b></p> <p><b>17.530.050 B.4.</b> <b>17.530.060 B.5.</b></p> <p>What are the industry standards? Will tree trimming requirements from this code supercede community design standards (e.g., Silverdale Design Standards).</p>	<p>Generally, small wireless facilities are sited to minimize tree trimming or removal. Sometimes the pole owner (often PSE) performs routine maintenance of vegetation in order to clear branches from the vicinity of the pole for installation of equipment and to leave the lines clear.</p> <p>Public works vegetation management program focuses actions that enhance travel safety for all modes of transportation. This program:</p> <ul style="list-style-type: none"> <li>Maintains clear zones.</li> <li>Removes danger trees.</li> <li>Removes invasive species and plants that encroach into the road.</li> </ul> <p>The County’s vegetation management program doesn’t require a permit for utilities to clear or trim trees. Typically utilities maintain a ten foot perimeter around wires on utility poles in the right-of-way. The utility company acquires an easement when this ten foot maintenance perimeter extends onto private property. Likewise, trimming or removal of vegetation around a wireless facility will require an agreement with the owner of the tree or vegetation in question. These agreements must reflect county codes and community design standards.</p>	PC comment



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30.	<p><b>Tower-Based facility regulations - revise design and location restrictions.</b></p> <p><b>17.530.060 A.1.a.</b>  <b>17.530.060 A.1.b.</b></p> <ul style="list-style-type: none"> <li>• Setbacks should:               <ul style="list-style-type: none"> <li>○ Account for the design of a breakoff point.</li> <li>○ Measure from the base of a tower to the nearest building. The 110% setback is unnecessary and not a safety based standard.</li> <li>○ Only apply in a residential context.</li> </ul> </li> <li>• The county should incentivize locating a new tower-based facility in the ROW, including facilities within one mile of an existing facility.</li> <li>• Limiting a new tower-based facility in to 40 feet unless collocation has been reasonably considered within a one mile radius is:               <ul style="list-style-type: none"> <li>○ arbitrary.</li> <li>○ effectively prohibiting the installation of necessary wireless infrastructure.</li> <li>○ unreasonably low given the trees in Kitsap County.</li> </ul> </li> </ul>	<p>The 110% setback requirement directly relates to public health, safety, and welfare. Ice drop or other falling debris has the potential to impact a neighboring parcel to a distance of slightly more than the height of the tower.</p> <p>Kitsap County must consider future uses of adjacent parcels when developing setback standards. Measuring setbacks to existing buildings on adjacent parcels does not account for potential safety risks to all future development and land uses near a tower-based facility.</p> <p>The proposal incentivizes new tower-based facilities located within 500 feet of an existing tower-based facility by requiring an ACUP, not a CUP (see 17.530.030 A.). This provision includes tower-based facilities in the ROW.</p> <p>Current code requires a CUP for new tower-based facilities taller than 35 feet. In existing KCC section <a href="#">17.530.060</a> , a CUP may be granted only if the application demonstrates:</p> <ul style="list-style-type: none"> <li>• Need for the new facility.</li> <li>• Documented collocation efforts and evidence that “no practical alternative is reasonably available to the applicant” within a one-mile radius.</li> <li>• Compliance with visual study where a proposed tower can be seen within one mile.</li> </ul> <p>The proposal allows tower-based facilities:</p> <ul style="list-style-type: none"> <li>• taller than 40 feet if no practical alternative is reasonably available within a one mile radius.</li> <li>• where existing code would prohibit the same facility.</li> </ul>	<p>5: LV24,            6: MP32,            MP33</p>



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Topic #	Issue description and code reference	Department response or proposed change to draft code	Detailed Comment
31.	<p><b>Tower-Based facility regulations - revise screening requirements.</b></p> <p><b>17.530.060 A.4.a</b>  <b>17.530.060 A.7.c.</b>  <b>17.530.060 A.8.c.</b></p> <p>Allow fencing and/or landscaping to screen related equipment, not just stealth technology.</p> <p>Remove the requirement to screen 75% at the time of installation. This standard is unrealistic for a tower that needs to clear the treeline. Mature trees at 50-80 feet do not transplant well.</p>	<p>Land Use and Capital Facility goals and policies support the proposal’s requirement to hide related equipment. Undergrounding and use of stealth technology (i.e., a large hollow boulder) are more effective than fencing and/or landscaping.</p> <p>The Department suggests changing the proposal to allow fencing and or landscaping to screen related equipment.</p> <p><i>17.530.060 A.4.a. “Ground-mounted related equipment associated, or connected, with a tower-based facility <del>shall be placed underground or screened from public view using stealth technologies must be placed underground, or enclosed and screened through stealth technology or fencing and landscaping in a screening buffer. The buffer requirement shall be contained in a recorded easement. Vegetation shall not be removed without approval by the department of community development. Fencing shall be a nonobtrusive material such as a dark coated chain link to blend in with the surroundings.</del>”</i></p> <p>The proposal requires 75% screening at the time of installation and only applies to towers that require a CUP (e.g., towers that don’t use stealth technology to hide as a tree, natural feature, or structure). This requirement usually uses existing trees for screening. However, landscaping on the edges of a parcel can provide this screening element. This limits the facility height based conditions surrounding the proposed facility.</p>	<p>WCF</p> <p>5: LV28</p> <p>6</p>
32.	<p><b>Tower-Based facility regulations - revise access easement requirement.</b></p> <p><b>17.530.060 A.8.c.</b></p> <p>Copy of an access easement should only be required prior to the issuance of a building permit.</p>	<p>A CUP currently requires an access easement agreement as part of the permit. Land use review, including environmental and storm water, require the precise location of an access and the easement that authorizes it. Therefore, land use review must wait until the applicant provides an access easement. Because of shot clock limitations, the County requires all permit information be provided with the initial application.</p>	<p>6</p>



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Topic #	Issue description and code reference	Department response or proposed change to draft code	Detailed Comment
33.	<p><b>Add new section: Adjustment to standards.</b></p> <p><b>17.530.090</b></p> <p>Add an adjustments section for when compliance with standards would materially inhibit the provision of wireless services or when visual impacts can be minimized with such an adjustment.</p> <p>The typical variance criteria do not address the needs of a wireless facility and do not allow adjustment when needed under federal law.</p> <p>See KCMC 17.560.010 – “only when unusual circumstances relating to the property cause undue hardship in the application of this title.”</p>	<p>An applicant may use the variance process in chapter 17.560 'Variances'. The code provides clearly stated design standards consistent with standards accepted by the carriers in other jurisdictions.</p> <p>The proposal applies equally to any wireless infrastructure deployment. Local aesthetic requirements are not preempted (thus, would not materially inhibit) if they meet all three criteria:</p> <ol style="list-style-type: none"> <li>1. The regulations are reasonable.</li> <li>2. The regulations are no more burdensome than those applied to other types of infrastructure deployments.</li> <li>3. The regulations are objective and published in advance. This means that they must incorporate clearly-defined and ascertainable standards.</li> </ol>	6: MP35
34.	<p><b>Definitions - revise modification.</b></p> <p><b>17.110.494</b></p> <p>Remove number (2) and (3) because:</p> <p>(2) is redundant</p> <p>(3) does not include the limitation on the applicability of previously imposed conditions (see last criterion for substantial change).</p>	<p>The proposal defines modification consistent with FCC rulings and minimizes the potential for misinterpretation. The definitions for “modification” and “substantial change” reinforce each other.</p> <p><i>“Modification” means any change made to an existing wireless communications facility (facility). A modification constitutes a substantial change if (1) the change to the facility meets the definition of substantial change herein provided; (2) the change would defeat the existing concealment elements of the facility; or (3) the change does not comply with pre-existing conditions associated with the prior approval of construction or modification of the facility.</i></p>	6: MP36
35.	<p><b>Definitions - revise substantial change.</b></p> <p><b>17.110.708</b></p> <p>Use the actual language provided by the federal CFR. The paraphrasing is not accurate and may create confusion and inconsistency.</p>	<p>The County paraphrased the CFR definition to reduce confusion by minimizing legal jargon. The County interprets the definition in the proposal as accurate.</p>	5: LV29



PLANNING COMMISSION PUBLIC COMMENT MATRIX: SUMMARY AND RESPONSE			
Topic #	Issue description and code reference	Department response or proposed change to draft code	Detailed Comment
36.	<p><b>Definitions - revise tower and wireless communication facility definition.</b></p> <p><b>17.110.721</b>  <b>17.110.770 C.</b>            A small wireless facility should not be considered a tower. Multiple areas in the code will effectively prohibit small wireless facilities if they remain defined as a tower.</p>	<p>The Department suggests changing the proposal to reflect the comment.</p> <p><i>17.110.721 "Tower" means any structure built for the sole or primary purpose of supporting one or more antennas and related equipment, including but not limited to, self-supporting lattice towers, guy towers and monopoles. <u>This does not include small wireless facilities as defined in Section 17.110.070 A.</u>"</i></p> <p><i>17.110.770 C. A "tower-based wireless facility" means a facility installed or constructed with a Tower <u>as defined in 17.110.721</u>. Unless a DAS hub facility meets the definition of a small wireless facility, the DAS hub shall be considered a tower-based facility.</i></p>	5, 6, 18

1 FINDINGS OF FACT, CONCLUSIONS AND RECOMMENDATIONS OF THE PLANNING  
2 COMMISSION TO THE DEPARTMENT OF COMMUNITY DEVELOPMENT REGARDING  
3 AMENDMENTS TO KITSAP COUNTY CODE TITLE 17, AND KITSAP COUNTY CODE  
4 TITLE 21.

5 **Section 1. General Findings.**

6 The Kitsap County Planning Commission finds as follows:

- 7 1. The Washington State legislature, through RCW 36.32.120(7), has granted to county  
8 legislative authorities the power to make and enforce, by appropriate resolutions or  
9 ordinances, all police and sanitary regulations that are not in conflict with state law.
- 10 2. The Washington State legislature, through the Growth Management Act (GMA), Chapter  
11 36.70A Revised Code of Washington (RCW), requires certain counties and cities to plan  
12 for population growth in ways that, among other things, encourages development in  
13 urban areas; reduces sprawl in the rural areas; protects open space, recreation, and the  
14 environment; provides sustainable economic development and protects the health,  
15 safety, and high quality of life enjoyed by residents of this state. Kitsap County is subject  
16 to the requirements of GMA.
- 17 3. GMA, through RCW 36.70A.130, requires Kitsap County to comprehensively review, and  
18 revise if necessary, its Comprehensive Plan and development regulations at least every  
19 8-years. The most recent Kitsap County 8-year update concluded with the adoption of  
20 the 2016 Kitsap County Comprehensive Plan on June 27, 2016 by Ordinance 534-2016.
- 21 4. GMA, through RCW 36.70A.130, also requires Kitsap County to continually review and  
22 evaluate its Comprehensive Plan and development regulations.
- 23 5. The federal Telecommunications Act of 1996 (Act), 47 U.S.C. § 332 et seq., imposes  
24 substantive and procedural limitations on state and local government authority to  
25 regulate the location, construction, and modification of wireless facilities.
- 26 6. The Act, in 47 U.S.C. § 332(c)(7), requires state and local governments to act on siting  
27 applications for wireless facilities "within a reasonable period of time after the request  
28 is duly filed ... taking into account the nature and scope of such request." Failure to do  
29 so may constitute a failure to act subject to legal challenge.
- 30 7. In 2009, the Federal Communications Commission (FCC) issued Declaratory Ruling FCC  
31 09-99. This ruling provides guidance on what the FCC considers to be a presumptively  
32 reasonable time for processing wireless facility applications.
- 33 8. In 2012, Congress passed Section 6409(a) of the Middle Class Tax Relief and Job Creation  
34 Act of 2012, also known as Section 6409(a) of the Spectrum Act, codified at 47 U.S.C. §



- 1 1455(a). This established additional substantive and procedural limitations on state and  
2 local government authority to regulate "eligible facilities requests" by requiring that a  
3 government "may not deny, and shall approve" a project application requesting  
4 modification of an existing tower or base station that does not substantially change the  
5 physical dimensions of such tower or base station.
- 6 9. On October 21, 2014, the FCC issued Report and Order FCC 14-153. This provided  
7 guidance on the implementation of Section 6409(a) of the Spectrum Act (47 U.S.C. §  
8 1455(a)) as well as additional guidance on Section 332(c)(7) of the Telecommunications  
9 Act of 1996 (47 U.S.C. § 332(c)(7)) and Declaratory Ruling FCC 09-99. Rules established  
10 by the Report and Order were codified at 47 CFR § 1.40001.
- 11 10. On September 26, 2018 the FCC issued Declaratory Ruling and Third Report and Order  
12 FCC 18-133 to impose additional requirements and restrictions on local government  
13 regulation of small wireless facilities. Rules and clarifications adopted in this Ruling are  
14 codified in Title 47 CFR §1.6001 et seq.
- 15 11. Starting in 2014, Kitsap County researched and sought input from subject matter  
16 experts to prepare initial draft language. Multiple County departments collaborated to  
17 review and revise this language into preliminary draft code. The County solicited and  
18 received preliminary feedback from a panel of wireless industry stakeholders.
- 19 12. The Department of Community Development (Department) used this initial language  
20 and feedback to propose amendments to Kitsap County code to increase consistency  
21 with federal standards noted above, as well as with Comprehensive Plan policies and  
22 Countywide Planning policies.
- 23 13. The formal amendment process began on October 24, 2018 with a briefing between the  
24 Board of County Commissioners and the Department of Community Development.
- 25 14. Kitsap County conducted public outreach through a dedicated and up-to-date web page  
26 and direct notification to various Kitsap County notification lists (GovDelivery &  
27 NextDoor).
- 28 15. On December 18, 2018, the Kitsap County Planning Commission held a regularly  
29 scheduled and properly noticed work study session to de-mystify and help people learn  
30 about wireless communication facilities.
- 31 16. On January 8, 2019, the Kitsap County Planning Commission held a regularly scheduled  
32 and properly noticed work study session to review the proposed code update and how it  
33 will impact Kitsap County.
- 34 17. On January 22, 2019, the Kitsap County Planning Commission held a regularly scheduled  
35 and properly noticed work study session to answer questions regarding the first two  
36 sessions.

- 1 18. On February 19, 2019, following effective and timely legal notice, the Kitsap County  
2 Planning Commission held a public hearing to accept testimony on the proposed  
3 amendment to Kitsap County code.
- 4 19. A public comment period on the proposed amendment to Kitsap County code was open  
5 January 8, 2019 through February 26, 2019. Twenty-five comments were received  
6 through emails, letters, online submittal forms, and verbal testimony.
- 7 20. The Kitsap County Planning Commission considered the proposed amendment to Kitsap  
8 County code on March 19, 2019 at a regularly scheduled and properly noticed meeting  
9 and recommended approval of the proposal, Staff Report Attachment C5, as amended  
10 through a unanimous commission vote.
- 11 21. The Revised Code of Washington (RCW) 36.70B.110(9) allows the county the choice of  
12 whether or not to provide administrative appeals for permits. In this Planning  
13 Commission recommended code, section 17.530.030 M. 'Appeals', no appeal is  
14 provided for letters of exemption or administrative conditional use permits (ACUP).  
15 While the Planning Commission generally favors the opportunity for administrative  
16 appeals, it reluctantly declines to do so here. The FCC rulings and limited case law may  
17 be read, albeit not clearly, to require that the time for an administrative appeal be  
18 calculated within the time for permit review (shot clock), and allowing an administrative  
19 appeal would substantially shorten the already limited review time and increase the  
20 potential for not meeting the shot clocks.
- 21 22. The Kitsap County Planning Commission recommends that the Department hold a  
22 stakeholder meeting to discuss the Planning Commission recommended code prior to  
23 the Board of County Commissioner review. Attendees should include stakeholders such  
24 as carriers, utility pole owners, owners of other public service structures, and other  
25 interested parties.
- 26 23. The Kitsap County Planning Commission requests that the Department report to the  
27 Planning Commission at the next applicable meeting:  
28 a. a summary of the meeting between the Department and Stakeholders described in  
29 finding number 22.  
30 b. any differences between the Planning Commission recommended draft code and  
31 the Department of Community Development recommended draft code presented  
32 to the Board of County Commissioners.
- 33 24. The proposed amendment to Kitsap County code is consistent with the GMA, Kitsap  
34 Countywide Planning Polices, the Kitsap County Comprehensive Plan, and other  
35 applicable requirements.
- 36 25. The proposed amendment to Kitsap County code promotes the public interest and  
37 welfare of the citizens of Kitsap County, and should be approved.

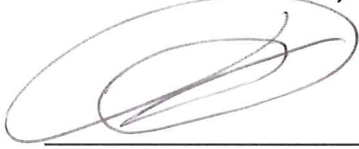
1 NOW THEREFORE, the Kitsap County Planning Commission recommends to the Department  
2 of Community Development as follows:

3 RECOMMENDATION: Adopt the proposed amendments to Kitsap County code attached  
4 hereto as Appendix A and incorporated herein by this reference:

5 APPROVED BY THE PLANNING COMMISSION OF KITSAP COUNTY, WASHINGTON, AT A  
6 REGULAR MEETING THEREOF, HELD THIS 16th DAY OF APRIL 2019.

7

8 BY

  
\_\_\_\_\_

9

Kim Allen, CHAIR



Amanda Walston, CLERK

1                               **ORDINANCE NO. \_\_\_\_-2019**  
2   **ORDINANCE AMENDING KITSAP COUNTY CODE TITLE 17, AND KITSAP COUNTY**  
3   **CODE TITLE 21 REGARDING WIRELESS COMMUNICATION FACILITIES.**  
4

5   **WHEREAS**, the federal Telecommunications Act of 1996 (Act), 47 U.S.C. § 332 et seq., imposes  
6 substantive and procedural limitations on state and local government authority to regulate the  
7 location, construction, and modification of wireless facilities; and

8   **WHEREAS**, the Act, in 47 U.S.C. § 332(c)(7), requires state and local governments to act on  
9 siting applications for wireless facilities "within a reasonable period of time after the request is  
10 duly filed ... taking into account the nature and scope of such request." Failure to do so may  
11 constitute a failure to act subject to legal challenge; and

12   **WHEREAS**, in 1996, the Kitsap Board of County Commissioners (the "Board") enacted  
13 Ordinance No. 195-1996, which adopted a moratorium on land use permits for cellular  
14 communication facilities. Subsequently amended by Ordinance No. 195-A-1996, amended by  
15 Ordinance No. 195-B-1997, and repealed by Ordinance No. 206-1997; and

16   **WHEREAS**, in 1997, the Board enacted Ordinance No. 206-1997, which repealed Ordinance No.  
17 195-1996 and Ordinance No. 195-B-1997 (not codified) and adopted land use and development  
18 standards for the siting and construction of wireless communication facilities; and

19   **WHEREAS**, in 2003, the Board enacted emergency Ordinance No. 305-2003, which amended §  
20 17.470.050 by exempting certain 911 public safety communication facilities from certain  
21 lighting standards applicable to wireless communication facilities. The ordinance was adopted  
22 July 28, 2003 and effective for sixty days. Subsequently repealed by Ordinance No. 309-2003;  
23 and

24   **WHEREAS**, in 2003, the Board enacted Ordinance No. 309-2003, which repealed emergency  
25 Ordinance No. 305-2003 and amended § 17.470.050 by exempting certain 911 public safety  
26 communication facilities from certain lighting standards applicable to wireless communication  
27 facilities. Subsequently repealed by Ordinance No. 534-2016; and

28   **WHEREAS**, in 2003, the Board enacted emergency Ordinance No. 534-2016, which amended §  
29 13.12.025 and comprehensive plan; and repealed and replaced Title 17 'Zoning' (13.12, 17.100,  
30 17.105, 17.110, 17.120, 17.130, 17.140, 17.150, 17.160, 17.170, 17.180, 17.190, 17.200, 17.210,  
31 17.220, 17.230, 17.240, 17.250, 17.260, 17.270, 17.280, 17.290, 17.300, 17.310, 17.320, 17.330,  
32 17.340, 17.360A, 17.360B, 17.360C, 17.360D, 17.360E, 17.390, 17.400, 17.410, 17.420, 17.430,  
33 17.440, 17.450, 17.460, 17.470, 17.480, 17.490, 17.500, 17.510, 17.520, 17.530, 17.540, 17.550,  
34 17.560, 17.570, 17.580, 17.590, 17.600, 17.610); and

35   **WHEREAS**, in 2009, the Federal Communications Commission (FCC) issued Declaratory Ruling  
36 FCC 09-99, which provided guidance on what the FCC considers to be a presumptively  
37 reasonable time for processing wireless facility applications; and

1 **WHEREAS**, in 2012, Congress passed Section 6409(a) of the Middle Class Tax Relief and Job  
2 Creation Act of 2012, also known as Section 6409(a) of the Spectrum Act, codified at 47 U.S.C. §  
3 1455(a). This established additional substantive and procedural limitations on state and local  
4 government authority to regulate "eligible facilities requests" by requiring that a government  
5 "may not deny, and shall approve" a project application requesting modification of an existing  
6 tower or base station that does not substantially change the physical dimensions of such tower  
7 or base station; and

8 **WHEREAS**, on October 21, 2014, the FCC issued Report and Order FCC 14-153. This provided  
9 guidance on the implementation of Section 6409(a) of the Spectrum Act (47 U.S.C. § 1455(a)) as  
10 well as additional guidance on Section 332(c)(7) of the Telecommunications Act of 1996 (47  
11 U.S.C. § 332(c)(7)) and Declaratory Ruling FCC 09-99. Rules established by the Report and Order  
12 were codified at 47 CFR § 1.40001; and

13 **WHEREAS**, on September 26, 2018 the FCC issued Declaratory Ruling and Third Report and  
14 Order FCC 18-133 to impose additional requirements and restrictions on local government  
15 regulation of small wireless facilities. Rules and clarifications adopted in this Ruling are codified  
16 in Title 47 CFR §1.6001 et seq; and

17 **WHEREAS**, Kitsap County must update code to accommodate changing technology and  
18 encourage provision of wireless service to all residents while protecting views, aesthetics,  
19 rural character, and quality of life in the County.

20  
21 **NOW THEREFORE BE IT ORDAINED:**

22 **Section 1. Recitals Incorporated.** The recitals set forth above are hereby adopted in addition to  
23 the Kitsap County Board of Commissioner's findings in support of the regulations imposed by  
24 this ordinance.

25 **Section 2. General Findings.** The Kitsap County Board of Commissioners makes the following  
26 findings:

- 27 1. Kitsap County is subject to the requirements of the Washington State Growth  
28 Management Act (GMA), Chapter 36.70A RCW.  
29
- 30 2. The GMA, RCW 36.70A.130(5), mandates that Kitsap County's Comprehensive Plan and  
31 development regulations be reviewed and, if needed, revised at least every 8-years.  
32 The most recent Kitsap County 8-year update concluded with the adoption of the 2016  
33 Kitsap County Comprehensive Plan on June 27, 2016 by Ordinance 534-2016.  
34
- 35 3. The GMA, RCW 36.70A.130(1), also mandates that Kitsap County's Comprehensive Plan  
36 and development regulations be subject to continuing review and evaluation.  
37
- 38 4. RCW 36.32.120(7) provides that the county legislative authorities shall make and  
39 enforce, by appropriate resolutions or ordinances, all such police and sanitary  
40 regulations as are not in conflict with state law.

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5. After review of the Kitsap County Code, the Department of Community Development identified code amendments that align with Kitsap County Comprehensive Plan policies including: land use, environment, economic development, and capital facilities and utilities.

**Section 3. General Procedural Findings.** The Kitsap County Board of Commissioners makes the following findings regarding the public participation process:

1. The formal amendment process began on October 24, 2018 with a briefing between the Board of County Commissioners and the Department of Community Development.
2. Kitsap County conducted public outreach through a dedicated and up-to-date web page and direct notification to various Kitsap County notification lists (GovDelivery & NextDoor).
3. On December 18, 2018, the Kitsap County Planning Commission held a regularly scheduled and properly noticed work study session to de-mystify and help people learn about wireless communication facilities.
4. On January 8, 2019, the Kitsap County Planning Commission held a regularly scheduled and properly noticed work study session to review the proposed code update and how it will impact Kitsap County.
5. On January 22, 2019, the Kitsap County Planning Commission held a regularly scheduled and properly noticed work study session to answer questions regarding the first two sessions.
6. On February 19, 2019, following effective and timely legal notice, the Kitsap County Planning Commission held a public hearing to accept testimony on the proposed amendment to Kitsap County Code.
7. A public comment period on the proposed amendment to Kitsap County Code was open January 8, 2019 through February 26, 2019. The County received twenty-five comments through emails, letters, online submittal forms, and verbal testimony.
8. The Kitsap County Planning Commission considered the proposed amendment to Kitsap County Code on March 19, 2019 at a regularly scheduled and properly noticed meeting and recommended approval of the proposal, Staff Report Attachment C5 as amended, through a unanimous commission vote.
9. On March 25, 2019, Kitsap County, as lead agency for the State Environmental Policy Act (SEPA), issued a Determination of Non-Significance on the proposed code amendment.

- 1 10. On April 8, 2019, Kitsap County Department of Community Development (DCD) staff  
2 met with Kitsap County Department of Parks, Kitsap County Department of Public  
3 Works, Kitsap Public Utility District (KPUD), Puget Sound Energy, wireless industry  
4 representatives from the Wireless Policy Group, Verizon, AT&T, and T-Mobile to discuss  
5 proposed amendments to development regulations regarding wireless communication  
6 facilities.  
7
- 8 11. On April 16, 2019, the Planning Commission approved Findings of Fact on the proposed  
9 code amendment during a regularly scheduled and properly noticed meeting and  
10 forwarded them to the Board of Commissioners for consideration.  
11
- 12 12. On May 1, 2019, the Board of County Commissioners held a work study with the  
13 Department of Community Development to discuss the proposed code amendment.  
14
- 15 13. A second public comment period on the proposed amendment to Kitsap County Code  
16 opened from April 25, 2019 to May 13, 2019.  
17
- 18 14. On May 13, 2019, following effective and timely legal notice, the Kitsap County Board of  
19 County Commissioners held a public hearing to accept testimony on the proposed code  
20 amendment.  
21
- 22 15. On May 13, 2019, the Board of County Commissioners deliberated on the proposed  
23 code amendment and, after consideration of public comment and the entire record  
24 related to this ordinance, made a final decision to adopt this ordinance.

25 **Section 4. Substantive Findings.** The Board of County Commissioners makes the following  
26 findings regarding the amendments to Title 17 (Zoning) and Title 21 (Land Use and  
27 Development Procedures) of the Kitsap County Code:

- 28 1. The proposed code amendment was developed according to, and are found to comply  
29 with, the requirements of the GMA, Chapter 36.70A RCW, the County-wide Planning  
30 Policies, the Kitsap County Comprehensive Plan, and other applicable laws and policies.  
31
- 32 2. Public participation occurred in the review of the proposed code amendment, as  
33 required by the GMA, and consistent with the State Environmental Policy Act and Kitsap  
34 County Code.  
35
- 36 3. The proposed code amendment promotes the public interest and welfare of the citizens  
37 of Kitsap County.

38 **Section 5.** Repeals Kitsap County Code section:

- 39 • 17.110.057 'Alternative technology'.
- 40 • 17.110.223 'Directional Panel Antenna'.
- 41 • 17.110.463 'Macro antenna array'.
- 42 • 17.110.480 'Micro antenna array'.

- 1 • 17.110.483 'Mini antenna array'.
- 2 • 17.110.547 'Parabolic antenna'.
- 3 • 17.110.707 'Support structure'.
- 4 • 17.110.765 'Wireless communication antenna array'.
- 5 • 17.110.780 'Whip antenna'.

6 **NEW SECTION. Section 6.** A new section is added to Kitsap County Code chapter 17.110  
7 'Definitions', as follows:  
8 17.110.073 "Antenna" means an apparatus designed for the purpose of emitting  
9 radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to  
10 Commission authorization, for the transmission of writing, signs, signals, data, images, pictures,  
11 and sounds of all kinds, including the transmitting device and any on-site equipment, switches,  
12 wiring, cabling, power sources, shelters or cabinets associated with that antenna and added to  
13 a tower, structure, or building as part of the original installation of the antenna. For most  
14 services, an antenna will be mounted on or in, and is distinct from, a supporting structure such  
15 as a tower, structure or building. However, in the case of AM broadcast stations, the entire  
16 tower or group of towers constitutes the antenna for that station. For purposes of this section,  
17 the term antenna does not include unintentional radiators, mobile stations, or devices  
18 authorized under CFR Title 15.

19 **NEW SECTION. Section 7.** A new section is added to Kitsap County Code chapter 17.110  
20 'Definitions', as follows:  
21 17.110.103 "Base station" means the equipment and non-tower supporting structure at a fixed  
22 location that enable FCC-licensed or authorized wireless communications between user  
23 equipment and a communications network.

24 **NEW SECTION. Section 8.** A new section is added to Kitsap County Code chapter 17.110  
25 'Definitions', as follows:  
26 17.110.156 "Carrier" means a telecommunications company that offers telecommunication  
27 services (as defined in 47 USC §153(53)) to users of wireless devices through radio frequency  
28 signals. Synonymous terms are mobile service provider, wireless service provider, wireless  
29 carrier or mobile carrier.

30 **Section 9.** Amends Kitsap County Code section 17.110.168 Collocation as follows:  
31 17.110.168 "Collocation" means the use or addition of one or more wireless communications  
32 facilities on any existing structure, whether or not already used as a wireless communication  
33 facility, use of a single support structure by more than one wireless services provider where  
34 appropriate, and/or placement of up to four support structures for collocation on a specific site.  
35 This may include shared facilities with Kitsap County central communications or public safety  
36 emergency communications equipment.  
37

38 **NEW SECTION. Section 10.** A new section is added to Kitsap County Code chapter 17.110  
39 'Definitions', as follows:



1 17.110.227 “Distributed antenna systems” means network of spatially separated antenna sites  
2 connected to a common source that provides wireless service within a geographic area or  
3 structure.

4 **Section 11.** Amends Kitsap County Code section 17.110.227 ‘Drinking establishments’ as  
5 follows:  
6 17.110.228 ~~227~~ “Drinking establishments” means a business primarily engaged in the retail sale  
7 of alcoholic beverages for consumption on the premises, including night clubs, bars, and  
8 taverns. It shall not mean premises primarily engaged in the retail sale of food for consumption  
9 on the premises, where the sale of alcoholic beverages is clearly accessory and incidental (e.g.,  
10 comprises less than twenty percent of the gross receipts). This definition excludes brew pubs.

11 **Section 12.** Amends Kitsap County Code section 17.110.393 ‘Lattice support structure’ as  
12 follows.  
13 17.110.393 “Lattice support structure” means a ~~guyed or~~ self-supporting three or four-sided,  
14 open, metal frame structure used to support telecommunication equipment.

15 **NEW SECTION. Section 13.** A new section is added to Kitsap County Code chapter 17.110  
16 ‘Definitions’, as follows:  
17 17.110.484 “Minimum Functional Height” means the shortest height at which a proposed  
18 wireless communications facility can perform its intended function, including communications  
19 and collocation. Minimum functional height is measured vertically from the ground level to the  
20 highest point on the structure, including antennas and subsequent alterations.

21  
22 **NEW SECTION. Section 14.** A new section is added to Kitsap County Code chapter 17.110  
23 ‘Definitions’, as follows:  
24 17.110.494 “Modification” means any change made to an existing wireless communications  
25 facility (facility). A modification constitutes a substantial change if (1) the change to the facility  
26 meets the definition of substantial change herein provided; (2) the change would defeat the  
27 existing concealment elements of the facility; or (3) the change does not comply with pre-  
28 existing conditions associated with the prior approval of construction or modification of the  
29 facility.

30 **Section 15.** Amends Kitsap County Code section 17.110.503 ‘Monopole’ as follows:  
31 17.110.503 “Monopole” means a wireless communications facility that consists of a single pole  
32 structure, designed and erected on the ground or on top of a structure, to support  
33 communications antennas and connecting appurtenances. ~~structure composed of a single spire~~  
34 ~~used to support telecommunication equipment.~~

35 **NEW SECTION. Section 16.** A new section is added to Kitsap County Code chapter 17.110  
36 ‘Definitions’, as follows:  
37 17.110.656 “Related equipment” means any piece of equipment related to, incidental to, or  
38 necessary for the operation of a non-tower wireless communication facility (facility) or tower-  
39 based facility. By way of illustration, not limitation, related equipment includes generators.

1 **Section 17. Amends Kitsap County Code section 17.110.687 'Stealth technology' as follows:**

2 17.110.687 "Stealth technology" means the camouflaging methods applied to wireless  
3 communication facilities (facilities) to render them more visually appealing and to blend the  
4 proposed facility into the existing structure or visual backdrop in such a manner to render it  
5 minimally visible to the casual observer. Such methods include, but are not limited to,  
6 architecturally screened roof-mounted antennas, building-mounted antennas painted to match  
7 the existing structure and facilities constructed to resemble trees, shrubs, light poles, flag poles,  
8 chimneys, church crosses, clock towers, gas station signs, statues, or rocks as appropriate to the  
9 surrounding environment. See Section 17.110.057, Alternative technology.

10 **NEW SECTION. Section 18.** A new section is added to Kitsap County Code chapter 17.110  
11 'Definitions', as follows:

12 17.110.708 "Substantially change" or "substantial change" means a modification to an existing  
13 wireless communications facility (facility) that changes the physical dimensions of the tower or  
14 base station in any of the following ways:

15 A. Height.

- 16 1. For tower-based facilities outside the public right-of-way (ROW), the modification  
17 increases the height of the tower by more than 10%, or by the height of one additional  
18 antenna array with separation from the nearest existing antenna, not to exceed 20 feet,  
19 whichever is greater.  
20 2. For tower-based facilities within the ROW and any base station, the modification  
21 increases the height of the facility by more than 10% or 10 feet, whichever is greater.  
22 3. Changes in height shall be measured from the original support structure in cases where  
23 deployments are or will be separated horizontally, such as on rooftops. In all other  
24 circumstances, changes in height shall be measured from the original height of the  
25 facility plus any modification approved prior to the passage of the federal Spectrum Act  
26 (February 22, 2012).

27 B. Width.

- 28 1. For tower-based facilities outside the ROW, the modification adds an appurtenance to  
29 the body of the tower that protrudes from the edge of the tower by more than 20 feet,  
30 or more than the width of the tower structure at the level off the appurtenance,  
31 whichever is greater.  
32 2. For tower-based facilities within the ROW and any base station, the appurtenance  
33 protrudes from the edge of the structure by more than 6 feet.

34 C. Equipment cabinets.

- 35 1. For any facility or base station outside the ROW, the modification involves installation of  
36 more than the standard number of new equipment cabinets for the technology  
37 involved, not to exceed 4 cabinets.  
38 2. For any facility or base station within the ROW, the modification involves installation of  
39 any new equipment cabinets on the ground if there are no pre-existing ground cabinets  
40 associated with the structure, or involves the installation of ground cabinets that are  
41 more than 10% larger in height or overall volume than any other ground cabinets  
42 associated with the structure.

43 D. Excavation.

- 1 1. For any facility or base station, the modification entails any excavation or deployment  
2 outside the current site. As used herein, for tower-based facilities outside the ROW, site  
3 shall mean the boundaries of the leased area including utility easements; for all other  
4 facilities, site shall mean that area adjacent to the structure and within which related  
5 equipment already exists.  
6 E. Stealth technology.  
7 1. For any facility or base station, the modification would defeat any concealment  
8 element.  
9 F. Prior conditions of approval.  
10 1. Except as set forth above, the modification does not comply with conditions of approval  
11 for the initial construction or any prior modification.

12 **NEW SECTION. Section 19.** A new section is added to Kitsap County Code chapter 17.110  
13 'Definitions', as follows:  
14 17.110.721 "Tower" means any structure built for the sole or primary purpose of supporting  
15 one or more antennas and related equipment, including but not limited to, self-supporting  
16 lattice towers, guy towers and monopoles. This does not include small wireless facilities as  
17 defined in Section 17.110.070 A.

18 **NEW SECTION. Section 20.** A new section is added to Kitsap County Code chapter 17.110  
19 'Definitions', as follows:  
20 17.110.724 "Tower-guy-wired" means a tower supported by a tensioned cable designed to add  
21 stability to a free-standing structure.

22 **NEW SECTION. Section 21.** A new section is added to Kitsap County Code chapter 17.110  
23 'Definitions', as follows:  
24 17.110.764 "Wireless" means transmissions through the airwaves including, but not limited to,  
25 infrared line of sight, cellular, broadband personal communication service, microwave, satellite,  
26 or radio signals.

27 **Section 22.** Amends Kitsap County Code section 17.110.770 'Wireless communication facility'  
28 as follows:  
29 17.110.770 "Wireless communication facility" means the antennas, nodes, control boxes,  
30 towers, poles, conduits, ducts, pedestals, electronics and other related equipment used for the  
31 purpose of transmitting, receiving, distributing, providing, or accommodating wireless  
32 communications services. ~~any unstaffed facility used for the transmission and/or reception of~~  
33 radio frequency (RF) signals through electromagnetic energy. This usually consists of an  
34 equipment shelter or cabinet, a support tower or structure used to achieve the necessary  
35 elevation, and the antenna array.  
36 A. A "Small wireless facility" means a facility that meets each of the following conditions:  
37 1. The facility:  
38 a. Is mounted on a structure 50 feet or less in height, with the height including any  
39 antennas; or

- 1           b. Is mounted on a structure no more than 10 percent taller than other adjacent  
2           structures; or  
3           c. Does not extend an existing structure on which is to be located to a height of more  
4           than 50 feet or by more than 10 percent, whichever is greater.  
5       2. Each antenna associated with the facility, excluding associated antenna equipment is no  
6       more than three cubic feet in volume; and  
7       3. All other wireless equipment associated with the structure, including the wireless  
8       equipment associated with the antenna and any pre-existing associated equipment on  
9       the structure, is no more than 28 cubic feet in volume; and  
10      4. The facility is not required to be registered with the FCC under 47 CFR Part 17; and  
11      5. The facility does not result in human exposure to radiofrequency radiation in excess of  
12      the applicable FCC safety standards in 47 CFR 1.1307(b).  
13   B. A “non-tower wireless facility” means a facility that is not a small wireless facility and does  
14    not involve, as part of the initial installation or construction, a wireless support structure.  
15    The term includes antennas, data collections units, and related equipment, but shall not  
16    include any wireless support structure. Except as allowed for small wireless facilities, the  
17    need to construct a wireless support structure will transform the non-tower facility into a  
18    tower-based facility.  
19   C. A “tower-based wireless facility” means a facility installed or constructed with a Tower as  
20    defined in 17.110.721. Unless a DAS hub facility meets the definition of a small wireless  
21    facility, the DAS hub shall be considered a tower-based facility.

22   **Section 23.** Amends Kitsap County Code section 17.110.775 ‘Wireless communication support  
23    structure’ as follows:

24    17.110.775 “Wireless communication support structure” means a freestanding structure, such  
25    as a tower-based wireless communication facility, or any other support structure that could (or  
26    does) support the placement or installation of a facility. structure specifically designed to  
27    support a wireless communication antenna array. This may include a monopole structure,  
28    ~~lattice structure or building.~~

29   **NEW SECTION. Section 24.** Repeals and replaces Kitsap County Code chapter 17.530 ‘Wireless  
30    Communication Facilities’, as follows:

31   **Chapter 17.530 WIRELESS COMMUNICATION FACILITIES.**

32    Sections:

- 33      17.530.010 Purpose and Applicability.  
34      17.530.020 Nonconforming uses and structures.  
35      17.530.030 Permitting.  
36      17.530.040 General development standards.  
37      17.530.050 Regulations for non-tower wireless communication facilities.  
38      17.530.060 Regulations for tower-based wireless communication facilities.  
39      17.530.070 Maintenance, repair, or modification.  
40      17.530.080 Abandonment and Removal.

41    **17.530.010 Purpose and Applicability**

- 1 A. Purpose. This chapter includes regulations and development standards for wireless
- 2 communication facilities (facilities) and related equipment. This chapter applies to facilities
- 3 located inside and outside a county right-of-way (ROW). These regulations and
- 4 development standards intend to:
  - 5 1. Allow for a variety of facility types in many locations.
  - 6 2. Reduce, preferably eliminate, the visual impact of facilities to surrounding properties.
  - 7 3. Encourage creative approaches to locating facilities in ways that are compatible with the
  - 8 surroundings.
  - 9 4. Encourage and facilitate collocation of antennas, support structures and related
  - 10 equipment on existing tower-based facilities or other structures that already support at
  - 11 least one non-tower facility.
  - 12 5. Provide a process ~~with substantial public participation~~ to locate and identify new site
  - 13 locations in a comprehensive manner ~~with substantial public participation~~.
  - 14 6. Require the use of stealth technology.
- 15 B. Exemptions. Each of the following are exempt from the regulations of this chapter and shall
- 16 not require a permit under this chapter:
  - 17 1. Maintenance or replacement of the existing related equipment with new related
  - 18 equipment that has ~~identical dimensions~~ the same height, width, and appearance, or
  - 19 smaller dimensions and a less intrusive appearance. While a letter of exemption is not
  - 20 required, the maintenance or replacement shall otherwise comply with all applicable
  - 21 regulations.
  - 22 2. Military and civilian radar, operating within the regulated frequency ranges, for the
  - 23 purpose of defense or aircraft safety.
  - 24 3. Amateur and citizen band transmitters and antennas, satellite dishes or similar
  - 25 communication facilities used for noncommercial purposes.
  - 26 4. Two-way communication transmitters used on a temporary basis by "911" emergency
  - 27 services, including fire, police, and emergency aid or ambulance service.
  - 28 5. Antennas located wholly within another structure, and not visible from the outside.
  - 29 6. Emergency communications equipment during a declared public emergency.
  - 30 7. A temporary, commercial wireless facility installed for providing coverage of a special
  - 31 event such as a fair, news coverage or sporting event. The wireless facility shall be
  - 32 exempt from the provisions of this chapter for up to two weeks before and after the
  - 33 duration of the special event.
  - 34 8. A temporary, commercial wireless facility installed for a period of 180 days, subject to
  - 35 renewals at the County's discretion, to provide service during repair, replacement, or
  - 36 relocation of an existing facility or construction of a new facility.
  - 37 9. Wireless communication facilities constructed to serve only first responders, such as
  - 38 fire, police and emergency medical response services.
- 39 C. Prohibited locations and structures.
  - 40 1. A facility shall not locate:
    - 41 a. On single-family residences or on any residential accessory structure.
    - 42 b. On real property or structures listed, or eligible for listing, on the:
      - 43 i. National or Washington Registers of Historic Places.
      - 44 ii. Official historic structures or historic districts lists maintained by the county.

**Commented [DG1]:** Substantial public participation should refer to being part of the process, not the authority deciding where cell sites should be located.

**Commented [DG2]:** The code intends to exempt facility replacements with the same or less bulk dimensions and appearance. Identical dimensions can include product or material specifications that don't change the appearance of a structure.

A facility that conducts a Section 106 review through the National Historic Preservation Act (NHPA) of 1966, 54 U.S.C. § 300101 et seq., shall not be prohibited.

c. Where the visual impacts analysis required by Section 17.530.040(B) concludes that a more than moderate visual impact will occur and cannot be mitigated.

2. Tower based wireless communication facilities are prohibited:

a. When it meets the definition of a guyed-tower.

b. In areas where utility lines are predominantly located underground.

c. Within 200 feet of the shoreline, as defined in KCC Title 22 'Shoreline Management Program'.

d. Within a critical area or its buffer, as defined in Title 19 'Critical Areas Ordinance'.

e. Within 300 feet of the boundary line of a municipal park unless the tower-based facility is disguised through stealth technology as a tree, natural feature, or structure (e.g., silo, church steeple, or clock tower) that is compatible with its surroundings and meets the requirements of 17.530.040 B 'Visual Appearance'.

3. Related equipment is prohibited in a right-of-way within 150 feet of a park boundary line, unless the applicant acquires written consent of the County Engineer and the appropriate park director.

D. Other regulations.

1. This chapter regulates only the land use permit from the department. A wireless communication facility may require other permits or review under other local codes or under state or federal law. This includes:

a. Chapter 14.04 'Technical Building Codes' regarding building permits.

b. Chapter 18.04 'State Environmental Policy Act' regarding environmental review.

c. Title 11 'Roads, Highways, and Bridges' regarding right-of-way permits.

The time in review requirements of the Federal Communication Commission (FCC) shall apply separately to each permit.

2. Chapter 21.04 'Project Permit Application Procedures' shall not apply unless specifically stated in this chapter.

**17.530.020 Nonconforming Uses and Structures**

A. The non-conforming provisions of Chapter 17.570 'Nonconforming uses, structures and use of structures' apply except as provided in this section.

B. Non-conforming wireless communication facilities damaged or destroyed after [INSERT ADOPTION DATE] due to any reason or cause may be repaired and restored at the same location. The wireless communication facility (facility) shall otherwise comply with the terms and conditions of this chapter. A complete application, as provided in Section 17.530.030 'Permitting,' to reconstruct the facility shall be filed with the department within one year from the date the structure was destroyed.

C. Non-tower and small wireless facilities shall be allowed to collocate upon any existing non-conforming base station or tower-based facilities.

**17.530.030 Permitting**

A. Permits required. An applicant shall obtain a land use permit from the department prior to the installation or construction of any wireless communication facility (facility). This chapter requires a(n):

**Commented [DG3]:** Using "i.e.," limits an applicant to only the subject within the parentheses. Abbreviation "e.g.," more appropriately identifies the subject as one example of many that may be considered.

**Commented [DG4]:** Paragraphs 132-137 and paragraph 144 of FCC 18-133 recognize that each permit receives an individualized shot clock.

- 1 1. Letter of exemption to:
  - 2 a. Collocate a non-tower facility that does not substantially change an existing,  
3 approved facility.
  - 4 b. Collocate a small wireless facility on any existing structure.
  - 5 c. Replace a wireless support structure with an identical support structure of the same  
6 height, width, and appearance, or smaller dimensions and a less intrusive  
7 appearance.
- 8 2. Administrative conditional use permit (ACUP) to:
  - 9 a. Collocate a non-tower facility that substantially changes an existing, approved  
10 facility.
  - 11 b. Collocate a non-tower facility on an existing structure that has not previously been  
12 approved as a facility.
  - 13 c. Construct a small wireless facility on a new structure.
  - 14 d. Locate a tower-based facility within 500 feet of an existing tower-based facility.
  - 15 e. Construct a tower-based facility disguised through stealth technology as a tree,  
16 natural feature, or structure (i.e., silo, church steeple, or clock tower) that is  
17 compatible with its surroundings and meets the requirements of 17.530.040 B  
18 'Visual Appearance'.
- 19 3. Conditional use permit (CUP) to construct a tower-based facility that does not qualify for  
20 an administrative conditional use permit (ACUP) in section 17.530.030 2.  
21

**Commented [DG5]:** The code intends to exempt facility replacements with the same or less bulk dimensions and appearance. Identical dimensions can include product or material specifications that don't change the appearance of a structure.

**Commented [DG6]:** Using "i.e.," limits an applicant to only the subject within the parentheses. Abbreviation "e.g.," more appropriately identifies the subject as one example of many that may be considered.

1

Table 1 Wireless Communication Facility (facility) Permit Review Summary				
Type of Facility	Number of Days for Decision 17.530.030 (H)	Land Use Permit		
		Letter of Exemption	ACUP	CUP
Replacement of wireless support structure with <u>an identical support structure of the same height, width, and appearance, or smaller dimensions and a less intrusive appearance.</u>	60	X		
<b>Collocation:</b>				
New or replacement non-tower facility that does not substantially change existing facility.	60	X		
New or replacement non-tower facility that substantially changes an existing facility.	90		X	
A new non-tower facility on a structure not previously approved for facility use.	90		X	
Small wireless facility on any existing structure.	60	X		
<b>New facility and support structure:</b>				
Small wireless facility on a new structure.	90		X	
A tower-based facility within 500 feet of an existing tower-based facility.	150		X	
A tower-based facility disguised through stealth technology as a tree, natural feature, or structure ( <u>i.e.,</u> silo, church steeple, or clock tower) that is compatible with its surroundings and meets the requirements of 17.530.040 B 'Visual Appearance'.	150		X	
Tower-based facility that does not qualify for the Administrative Conditional Use Permit (ACUP) process.	150			X

**Commented [DG7]:** The code intends to exempt facility replacements with the same or less bulk dimensions and appearance. Identical dimensions can include product or material specifications that don't change the appearance of a structure.

**Commented [DG8]:** Using "i.e.," limits an applicant to only the subject within the parentheses. Abbreviation "e.g.," more appropriately identifies the subject as one example of many that may be considered.

- 2 B. Pre-application Meeting. A pre-application meeting (see Section 21.04.120) is encouraged,
- 3 not required. The meeting may occur by telephone or in person as deemed necessary by
- 4 the department. The department shall indicate in writing when it agrees that a particular
- 5 document or specific information is not required for an adequate review of the application.
- 6 C. Applications for a letter of exemption.
- 7 1. All applications must include documentation that the proposed facility, in conjunction
- 8 with other facilities, shall not generate radio frequency emissions that exceed the
- 9 standards and regulations of the FCC.
- 10 2. Where a new or replaced non-tower facility is proposed that does not substantially
- 11 change an existing facility, the application for a letter of exemption shall contain all



1 information necessary to determine compliance with 47 USC 1455(a) and 47 CFR  
2 1.16100, as now or hereafter amended. While no further information in the application  
3 is required, all facilities shall comply with Section 17.530.040 'General Development  
4 Standards' except for subsections A and B.

5 3. Where a small wireless facility on an existing structure is proposed, the application for a  
6 letter of exemption shall contain all necessary information to verify that the facility  
7 meets the definition of a small wireless facility and to determine compliance with this  
8 chapter.

9 4. Where the replacement of a support structure with an identical support structure of the  
10 same height, width, and appearance, or smaller dimensions and a less intrusive  
11 appearance is proposed, the application for a letter of exemption shall contain engineer-  
12 stamped structural drawings that include:

- 13 a. The existing support structure and the proposed support structure.
- 14 b. Descriptions of each structure not shown on the drawings.
- 15 c. A description of all existing and proposed facilities to be placed on the proposed  
16 support structure.

17 D. Applications for an administrative conditional use permit (ACUP). An ACUP application shall  
18 contain all information necessary to determine compliance with this chapter. Unless noted  
19 otherwise the application requires at least:

- 20 1. A site plan drawn to scale.
- 21 2. A landscape plan drawn to scale.
- 22 3. Except for small wireless facilities, a report describing the proposed facility with  
23 technical reasons for its design. The report shall describe the height, dimension, and  
24 location of the proposed facility.
- 25 4. Documentation that the proposed facility complies with all applicable state and federal  
26 laws and regulations, including radio frequency emissions and aviation safety.
- 27 5. Documentation that the proposed facility complies with this chapter.
- 28 6. A visual impact analysis as described in Section 17.530.040 B.1.

29 7. ~~A seal and signature of a professional structural engineer, licensed in the State of~~  
30 ~~Washington, on all construction documents for structures~~ Construction documents for  
31 structures:

- 32 a. that include a seal and signature of a professional structural engineer, licensed in the  
33 State of Washington.
- 34 b. designed to 60% completion to consider an application complete for noticing  
35 requirements in section 17.530.030 G.2.
- 36 c. designed to 100% completion prior to a site development activity permit, building  
37 permit, or both. Construction documents designed to 100% completion that  
38 significantly deviate from the initial submittal will result in denial of the permit.

39 8. When the facility is located on property not owned by the applicant, a copy of the  
40 document that grants the applicant authority to use all areas proposed and needed to  
41 comply with this chapter, including but not limited to screening, setbacks, parking, and  
42 vehicular and utility access. This submittal item:

**Commented [DG9]:** The code intends to exempt facility replacements with the same or less bulk dimensions and appearance. Identical dimensions can include product or material specifications that don't change the appearance of a structure.

**Commented [DG10]:** The permit process may require changes to a proposed facility. An initial review of construction documents at 60% completion allows the permit process to inform the design.

Section 17.530.030 G.2 requires notice to neighboring parcels within 15 days of a complete ACUP or CUP application.

**Commented [DG11]:** Kitsap County requires authorization to use areas included in the development of the facility.

- a. includes a letter of authorization with the initial application. The letter must reference all areas proposed and needed to comply with this chapter and shown on the site plan as required by 17.530.030 D.1.
- b. must be provided prior to the review of a site development activity permit, building permit, or both.
- c. must include a copy of the document that grants the applicant authority as a condition of approval and cannot be waived. An application will not be approved without legal authorization to use areas that are necessary to approve construction of the facility.

**Commented [DG12]:** Submittal of a full lease agreement at initial application requires a carrier to enter into a legally binding financial agreement. If a facility is denied, the carrier may still have obligations to pay for the lease of the land.

Proper review of a site development activity permit or building permit requires a letter of authorization to identify all areas used to construct the facility and commitment from a carrier that will use the facility.

- 9. If the applicant is not a carrier, proof that an agreement exists between the applicant and a carrier committing the carrier to use the proposed facility in carrier's service network. This submittal item:
  - a. must be provided prior to the review of a site development activity permit, building permit, or both.
  - b. will be a condition of approval and cannot be waived. An application will not be approved without such commitment.

**Commented [DG13]:** Submittal of a full lease agreement at initial application requires a carrier to enter into a legally binding financial agreement. If a facility is denied, the carrier may still have obligations to pay for the lease of the land.

Proper review of a site development activity permit or building permit requires a letter of authorization to identify all areas used to construct the facility and commitment from a carrier that will use the facility.

10. A State Environmental Policy Act (SEPA) checklist when required by WAC 197-11-800, as now or hereafter amended, and Chapter 18.04 of Kitsap County Code.

- E. Applications for a conditional use permit (CUP). A CUP application shall contain all information necessary to determine compliance with this chapter. The application requires at least:
  - 1. All information required in Section 17.530.030 D 'Applications for an ACUP'.
  - 2. Documented actual and reasonable efforts to collocate the facility. The documentation shall demonstrate that the applicant contacted the owners of and sought permission to install a facility on:
    - c. All existing wireless support structures.
    - d. Other tall structures or buildings within a one-mile radius of the proposed site.
  - 3. Propagation studies. The application shall include at least one propagation study that shows wireless coverage or capacity for a tower-based facility that exceeds sixty feet in height.
    - a. The propagation studies shall include, at a minimum, the following information:
      - i. The current service and the service for at least two adjustment options at existing sites, if possible.
      - ii. A description of the type and manufacturer of the proposed transmission/radio equipment.
      - iii. The frequency range (megahertz band) assigned to the carrier.
      - iv. The power, in watts, at which the carrier transmits.
      - v. Any relevant related tests conducted by the applicant or carrier in determining the need for the proposed site and installation. All reasonable designated confidential proprietary information may be redacted.
    - b. Only an adjustment will be allowed if a study demonstrates that the adjustment will eliminate a service gap.
    - c. An adjustment may be required as a condition of approval if a study demonstrates that the adjustment will reduce the service gap.

- 1 4. Future collocation. The application shall include:
  - 2 a. Documentation that the applicant requested Kitsap 911 to determine the feasibility
  - 3 of collocating emergency service communications facilities. The proposed tower-
  - 4 based facility location and technical specifications shall be included with the request.
  - 5 b. A written commitment that the applicant will allow other antennas to collocate on
  - 6 the tower-based facility where technically feasible.
- 7 5. FCC-license. Each applicant that proposes a tower-based facility shall submit a copy of
- 8 its FCC license for the proposed location. The license shall include the name, address,
- 9 and emergency telephone number for the operator of the facility.
- 10 F. Fees. All applications for permits or requests for actions by the county shall be accompanied
- 11 by a filing fee in an amount established by county resolution. Fees for small wireless
- 12 facilities must be:
  - 13 1. a reasonable approximation of the County's costs.
  - 14 2. only objectively reasonable costs.
  - 15 3. no higher than the fees charged to similarly-situated competitors in similar situations.
- 16 G. Notice.
  - 17 1. Letters of exemption shall not require public notice.
  - 18 2. ACUPs and CUPs. Within 14 calendar days from the submission of a complete
  - 19 application, the department shall:
    - 20 a. Mail notice to every property owner within 1,200 feet of the proposed facility. New
    - 21 small wireless facility support structures located in the right of way are exempt from
    - 22 this requirement.
    - 23 b. Post notice on the property.
  - 24 The applicant is responsible for all costs associated with such notice. All notices shall
  - 25 contain the applicable information required by Section 21.04.210 'Notice of Application'
  - 26 or be a summary postcard with a link to such information.
- 27 H. Time for review.
  - 28 1. Completeness.
    - 29 a. The county shall notify the applicant in writing of any information that is required to
    - 30 complete an application within 10 calendar days of filing the application. The permit
    - 31 application automatically expires if the applicant fails to submit the requested
    - 32 information within 30 days of the department's written request.
    - 33 b. Prior to the expiration date, the applicant may request an extension to provide the
    - 34 required information. The department may grant up to one 30-day extension if it is
    - 35 determined that the required studies or information warrants additional time.
    - 36 Financial hardship shall not be considered for extensions of deadlines.
    - 37 c. Once the applicant has submitted the required information, the county shall notify
    - 38 the applicant within 10 days of the submittal if the application remains incomplete.
    - 39 d. The time tolled between the date of the County's written notifications to the date all
    - 40 requested information is received shall not count towards the number of days an
    - 41 application is in review for a decision.
    - 42 e. The County shall follow procedures in section 21.04.170 when an applicant does not
    - 43 provide information requested by the department regarding a project permit
    - 44 application that has been deemed complete for processing.

**Commented [DG14]:** While processing a complete application, after the allowed tolling occurs, the County may require additional information (e.g., wetland or geological reports). Information received too late may jeopardize the County's ability to review a permit within the designated "shot clock". The County can either deny the permit or require the information as a condition of approval.

- 1 2. Letters of Exemption. Once an initial application has been filed, regardless of the
- 2 deadlines for notice, the county has 60 calendar days, after accounting for the tolling
- 3 provided above and restart time in review per section 17.530.030 H.5., to make its final
- 4 decision on the application and to advise the applicant in writing of such decision.
- 5 3. ACUPs. Once an initial application has been filed, the county has 150 calendar days for
- 6 tower-based facilities and 90 calendar days for non-tower facilities, after accounting for
- 7 the tolling provided above and restart time in review per section 17.530.030 H.5., to
- 8 make its final decision on the application and to advise the applicant in writing of such
- 9 decision.
- 10 4. CUPs. Once an initial application has been filed, the county has 150 calendar days, after
- 11 accounting for the tolling and restart time in review per section 17.530.030 H.5., to
- 12 make its final decision on the application and to advise the applicant in writing of such
- 13 decision.
- 14 5. Restart time in review.
- 15 a. Small wireless facilities. Submittal of information requested through sections
- 16 17.530.030 H.1.a. and 17.530.030 H.1.c. shall restart the time in review of an
- 17 application once. Requests for information by the county after the first restart shall
- 18 not restart the time in review of an application again.
- 19 b. All other facilities. Submittal of information requested through 17.530.030 H.1.a.
- 20 and 17.530.030 H.1.c. shall not restart time in review of an application.
- 21 6. Batching. Applicants for small wireless facilities may batch requests into a single
- 22 application.
- 23 I. Experts. The department may hire any consultant(s) and/or expert(s) necessary to assist the
- 24 department in reviewing and evaluating an application for a proposed facility. The
- 25 applicant and/or owner of the facility shall reimburse the county for all reasonable and
- 26 actual costs of the county’s consultant(s) in providing expert evaluation and consultation in
- 27 connection with these activities.
- 28 J. Approval. The department may approve, conditionally approve, or deny a permit for a
- 29 facility. Approval or conditional approval may only be granted when the requirements of
- 30 this chapter have been met. Approval may be revoked as provided in Kitsap County Code.
- 31 K. Permit Duration and extensions. A letter of exemption Permits issued under this chapter
- 32 expire within 12 months from the date issued if construction is not complete at that time.
- 33 An Administrative Conditional Use Permit (ACUP) or Conditional Use Permit (CUP) issued
- 34 under this chapter expire within four years from the date issued if construction is not
- 35 complete at that time. Incomplete construction by the permit expiration date requires
- 36 submittal of a new permit application. The department may grant one one-year extension
- 37 when all of the following conditions are met:
- 38 1. The extension request is submitted in writing at least 30 calendar days prior to the
- 39 expiration of the permit.
- 40 2. Significant concerns with the extension can be mitigated by minor revisions to the
- 41 permit.
- 42 3. Tangible process progress has been made toward completion.
- 43 4. An extension would not adversely impact public health, safety or general welfare.

**Commented [DG15]:** The County reduced permit requirements for tower-based facilities using stealth or within 500 ft of an existing tower. This intends to provide an incentive to construct such facilities. The county still has 150 days to make a final decision on tower-based facility applications per FCC rulings.

**Commented [DG16]:** An ACUP and CUP expire after 4 years in Kitsap County. Letters of exemption typically equate to a building permit which expire in 6 months. The county is providing one year to account for weather and scheduling related construction delays.

**Commented [DG17]:** Typographical error correction.

- 1 L. Director Interpretations. A director’s interpretation per Section 21.04.040 ‘Directors  
2 Interpretations’ may resolve disputes regarding the interpretation of this chapter.
- 3 M. Appeals. A decision on a letter of exemption or an ACUP may not be appealed to the  
4 Hearing Examiner in accordance with Section 21.04.290 ‘Appeals’.
- 5 N. Revoked Permit. The County may revoke a permit pursuant to [17.600.010 'Revocation for](#)  
6 [noncompliance with conditions'](#). A facility with a revoked permit shall be considered  
7 abandoned and subject to section 17.530.080 B.
- 8 **17.530.040 General Development Standards**
- 9 A. Height. Wireless Communication Facilities (facilities) shall not exceed heights authorized in  
10 this chapter. Height is measured as the total vertical distance from the ground level,  
11 including any base pad, to the highest point of the facility, including any antennas,  
12 appurtenances, or related equipment.
- 13 B. Visual Appearance. All facilities shall employ the most current stealth technology to be the  
14 least visually and physically intrusive. All facilities shall also be aesthetically and  
15 architecturally compatible with the surrounding environment and shall be designed to  
16 blend with the existing surroundings.
- 17 1. Visual impact analysis.
- 18 a. Compatibility and visual impact shall be determined through a visual impact analysis.  
19 The analysis must use maps, photographs, photo-simulation, and other appropriate  
20 methods to show the existing topographical contours of the area and areas within a  
21 one-mile radius where any portion of the proposed facility can be seen. Line of sight  
22 includes from the ground to the rooftop of adjacent buildings.
- 23 b. When more than a moderate visual impact is likely, the visual impact analysis shall  
24 include a visual demonstration, such as the erection of a crane, a balloon in a color  
25 similar to that of the proposed structure and of a size not less than four feet and not  
26 to exceed six feet, or similar device used to simulate the proposed dimensions and  
27 height of the structure. Ten working days prior to the demonstration, the applicant  
28 shall notify:
- 29 i. The department.
- 30 ii. All properties within 800 feet of the parcel where the demonstration will occur.  
31 The department shall provide the list of properties within 800 feet.
- 32 2. More than moderate visual impact. A facility shall not be considered aesthetically  
33 compatible with the surrounding land uses if, within a one-mile radius, it results in more  
34 than a moderate visual impact. A “more than moderate” visual impact occurs when one  
35 or more of the following exist:
- 36 a. The facility becomes a predominant feature in the viewscape.
- 37 b. The facility disrupts a largely intact and unobstructed view of visually sensitive areas,  
38 which are those locations that provide views of one or more of the following: Puget  
39 Sound, lakes, large wetland complexes, major streams, valleys and ravines, large  
40 tracts of forested land, Mount Rainier, the Cascade mountain range or the Olympic  
41 mountain range. These views are particularly sensitive from certain places of the  
42 county, including residential areas, commercial areas, major transportation corridors  
43 and arterials in rural areas.

- 1 c. The facility is not designed and painted to blend in with the surrounding
- 2 environment.
- 3 d. The facility is sited above visually predominant ridge lines.
- 4 e. The facility extends forty feet or more above the tree line.
- 5 f. Except for small wireless facilities, a non-tower facility is proposed in a visually
- 6 sensitive area and cannot be completely enclosed within the existing structure or
- 7 camouflaged as another structure compatible with the surrounding environment.
- 8 3. Other visual requirements. A facility must:
- 9 a. Place all required stickers or other identifying labels on the underside of related
- 10 equipment, or away from public view on ground-mounted equipment, and not near
- 11 ground level if on a tower-based facility.
- 12 b. Place and size antennas and related equipment to blend into the architectural detail
- 13 of the supporting structure. Paint or another coating may be required to be visually
- 14 compatible with the support structure.
- 15 c. Screen electrical meter cabinets to blend with the surrounding area. Use of smart
- 16 meters are preferred.
- 17 d. For proposed fences, the fence must:
- 18 i. Be at least six feet in height and no more than eight feet in height.
- 19 ii. Be of a nonobtrusive material, such as a dark vinyl coated chain link that blends
- 20 with the surrounding area.
- 21 C. Lighting.
- 22 1. This chapter prohibits all artificially lighted facilities except:
- 23 a. Permanent 911 public safety facilities. This includes fire, police and emergency
- 24 medical response services.
- 25 b. Facilities located at a 700-foot elevation and more than one-half mile from a
- 26 residential area.
- 27 2. The applicant shall provide a detailed plan for lighting if an artificially lighted facility is
- 28 allowed. The plan shall demonstrate that the proposed lighting does not have a
- 29 negative impact on adjacent properties and complies with state and federal regulations
- 30 for lighting. The applicant shall promptly report any outage or malfunction of FAA-
- 31 mandated lighting to the appropriate governmental authorities and to the county.
- 32 3. Any facility needing lighting per FAA regulations shall be altered to avoid the need for
- 33 lighting unless Section 17.530.040 C.1. applies.
- 34 4. The department may allow security lighting for ground mounted related equipment.
- 35 Security lighting shall be directed away from adjoining properties through shielding and
- 36 arrangement. No more than one foot-candle of illumination may leave the property
- 37 boundaries.
- 38 D. Noise. Facility operation and maintenance shall comply with Chapter 10.28 'Noise'.
- 39 E. Related equipment for small wireless facilities.
- 40 1. Antennas and antenna elements shall be enclosed within the facility.
- 41 2. Antennas and antenna elements unable to be enclosed within the facility require the
- 42 applicant to demonstrate the inability to do so. In such cases, the antenna and antenna
- 43 elements shall be within a shroud mounted at the top of the facility. An opaque cover
- 44 (~~i.e., e.g.,~~ dyed film) may be used to cover the antenna face. The offset distance

**Commented [DG18]:** Using "i.e.," limits an applicant to only the subject within the parentheses. Abbreviation "e.g.," more appropriately identifies the subject as one example of many that may be considered.

- 1 between an antenna and pole must not exceed 12 inches. The shroud and opaque
- 2 cover:
- 3 a. Shall cover all antenna and antenna elements in a single antenna shroud.
- 4 b. Shall match the support structure color, finish, and visually conceal all contents
- 5 and/or wiring to the greatest extent possible. A solid shroud is preferred.
- 6 c. Shall be cylindrical for pole facilities and match the pole shaft diameter, when
- 7 feasible. The shroud diameter shall not exceed ~~16-18~~ inches. Once transitioned from
- 8 the support structure shaft, the shroud diameter shall remain consistent.
- 9 d. Shall not exceed a height of five feet. For light standards, this dimension is measured
- 10 from the top of the luminaire mast arm attachment point.
- 11 3. Antennas and antenna elements unable to be enclosed within the facility or shrouded at
- 12 the top of the facility require the applicant to demonstrate the inability to do so. In such
- 13 cases, a shrouded, externally mounted antenna package may be allowed if:
- 14 a. The shroud protrudes no more than ~~two feet~~ 26 inches from the outer circumference
- 15 of the support structure.
- 16 b. The shroud height does not exceed five feet, mounted longitudinally to the structure
- 17 shaft.
- 18 c. The shroud and all parts of the antennae package are at least seven feet from the
- 19 ground.
- 20 4. A base shroud shall fully enclose all remaining equipment located on the structure. This
- 21 may include radios not mounted at top of structure, electric meters, and grounding
- 22 equipment. The base shroud shall:
- 23 a. Be structurally sound to fully support the proposed structure and maximize
- 24 equipment volume.
- 25 b. Not exceed a height of six feet from mounting surface.
- 26 c. Match the support structure color, finish, and visually conceal and lock all contents
- 27 and/or wiring to the greatest extent possible. A solid shroud is preferred.
- 28 d. Where the facility is a pole, install a shroud that is cylindrical with a maximum
- 29 consistent diameter of ~~16-18~~ inches not including small architectural banding
- 30 features. This diameter may increase up to 20 inches if the location combines
- 31 multiple carriers or uses.
- 32 5. Enclosures separate from the support structure may be allowed if:
- 33 a. The applicant demonstrates the inability to enclose or shroud antenna and antenna
- 34 equipment as prescribed in Section 17.530.040(E)(4).
- 35 b. The enclosure is no greater than ~~three feet six~~ 42 inches (3'-6") in any dimension.
- 36 F. Related equipment for non-small wireless facilities.
- 37 1. Antenna and antenna elements must match the support structure color, finish, and
- 38 visually conceal all contents and/or wiring to the greatest extent possible.
- 39 2. Remaining equipment must be placed underground, or enclosed and screened through
- 40 stealth technology or fencing and landscaping in a screening buffer. The buffer
- 41 requirement shall be contained in a recorded easement. Vegetation shall not be
- 42 removed without approval by the department of community development. Fencing shall
- 43 be a nonobtrusive material such as a dark coated chain link to blend in with the
- 44 surroundings.

**Commented [DG19]:** Most Puget Sound Energy (PSE) poles in Kitsap County average 45-75 ft tall. PSE requires a 10 ft vertical offset from the highest lines on the pole.

A pole topping small wireless facility, regardless of size, will likely exceed the 50 ft. maximum height of a small wireless facility as defined by the FCC. Kitsap County will most likely receive side mount applications.

The current size restriction will require the use of antennae with less effective frequencies. This may result in the need for additional facilities to serve the same area.

Puget Sound Energy requires at least a 6" offset from a utility pole. The county requires a shroud to enclose the facility. Shrouds are a minimum of 17.7" to 19" depending on the carrier.  
 $6" + 18.5" + 1" \text{ (flex space)} = 26"$

**Commented [DG20]:** Conversion to inches only. No design standard change.

- 1 G. Standard of Care. Facilities shall be designed, constructed, operated, maintained, repaired,  
2 modified and removed in strict compliance with all current applicable technical, safety and  
3 safety-related codes, and all federal, state and county laws and regulations. These include  
4 without limitation the most recent editions of the following:
- 5 1. American National Standards Institute (ANSI) Code.
  - 6 2. National Electrical Safety Code.
  - 7 3. National Electrical Code.
  - 8 4. All aviation safety standards.
  - 9 5. All accepted and responsible workmanlike industry practices of the National Association  
10 of Tower Erectors or the Telecommunication Industry Association.
- 11 H. Wind and ice. Facility structures shall be designed to withstand the effects of wind gusts  
12 and ice. The design shall comply with the American National Standards Institute standard  
13 design prepared by the engineering departments of the Electronics Industry Association,  
14 and Telecommunications Industry Association (ANSI/EIA/TIA-222, as amended).
- 15 I. Engineer signature. Construction documents for structures shall contain a seal and  
16 signature of a professional structural engineer, licensed in the State of Washington.
- 17 J. Interference. Facilities shall comply with Federal Communication Commission regulations  
18 regarding interference.
- 19 K. Radio frequency emissions. The proposed facility, in conjunction with other facilities, shall  
20 not generate radio frequency emissions that exceed the standards and regulations of the  
21 FCC. These regulations include at least the FCC Office of Engineering Technology Bulletin 65  
22 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio  
23 Frequency Electromagnetic Fields," as amended.
- 24 L. Agreement for facilities on County property. The applicant and the County shall execute an  
25 agreement to provide terms and conditions to locate a facility on County property. The  
26 agreement must:
- 27 1. Be completed prior to construction of the facility.
  - 28 2. Comply with the regulations in this chapter.
  - 29 3. Be submitted with the application for the facility.
  - 30 4. Address the following issues:
    - 31 a. Facilities are subject to the county's right to fix an annual fee for use and occupancy  
32 of the property.
    - 33 b. A financial security must be submitted to protect the county from the costs and  
34 expenses due to a failure to comply with the obligations in this chapter. The amount  
35 and form of the financial security shall be decided by mutual agreement. The  
36 amount of financial security shall be at least 150% of the cost of the facility unless  
37 otherwise agreed.
    - 38 c. Modifications requested by the county.
      - 39 i. The county may determine that a change to a facility in the ROW is reasonably  
40 necessary under the following circumstances:
        - 41 (a) To facilitate or accommodate the construction, reconfiguration, completion,  
42 repair, relocation, or maintenance of a public project within the ROW.
        - 43 (b) To accommodate the vacation of ROW or the release of a utility easement.



- 1 (c) As required by applicable laws or to protect or preserve the public health,
- 2 safety, or welfare.
- 3 ii. Within 60 days of written notice from the county, the owner or operator of a
- 4 facility in the ROW shall temporarily or permanently change, alter, relocate or
- 5 remove part or all of the facility. The department may approve up to two 90-day
- 6 extensions when all of the following conditions are met:
- 7 (a) The extension request is submitted in writing at least 30 calendar days prior
- 8 to the expiration of the 90 days.
- 9 (b) Any significant concerns with the extension can be mitigated.
- 10 (c) An extension would not adversely impact public health, safety or general
- 11 welfare.
- 12 (d) Financial hardship shall not be considered for extensions of deadlines.
- 13 iii. Where an emergency exists, following notice from the county, the owner or
- 14 operator of the facility shall immediately effect a temporary or permanent
- 15 change, alteration, relocation or removal of part or all of the facility. An
- 16 emergency includes, but is not limited to, any interference with:
- 17 iv. The proper operation of a county-owned light pole, traffic control device, other
- 18 county facility.
- 19 v. ROW operations or pedestrian facilities.

**17.530.050 Regulations for non-tower and small wireless communication facilities**

- 21 A. Development regulations. Except as provided in Section 17.530.050(B) 'Development
- 22 regulations in the public right-of-way (ROW)' and in addition to Section 17.530.040 'General
- 23 Development Standards,' the following applies to all non-tower wireless communication
- 24 facilities and small wireless facilities (facilities) for which an ACUP is required.
- 25 1. Collocation. All facilities shall collocate on existing wireless support structures unless
- 26 technologically infeasible, in which case the facility may locate on an existing pole or
- 27 structure.
- 28 2. Height. The total height of any facility after installation shall not exceed the maximum
- 29 height permitted in the underlying zoning district, except where the following are met:
- 30 a. The height will not exceed 20 feet above the roof surface.
- 31 b. No visual impacts to surrounding properties occurs. Visual impact is measured from
- 32 the ground or roof of an adjacent building.
- 33 B. Development regulations in the public right-of-way (ROW). The following regulations apply
- 34 to all non-tower and small wireless facilities located in the ROW and for which an ACUP is
- 35 required. If any conflict exists between these regulations and those elsewhere in this
- 36 chapter, the regulations herein shall control.
- 37 1. Location.
- 38 a. All facilities located in the right of way shall be located, designed, and installed to
- 39 match the pole placement and bolt pattern identified by Kitsap County public works
- 40 design standards.
- 41 b. All facilities and related equipment in the ROW shall not cause any physical or visual
- 42 obstruction to pedestrian or vehicular traffic, create safety hazards to pedestrians
- 43 and/or motorists, or inconvenience public use of the ROW.

**Commented [DG21]:** Matching the bolt pattern allows Kitsap County to replace the pole quickly when a pole strike occurs.

- 1 c. All equipment more than four inches above the ground shall be placed outside of
- 2 the clear zone or mitigated in accordance with the current edition of the County
- 3 Road Standards. Ground-mounted related equipment, walls, or landscaping shall be
- 4 located at least 18 inches from the face of the curb, sidewalk, or paved pathway.
- 5 2. Height. Related equipment located above ground, not mounted to the facility support
- 6 structure, in the public ROW shall be:
- 7 a. Compatible in scale and proportion to the structures upon which they are mounted.
- 8 b. The smallest and least visibly intrusive as determined by the visual impact analysis.
- 9 c. A height not to exceed four feet from finished grade.
- 10 3. Construction time, place and manner. The county shall determine the time, place and
- 11 manner of construction, maintenance, repair and/or removal of all non-tower facilities
- 12 in the public ROW based on public safety, traffic management, physical burden on the
- 13 public ROW, and related considerations. All work shall be performed at the applicant's
- 14 expense.
- 15 4. Tree Trimming. Tree trimming around facilities shall comply with industry standards.
- 16 Tree trimming activities that impact traffic require a traffic control plan approved by the
- 17 Department of Public Works. Trimming that involves a wireless support structure
- 18 requires submittal of written permission from the owner of the structure to the County.
- 19 The County shall not be liable for any damages, injuries, or claims arising from the
- 20 applicant's actions under this subsection.

21 **17.530.060 Regulations for tower-based wireless communication facilities**

- 22 A. Development regulations. Except as provided in Section 17.530.060(B) 'Development
- 23 regulations in the public right-of-way (ROW)' and in addition to Section 17.530.040 'General
- 24 Development Standards,' the following applies to all tower based wireless communication
- 25 facilities (facilities) for which an ACUP or CUP is required.
- 26 1. Modification or collocation.
- 27 a. New tower-based facilities that exceed sixty feet in height and require a CUP are
- 28 prohibited unless a propagation study shows coverage gaps cannot be filled through
- 29 other means. Technical evidence shall demonstrate the inability to fill coverage gaps
- 30 through related equipment, such as repeaters or antennas installed on existing
- 31 structures to extend or infill service.
- 32 b. A new tower-based facility that requires a CUP and is within one-mile of an existing
- 33 wireless support structure may not exceed 40 feet in height unless collocation has
- 34 been actually and reasonably considered and, despite good-faith efforts, the non-
- 35 tower facility cannot be accommodated on an existing structure or building for one
- 36 of the following reasons, or cannot be sited on land owned and maintained by the
- 37 county:
- 38 i. The proposed antenna and related equipment exceeds the structural capacity of
- 39 the existing building, structure or tower.
- 40 ii. The proposed antenna and related equipment causes radio frequency
- 41 interference with other existing equipment for that existing building, structure, or
- 42 tower and the interference cannot be prevented.

- 1           iii. The existing buildings, structures, or towers do not have adequate location, space,  
2           access, or height to accommodate the proposed equipment or to allow it to  
3           perform its intended function.
- 4           iv. An agreement could not be reached with the owner of such building, structure, or  
5           tower after a good faith effort.
- 6        2. Location.
- 7           a. The location of a tower-based facility that exceeds sixty feet in height and requires a  
8           CUP shall be necessary to provide coverage for the gap shown in the propagation  
9           study for the service area.
- 10          b. The location shall be the least visually intrusive to the surrounding community or  
11          shall be the only viable location to provide coverage for a gap shown in a  
12          propagation study, when required through section 17.530.030 E.3.
- 13        3. Height.
- 14          a. A tower-based facility shall be constructed to:
- 15            i. the minimum functional height when applicable. A propagation study, when  
16            required through section 17.530.030 E.3., will state a minimum functional height  
17            necessary for a tower-based facility to fill a gap in coverage.
- 18            ii. not exceed 40 feet taller than surrounding tree height.
- 19            iii. not exceed 200 feet.
- 20          b. Tower-based facilities over 40 feet in height shall be equipped with an anti-climbing  
21          feature.
- 22        4. Related equipment.
- 23          a. Ground-mounted related equipment associated, or connected, with a tower-based  
24          facility must be placed underground, or enclosed and screened through stealth  
25          technology or fencing and landscaping in a screening buffer. The buffer requirement  
26          shall be contained in a recorded easement. Vegetation shall not be removed without  
27          approval by the department of community development. Fencing shall be a  
28          nonobtrusive material such as a dark coated chain link to blend in with the  
29          surroundings.
- 30          b. All related equipment, utility buildings and accessory structures shall be  
31          architecturally and aesthetically designed to blend into the environment in which  
32          they are situated and meet the minimum setback requirements of the underlying  
33          zone.
- 34        5. Signs. Tower-based facilities shall post an easily visible emergency contact sign. The  
35        sign shall include the name and phone number for a point of contact in case of an  
36        emergency. No other sign is allowed except those required by the FCC or other federal  
37        or state agencies.
- 38        6. Use of property and setbacks.
- 39          a. Sole use. A tower-based facility may be allowed as the only use on a parcel if:
- 40            i. The parcel is at least 6,000 square feet, and
- 41            ii. The distance between the base of the tower-based facility and the nearest  
42            property line is at least 110% of the proposed height of the tower-based facility.

- b. Combined use. A tower-based facility may be allowed with an existing use, or on a vacant parcel in combination with another use, subject to the following minimum conditions:
  - i. The non-facility use on the property is any allowed use in the zone, except residential, and need not be affiliated with the facility.
  - ii. The lot:
    - (a) Complies with the dimensional requirements of the zone, and
    - (b) Is sufficiently sized to accommodate the tower-based facility and any equipment buildings, security fences, buffers and setbacks.
  - iii. The minimum distance between the base of a tower-based facility and the nearest property line is at least 110% of the proposed tower-based facility height or the minimum setback of the underlying zone, whichever is greater.

7. Screening, Landscaping, and Fencing.

- a. A tower-based facility disguised through stealth technology as a tree, natural feature, or structure (e.g., silo, church steeple, or clock tower) that is compatible with its surroundings and meets the requirements of 17.530.040 B 'Visual Appearance' shall be exempt from the tower screening requirements in section 17.530.060 A.7.b and section 17.530.A.7.d. Related equipment screening requirements still apply.
- b. Tower-based facilities shall be screened with landscaping or other screening features. This requirement applies to all associated equipment shelters, cabinets, and other ground mounted related equipment.
- c. Existing trees, shrubs, and other vegetation shall be preserved to the maximum extent possible. Removal of existing vegetation requires prior approval from the department. Existing vegetation used to screen shall provide, through size and density, adequate, long-term screening. The existing vegetative buffer shall surround the entire facility and be at least five feet wide.
- d. Screening shall maximize coverage and visually cover at least 75% of the height of the tower-based facility. Recommended species for screening of tower-based facilities include Douglas fir, Big leaf maple, and Western redcedar. Planting height shall be at least six feet for an evergreen tree or two-inch caliper for a deciduous tree. Deciduous trees shall not exceed 25% of the trees used for screening. An analysis of the ultimate tree height potential Site Potential Tree Height at 50 years (SPTH (50)), based on soil types, is required.
- e. Additional screening may be required The Department may require additional screening to adequately screen adjacent residential properties based on site specific conditions.
- f. The department may allow a combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping. The combination of features must:
  - i. Achieve the same degree of screening.
  - ii. Be consistent with surrounding vegetation.
  - iii. Not obstruct or interfere with the use of the ROW or county work.
- g. Screening requirements shall be recorded as a covenant running with the permit.

**Commented [DG22]:** Screening is unnecessary for correctly designed stealth facilities that reduce visual impacts.

**Commented [DG23]:** Added for clarification.

**Commented [DG24]:** Soil types and solar aspects help to determine future tree height. Tree growth over time can impact the coverage provided by a facility. The code intended to plan tower heights based upon existing and future coverage.

**Commented [DG25]:** Re-worded for clarification.

- 1 8. Access road. Tower-based facilities shall provide adequate emergency and service  
2 access to the facility. An access road, turnaround space and parking shall be provided.  
3 The access must:
  - 4 a. Maximize to the extent practicable the use of existing public or private roads.
  - 5 b. Match road grades to natural contours to minimize visual disturbance, soil erosion,  
6 and stormwater impacts.
  - 7 c. Where the access road is not owned by the applicant, a copy of an easement  
8 authorizing the use of the access road shall be submitted to the County.
- 9 9. Parking. One tower-based facility requires at least one off-street parking space.
- 10 10. Future use. A proposed tower-based facility shall be designed structurally, electrically,  
11 and in all respects to accommodate both the proposed antennas and comparable  
12 antennas in the future.
- 13 B. Development regulations in the public right-of-way (ROW). The following additional  
14 regulations apply to all tower-based facilities located in the ROW. If any conflict exists between  
15 these regulations and those elsewhere in this chapter, the regulations herein shall control.
  - 16 1. Location.
    - 17 a. All facilities located in the right of way shall be located, designed, and installed to  
18 match the pole placement and bolt pattern identified by Kitsap County public works  
19 design standards.
    - 20 b. Tower-based facilities are prohibited from locating in the ROW in front of the façade  
21 of any structure facing the ROW.
    - 22 c. Tower facilities and related equipment in the ROW shall not cause any physical or  
23 visual obstruction to pedestrian or vehicular traffic, create safety hazards to  
24 pedestrians and/or motorists, or inconvenience public use of the ROW.
    - 25 d. All equipment exceeding four inches above the ground shall be placed outside of the  
26 clear zone or mitigated in accordance with the current edition of the County Road  
27 Standards. Ground-mounted related equipment, walls, or landscaping shall be  
28 located at least eighteen inches from of the face of the curb, sidewalk or paved  
29 pathway.
    - 30 e. Unless approved by the County engineer, ground-mounted related equipment is  
31 prohibited in a ROW when:
      - 32 i. The ROW width is 50 feet or less.
      - 33 ii. Exclusively single-family residential lots front both sides of the street.
  - 34 2. Height. Tower-based facility height in the ROW shall not exceed 40 feet.
  - 35 3. Design requirements. Ground-mounted related equipment that cannot be placed  
36 underground shall be screened, to the fullest extent possible, through the use of  
37 landscaping or other decorative features.
  - 38 4. Construction. Time, Place and Manner. The county shall determine the time, place and  
39 manner of construction, maintenance, repair and/or removal of all tower-based  
40 facilities in the ROW based on public safety, traffic management, physical burden on the  
41 ROW, and related considerations. All work shall be performed at the applicant's  
42 expense.
  - 43 5. Tree trimming. Tree trimming around facilities shall comply with industry standards.  
44 Tree trimming activities that impact traffic require a traffic control plan approved by the

**Commented [DG26]:** Matching the bolt pattern allows Kitsap County to replace the pole quickly when a pole strike occurs.

1 Department of Public Works. Trimming that involves a wireless support structure  
2 requires submittal of written permission from the owner of the structure to the County.  
3 The County shall not be liable for any damages, injuries, or claims arising from the  
4 applicant's actions under this subsection.

5 **17.530.070 Maintenance and repair**

6 To the extent permitted by law, the following maintenance and repair requirements shall apply:

- 7 A. All wireless communication facilities (facilities) shall be fully automated and unattended.  
8 Visitation for maintenance or emergency repairs is allowed.
- 9 B. At all times facilities shall be kept and maintained in good condition, order and repair to  
10 eliminate danger to life or property. Maintenance and repairs must:
  - 11 1. Be completed by qualified maintenance and construction personnel.
  - 12 2. Use the best available technology for preventing failures and accidents.
- 13 C. Graffiti. Graffiti on a facility shall be promptly removed at the sole expense of the owner or  
14 operator. The owner or operator shall remove graffiti within fourteen calendar days of the  
15 date of county notice.
- 16 D. Replacement of a support structure with ~~an identical~~ support structure of the same height,  
17 width, and appearance, or smaller dimensions and a less intrusive appearance requires a  
18 letter of exemption per Section 17.530.030 C. All other support structure replacements  
19 require a ~~CUP permit~~ per Section 17.530.030 ~~E~~.

**Commented [DG27]:** The code intends to exempt facility replacements with the same or less bulk dimensions and appearance. Identical dimensions can include product or material specifications that don't change the appearance of a structure.

20 **17.530.080 Abandonment and Removal**

- 21 A. Abandonment.
  - 22 1. Notice of intent to abandon. The owner or operator of a facility shall provide written  
23 notice to the department of the intent to abandon a facility.
  - 24 2. Non-functioning facilities regulated by this chapter that remain unused for a period of  
25 365 days shall be considered abandoned. This presumption may be rebutted by a  
26 showing that such utility or device is an auxiliary, back-up, or emergency utility or device  
27 not subject to regular use or that the facility is otherwise not abandoned.
  - 28 3. Effective Date of Abandonment. Abandonment takes effect 30 days after notice is  
29 received or after the end of the rebuttable presumption period.
- 30 B. Removal.
  - 31 1. All abandoned facilities, or portions thereof, shall be removed within 90 days of  
32 abandonment, unless a time extension is approved. The department may approve up to  
33 two 90-day extensions when all of the following conditions are met:
    - 34 a. The extension request is submitted in writing at least 30 calendar days prior to the  
35 expiration of the 90 days.
    - 36 b. Any significant concerns with the extension can be mitigated by minor revisions to  
37 the permit.
    - 38 c. Tangible process has been made toward abandonment.
    - 39 d. An extension would not adversely impact public health, safety or general welfare.
  - 40 2. Removal shall include restoring all affected property to substantially the same condition  
41 as it was immediately before the installation of the facility, including restoration or  
42 replacement of any damaged trees, shrubs or other vegetation, unless another  
43 arrangement is made with the property owner.

**Commented [DG28]:** Not all support structure placements require a CUP. Referring to section 17.530.030 removes the inconsistency.

- 1 3. Removal and site restoration shall be completed at the sole expense of the owner or  
2 operator of the facility.

3 **Section 25.** Amends Kitsap County Code section 21.040.020 'Project Permit Application  
4 Procedures - Applicability' as follows:

5 21.04.020 Applicability.

- 6 A. Unless otherwise provided, the regulations identified in this chapter shall apply to the  
7 following Kitsap County Code (KCC) provisions:  
8 1. Sections 11.36.060(1) through (4), roads; and Section 11.22.070(a), roads;  
9 2. Title 12, Stormwater Drainage, Chapters 12.04 through 12.20 and 12.28 through Section  
10 12.32.090;  
11 3. Title 16, Land Division and Development;  
12 4. Title 17, Zoning, except Chapter 17.530 'Wireless Communication Facilities';  
13 5. Title 18, Environment;  
14 6. Title 19, Critical Areas Ordinance; and  
15 7. Title 22, Shoreline Master Program.  
16 B. Building permits subject to the State Environmental Policy Act (SEPA) shall follow the  
17 procedures of this chapter. Building permits exempt from SEPA shall be subject to the  
18 procedures identified within Title 14. Procedures for review or interpretations of the  
19 provisions of the International Building Codes shall be governed by Title 14 and not this  
20 chapter.  
21 C. As authorized by RCW 36.70B.140, site development activity permit applications submitted  
22 by the Kitsap County department of public works are exempt from the following sections:  
23 1. Section 21.04.070. The department may, however, consider the content requirements  
24 for a decision as guidelines.  
25 2. Section 21.04.110.  
26 3. Section 21.04.175.  
27 4. Section 21.04.200.  
28 5. Section 21.04.210. Public works shall, however, provide its own early and continuous  
29 public notice of its county projects. The department will accept public comments  
30 submitted on each project up until the date of decision.  
31 6. Section 21.04.250.  
32 D. Legislative Actions.  
33 1. Nonproject-specific legislative actions (legislative actions), such as Comprehensive Plans,  
34 sub-area plans, area-wide amendments, and development regulations, shall be  
35 governed by the provisions of Chapter 21.08.  
36 2. Project-specific legislative actions (legislative project permits), such as development  
37 agreements, final plat approvals, plat alterations, plat vacations, and rezones that do  
38 not require Comprehensive Plan amendments, are governed by this chapter.  
39 3. Where a project permit application requires or proposes a nonproject legislative action,  
40 that action shall be processed first under Chapter 21.08 and all procedures of this  
41 chapter shall be suspended. Only upon completion of that process will the balance of  
42 the project permit application be processed under this chapter.

- 1 E. In the event of a conflict between this chapter and any other applicable process, unless  
2 specifically provided otherwise, the director shall, in his or her sole discretion, determine  
3 the appropriate regulation, considering the following principles:  
4 1. State or federal provisions shall apply over local provisions;  
5 2. Specific provisions shall apply over general provisions; and  
6 3. Later enacted provisions shall apply over provisions enacted earlier.
- 7 F. Code Compliance and Project Permit Application Review Suspension. If an open and active  
8 code compliance case exists on a parcel, and a proposed project permit application is  
9 submitted for that parcel which may, in the department's interpretation, impact or be  
10 impacted by the code compliance case, the project permit application may be suspended  
11 until the resolution of the code compliance case.
- 12 G. Private Covenants and Restrictions. Except where required by local, state or federal law,  
13 Kitsap County has no authority to enforce private covenants or restrictions. Compliance  
14 with such private covenants or restrictions is a private matter. Property owners, potential  
15 buyers or tenants, and project permit applicants are encouraged to review and be aware of  
16 property covenants and restrictions.

17 **Section 26. Severability.** If any section, sentence, clause or phrase of this ordinance should  
18 be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or  
19 unconstitutionality shall not affect the validity of any other section, sentence, clause or phrase  
20 of this ordinance.

21 **Section 27. Clerical/Typographical Error.** Should this Ordinance, upon being enacted by the  
22 Kitsap County Board of Commissioners during its deliberations on May 13, 2019, inadvertently  
23 leave out or in error upon publication, the explicit action of the Board as discussed and passed  
24 shall prevail upon subsequent review and verification by the Board.

25 **Section 28. Effective Date.** This ordinance shall take effect immediately upon adoption.

26  
27 ADOPTED this 13th day of May, 2019.  
28



BOARD OF COUNTY COMMISSIONERS  
KITSAP COUNTY, WASHINGTON

\_\_\_\_\_  
EDWARD E. WOLFE, Chair

\_\_\_\_\_  
CHARLOTTE GARRIDO, Commissioner

\_\_\_\_\_  
ROBERT GELDER, Commissioner

19 ATTEST:

\_\_\_\_\_  
21 Dana Daniels, Clerk of the Board

23 APPROVED AS TO FORM:

\_\_\_\_\_  
25 Deputy Prosecuting Attorney



SUMMARY OF CHANGES BETWEEN RECOMMENDATIONS			
Topic #	Change Description and Code Reference	Reason for Change (provided as comments in the Final Draft Ordinance)	FDO Page #
1.	Corrects substantial public participation reference.  17.530.010 A.5	Substantial public participation should refer to being part of the process, not the authority deciding where cell sites should be located.	10
2.	Changes “identical dimensions” to the “same height and width”.  17.530.010 B.1 17.530.030 A.1.c 17.530.030 C.4 17.530.070 D	The code intends to exempt facility replacements with the same or less bulk dimensions and appearance. Identical dimensions can include product or material specifications that don’t change the appearance of a structure.	10, 12, 13, 27
3.	<b>Separate application shot clocks</b> – clarifies that each permit triggers an individualized shot clock.  17.530.030 D.7	Paragraphs 132-137 and paragraph 144 of FCC 18-133 recognize that each permit receives an individualized shot clock.	11
4.	Changes “i.e.” to “e.g.”  17.530.030 A.2.e 17.530.040 E.2	Using “i.e.,” limits an applicant to only the subject within the parentheses. Abbreviation “e.g.,” more appropriately identifies the subject as one example of many that may be considered.	12, 13, 19
5.	<b>Engineered drawing submittal requirement</b> - allows the submittal of construction documents designed to 60% completion with the initial application. This change requires design to 100% completion prior to site development activity permit or building permit review.  17.530.030 D.7	The permit process may require changes to a proposed facility. An initial review of construction documents at 60% completion allows the permit process to inform the design.  Section 17.530.030 G.2 requires notice to neighboring parcels within 15 days of a complete ACUP or CUP application.	14



SUMMARY OF CHANGES BETWEEN RECOMMENDATIONS			
Topic #	Change Description and Code Reference	Reason for Change (provided as comments in the Final Draft Ordinance)	FDO Page #
6.	<b>Applicant authorization</b> - requires an applicant to demonstrate authority to use parking and vehicular and utility access.  17.530.030 D.8	Kitsap County requires authorization to use areas included in the development of the facility.	14
7.	<b>Lease agreement</b> - allows for the submittal of a lease agreement later in the application process.  17.530.030 D.8 17.530.030 D.9	Submittal of a full lease agreement at initial application requires a carrier to enter into a legally binding financial agreement. If a facility is denied, the carrier may still have obligations to pay for the lease of the land.  Proper review of a site development activity permit or building permit requires a letter of authorization to identify all areas used to construct the facility and commitment from a carrier that will use the facility.	14, 15
8.	<b>Time in Review</b> – Clarifies the procedure to follow section 21.04.170 when a complete application is missing requested information. Allows the county to approve with conditions or deny the permit.  17.530.030 H.1.e	While processing a complete application, after the allowed tolling occurs, the County may require additional information (e.g., wetland or geological reports). Information received too late may jeopardize the County’s ability to review a permit within the designated “shot clock”. The County can either deny the permit or require the information as a condition of approval.	16
9.	<b>Time for review – ACUP</b> – increases the number of days from 90 to 150 for the county to review tower-based facilities that qualify for an ACUP.  17.530.030 H.3	The County reduced permit requirements for tower-based facilities using stealth or within 500 ft of an existing tower. This intended to provide an incentive to construct such facilities. The county still has 150 days to make a final decision on tower-based facility applications per FCC rulings.	17



SUMMARY OF CHANGES BETWEEN RECOMMENDATIONS			
Topic #	Change Description and Code Reference	Reason for Change (provided as comments in the Final Draft Ordinance)	FDO Page #
10.	<p><b>Permit duration</b> – increases permit duration to 4 years for an ACUP and CUP.</p> <p>Corrects a typographical error from “process” to “progress”.</p> <p>17.530.030 K</p>	<p>An ACUP and CUP expire after 4 years in Kitsap County (see <a href="#">21.04.270 A.1</a>).</p> <p>Letters of exemption typically equate to a building permit which expire in 6 months. The county is providing one year to account for weather and scheduling related construction delays.</p>	17
11.	<p><b>Related equipment for small wireless facilities</b> – increases allowed shroud sizes for small wireless facilities.</p> <p>17.530.030 E</p>	<p>Most Puget Sound Energy (PSE) poles in Kitsap County average 45-75 ft tall. PSE requires a 10 ft vertical offset from the highest lines on the pole.</p> <p>A pole topping small wireless facility, regardless of size, will likely exceed the 50 ft. maximum height of a small wireless facility as defined by the FCC. Kitsap County will most likely receive side mount applications.</p> <p>The current size restriction will require the use of antennae with less effective frequencies. This may result in the need for additional facilities to serve the same area.</p> <p>Puget Sound Energy requires at least a 6” offset from a utility pole. The county requires a shroud to enclose the facility. Shrouds are a minimum of 17.7” to 19” depending on the carrier.</p> <p>6”+18.5” + 1” (flex space) = 26”</p>	20

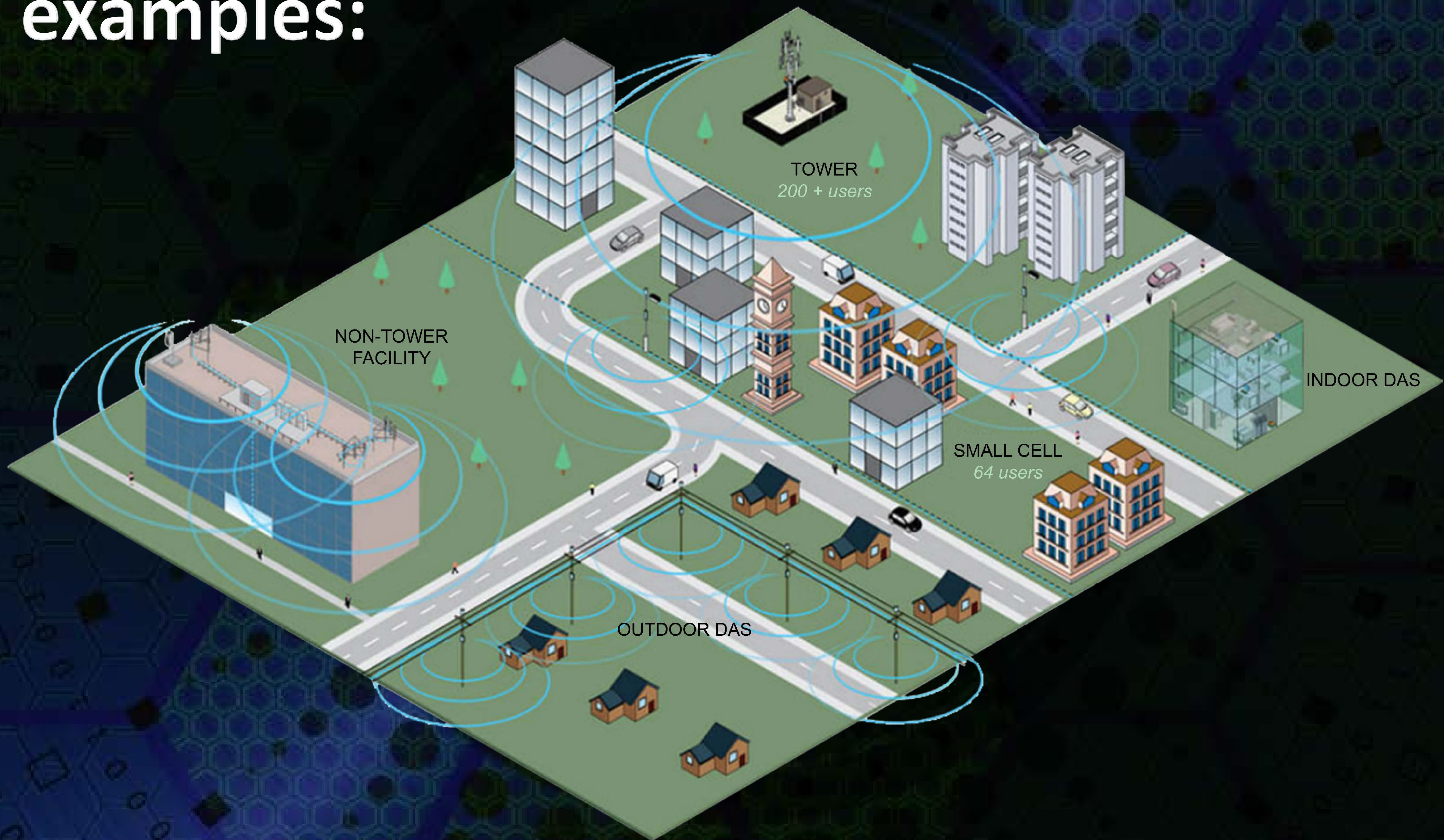


SUMMARY OF CHANGES BETWEEN RECOMMENDATIONS			
Topic #	Change Description and Code Reference	Reason for Change (provided as comments in the Final Draft Ordinance)	FDO Page #
12.	<p><b>Matching public works replacement pole design</b> – requires the applicant to design pole facilities located in the right-of-way match the bolt pattern of Kitsap County public works poles.</p> <p>17.530.050 B.1.a 17.530.060 B.1.a</p>	Matching the bolt pattern allows Kitsap County to replace the pole quickly when a pole strike occurs.	22, 26
13.	<p><b>Stealth facility screening</b> – exempts stealth facilities from the screening requirements.</p> <p>17.530.060 A.7.a</p>	Stealth facility design should reduce visual impacts such that screening becomes unnecessary.	25
14.	<p><b>Screening</b> – changes “ultimate tree height potential” to the standardized nomenclature of “ Site Potential Tree Height” and clarifies a 50 year time period.</p> <p>17.530.060 A.7.d</p>	Soil types and solar aspects help to determine future tree height. Tree growth over time can impact the coverage provided by a facility. The code intended to plan tower heights based upon existing and future coverage.	25
15.	<p><b>Clarifications</b> – adds “visual” to describe cover.</p> <p>17.530.060 A.7.d</p> <p>Changes sentence structure for additional screening.</p> <p>17.530.060 A.7.e</p>	Added or re-worded for clarification.	25



SUMMARY OF CHANGES BETWEEN RECOMMENDATIONS			
Topic #	Change Description and Code Reference	Reason for Change (provided as comments in the Final Draft Ordinance)	FDO Page #
16.	<b>Support structure replacement</b> – corrects an inconsistency that required a CUP for any support structure that did not qualify as a replacement.  17.530.070 D	Not all support structure placements require a CUP. Referring to section 17.530.030 removes the inconsistency.	27

# Wireless communication facility examples:



# Wireless Communication Facility:

“Wireless communication facility” means the antennas, nodes, control boxes, towers, poles, conduits, ducts, pedestals, electronics and other related equipment used for the purpose of transmitting, receiving, distributing, providing, or accommodating wireless communications services.



Image Source: <https://www.slideshare.net/omarmasry/example-wireless-facilities>



Image Source:

<https://www.slideshare.net/omarmasry/example-wireless-facilities>



Image Source: <https://www.srcity.org/>

## Related Equipment

### Macro Cell

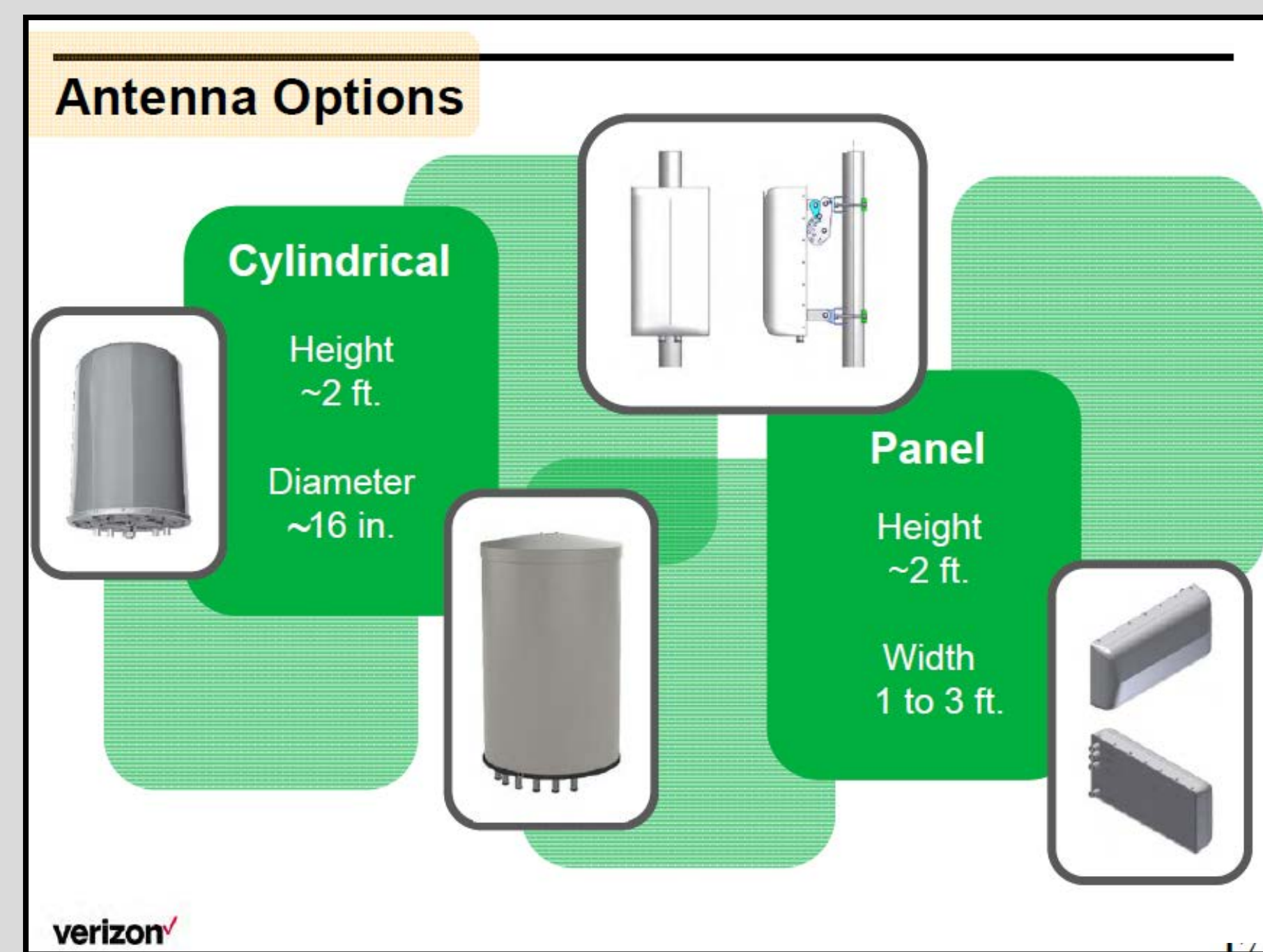
- 2 – 4 large cabinets on ground, roof, or in an equipment room

### Small Cell

- No ground cabinets



Image Source: Kitsap County Planning Commission work study presentation December 18, 2018



## Antenna

### Macro Cell

- ~ 6 -8 feet in height
- 6 – 12 per pole
- Install height of 80 to 200 feet

### Small Cell

- ~ 2 feet in height
- 1 – 3 per pole
- Install height of 20 to 40 feet

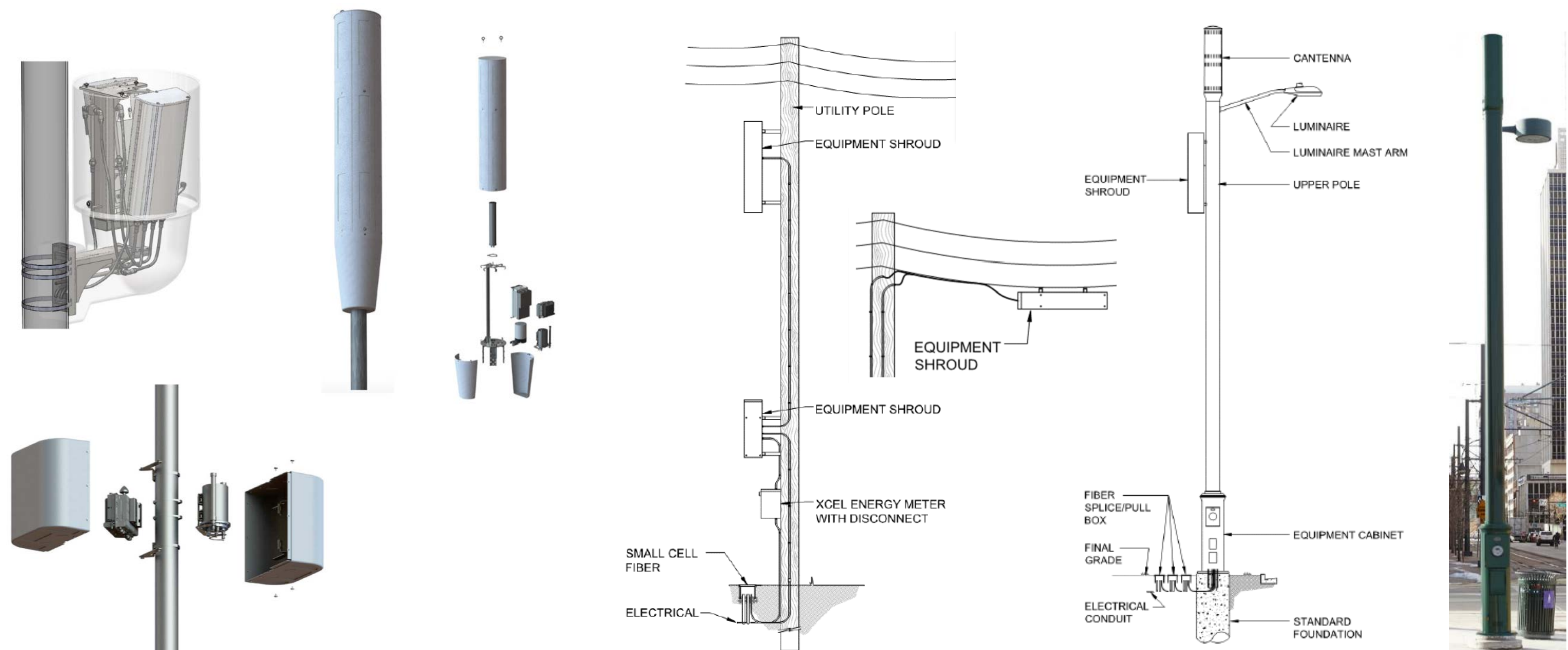


Image Source: <http://concealfab.com/products/radio-shrouds-cabinets/>

Image Source: <https://www.slideshare.net/omarmasry/example-wireless-facilities>

## Shrouding



# Tower-Based Facility:

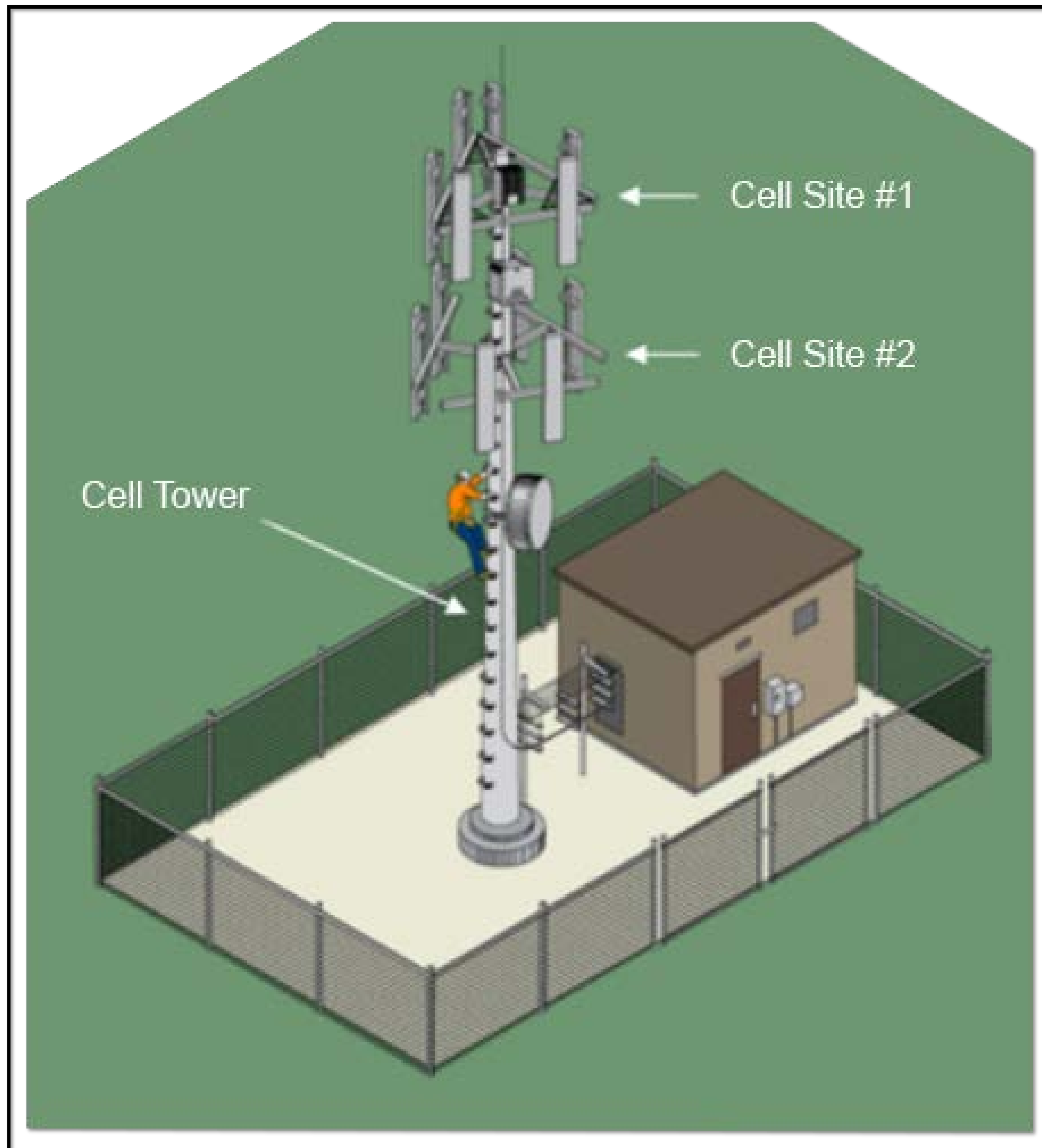
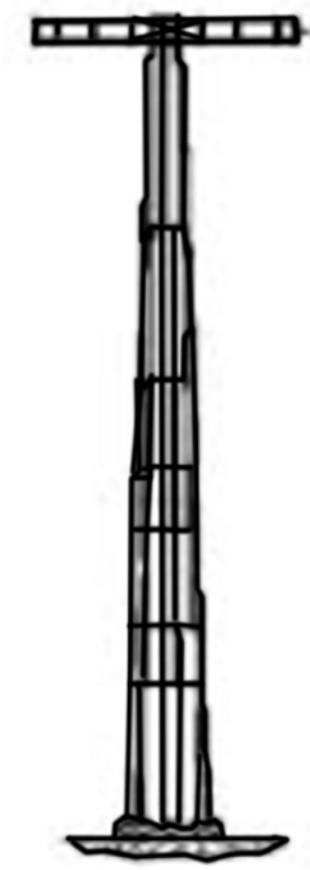


Image Source: <https://www.steelint heir.com/cell-site-types/>

Monopole



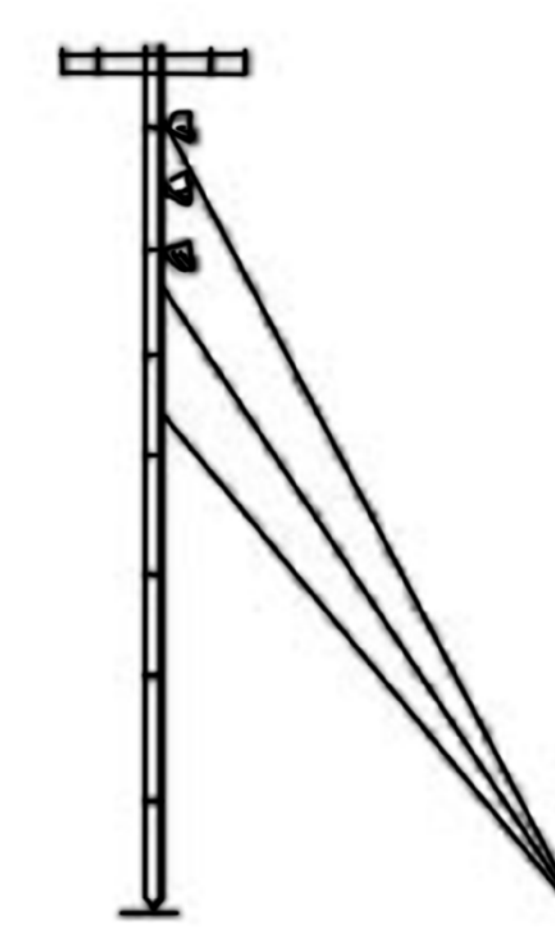
100-200 feet tall

Lattice Tower



100-400 feet tall

Guy-Wired



100-2,150 feet tall

Image Source: <https://www.sheridanmedia.com/news/commissioners-approve-cell-tower-board-appointments11278>



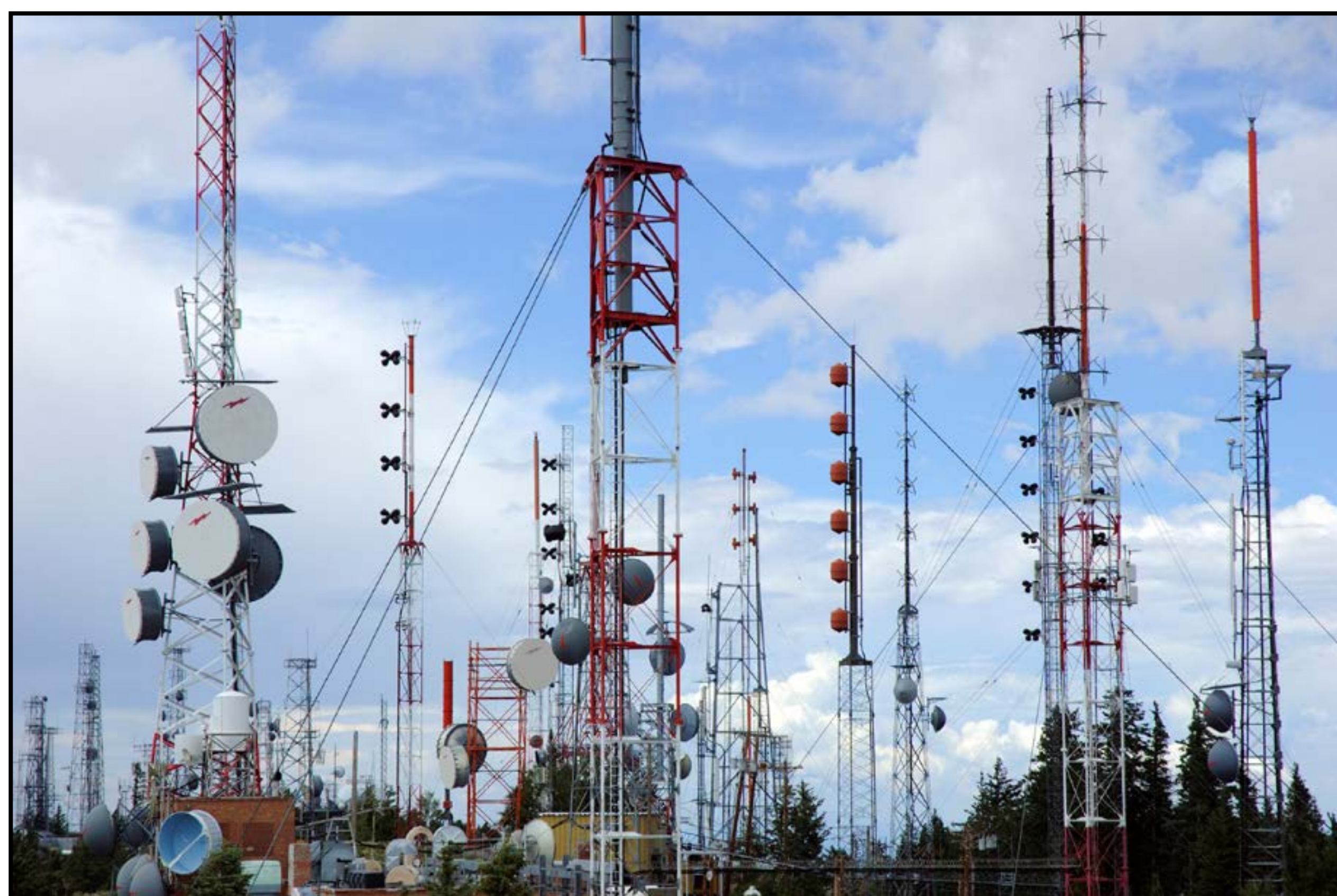
Guy-wire Tower

Image Source: <https://en.wikipedia.org>



Lattice Tower

Image Source: <https://ehtrust.org/take-action/educate-yourself/top-10-facts-about-cell-phones-and-wi-fi-2/>



Guy-wire Towers and Lattice Towers

Image Source: <https://www.steelint heir.com/Blog/wp-content/uploads/2015/12/towers.jpg>



Mono-pole

Image Source: Kitsap County



Mono-pole

Image Source: Kitsap County

# Non-Tower Facilities:

“Non-tower wireless facility” means a facility that is not a small wireless facility and does not involve, as part of the initial installation or construction, a wireless support structure. The term includes antennas, data collections units, and related equipment, but shall not include any wireless support structure. Except as allowed for small wireless facilities, the need to construct a wireless support structure will transform the non-tower facility into a tower-based facility.



Image Source: <https://www.capegazette.com/article/five-att-cellphone-towers-installed-rehoboth/171309>

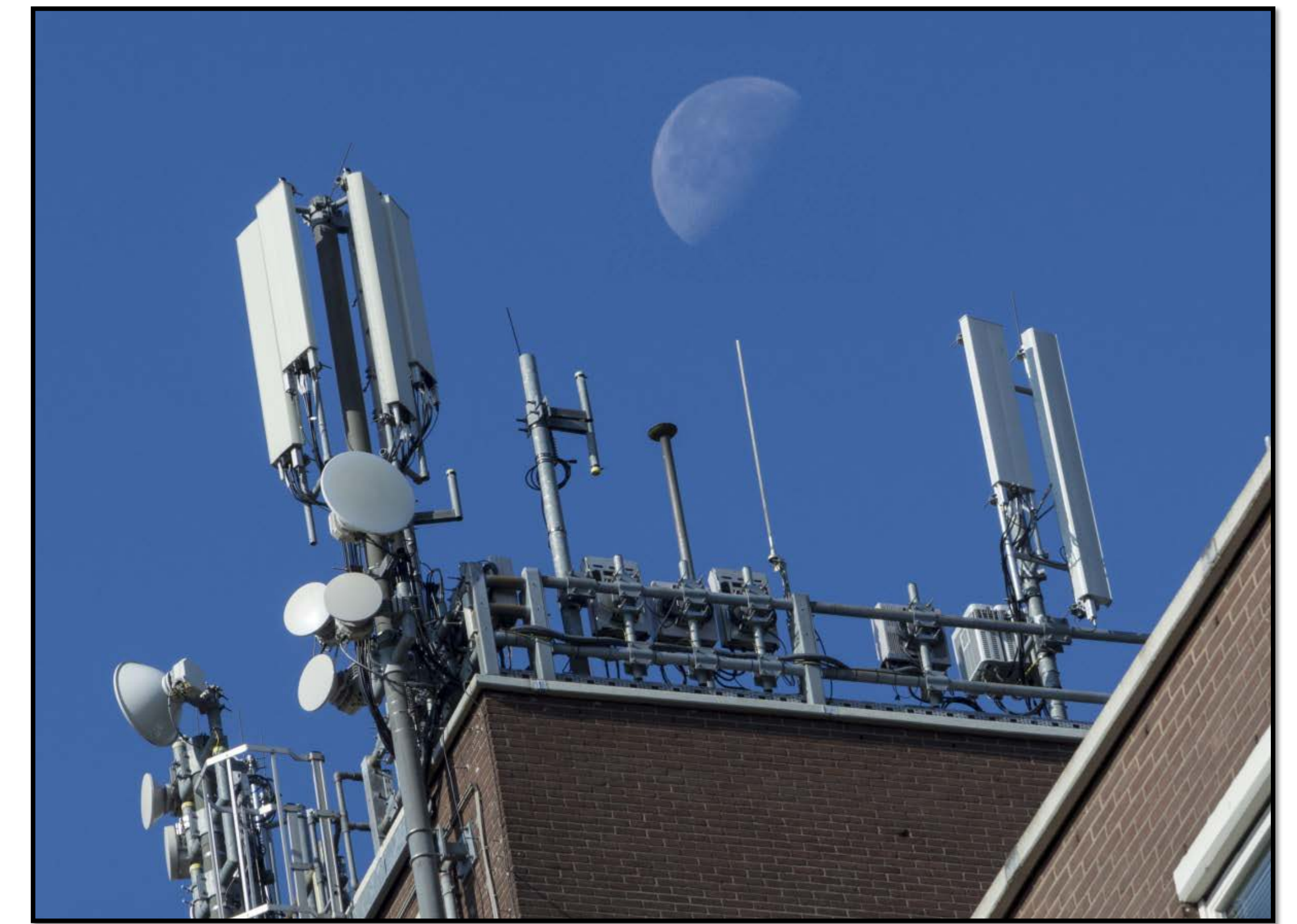


Image Source: <https://pxhere.com/en/photo/799328>



Image Source: Kitsap County

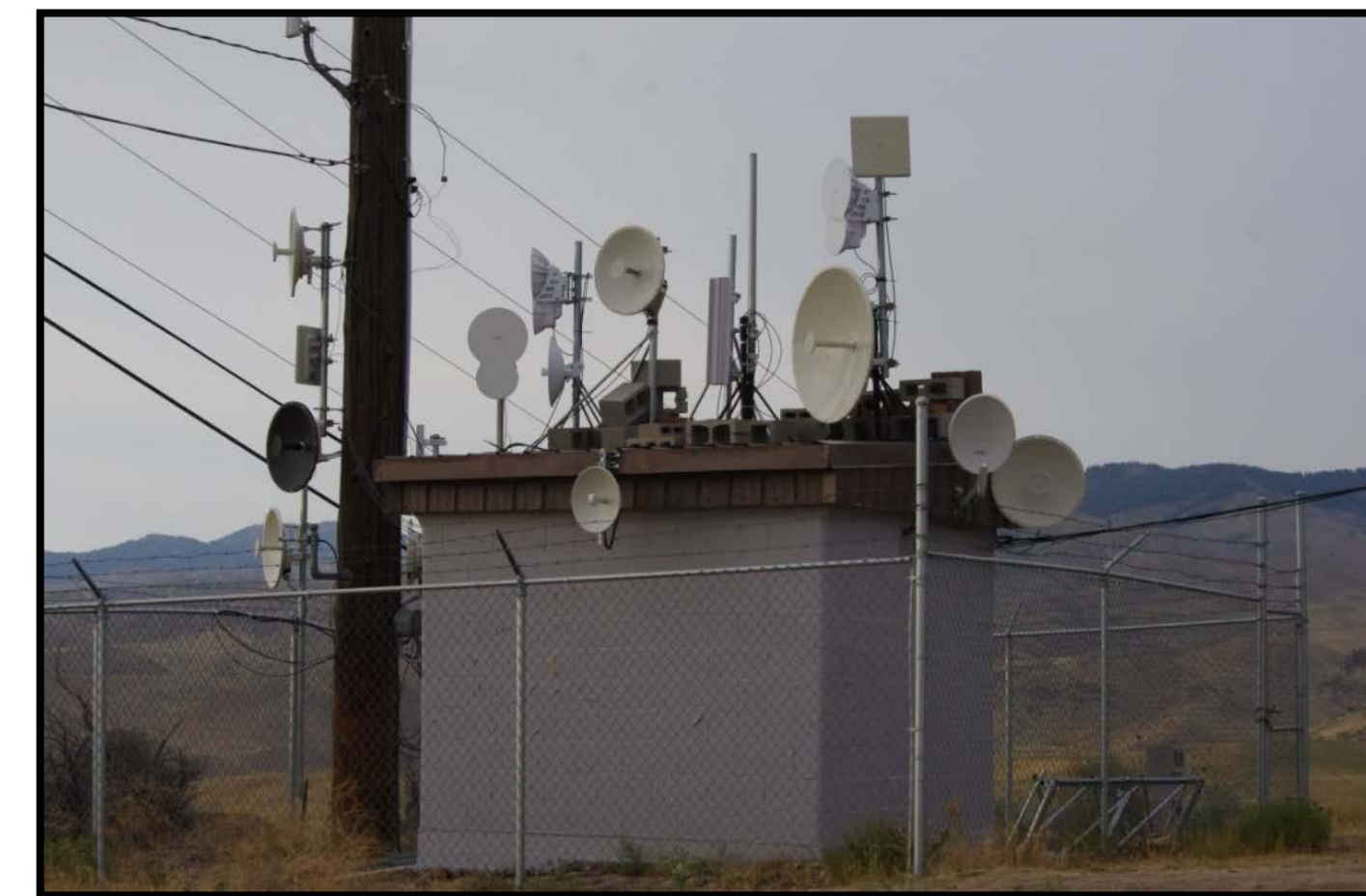


Image Source: <https://pxhere.com/en/photo/867110>



Image Source: Kitsap County

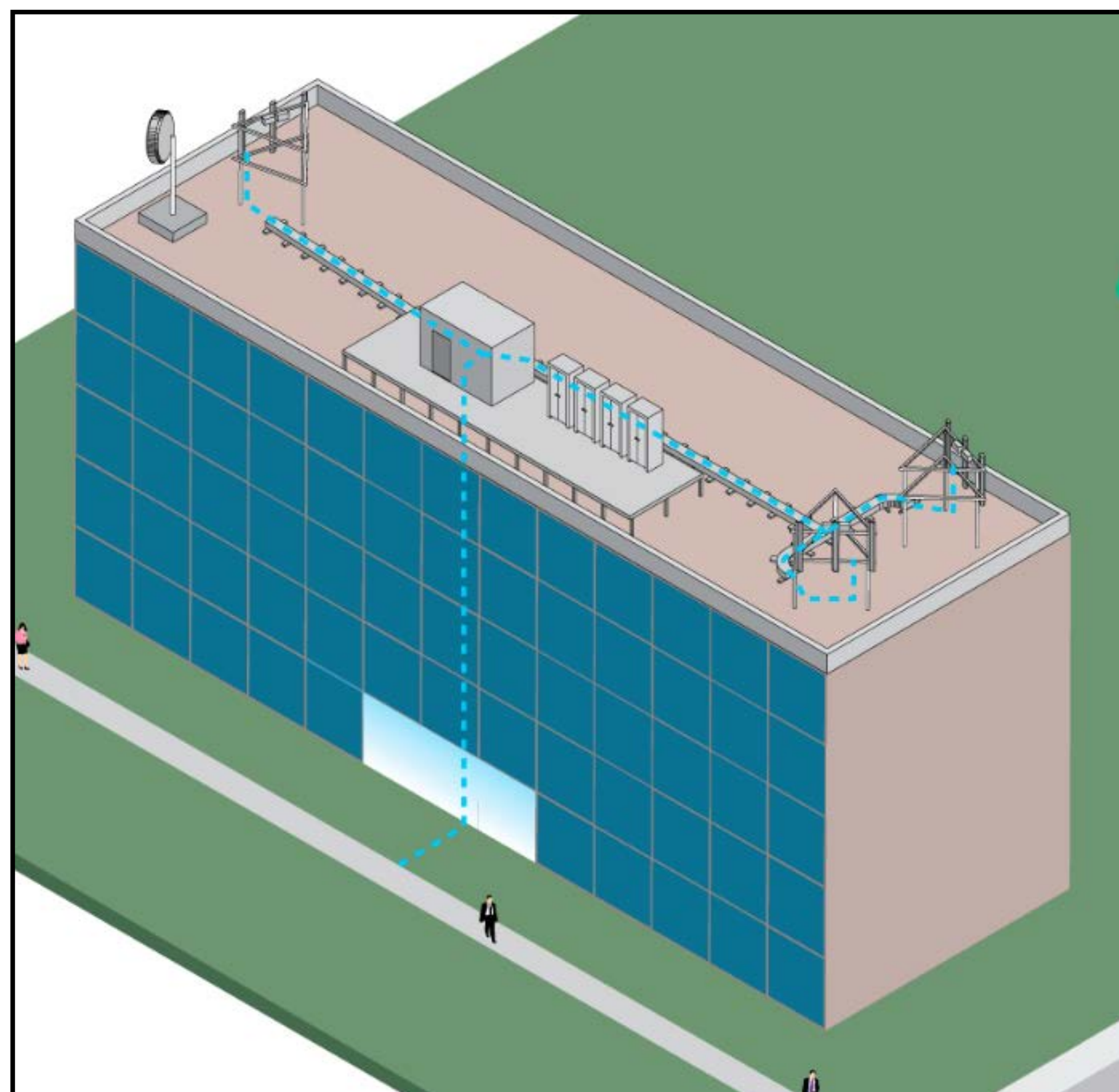


Image Source: <https://www.steelintheair.com/cell-site-types/>



Image Source: [http://fcarchitectsinc.com/services/traditional-facilities/#iLightbox/gallery\\_image\\_2/0](http://fcarchitectsinc.com/services/traditional-facilities/#iLightbox/gallery_image_2/0)

# Small Wireless Facilities:

“Small wireless facility” means a facility that meets each of the following conditions:

1. The facility:
  - a. Is mounted on a structure 50 feet or less in height, with the height including any antennas; or
  - b. Is mounted on a structure no more than 10 percent taller than other adjacent structures; or
  - c. Does not extend an existing structure on which is to be located to a height of more than 50 feet or by more than 10 percent, whichever is greater.
2. Each antenna associated with the facility, excluding associated antenna equipment is no more than three cubic feet in volume; and
3. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume; and
4. The facility is not required to be registered with the FCC under 47 CFR Part 17; and
5. The facility does not result in human exposure to radiofrequency radiation in excess of the applicable FCC safety standards in 47 CFR 1.1307(b).



Image Source: <https://www.nytimes.com/2018/03/02/technology/5g-cellular-service.html>

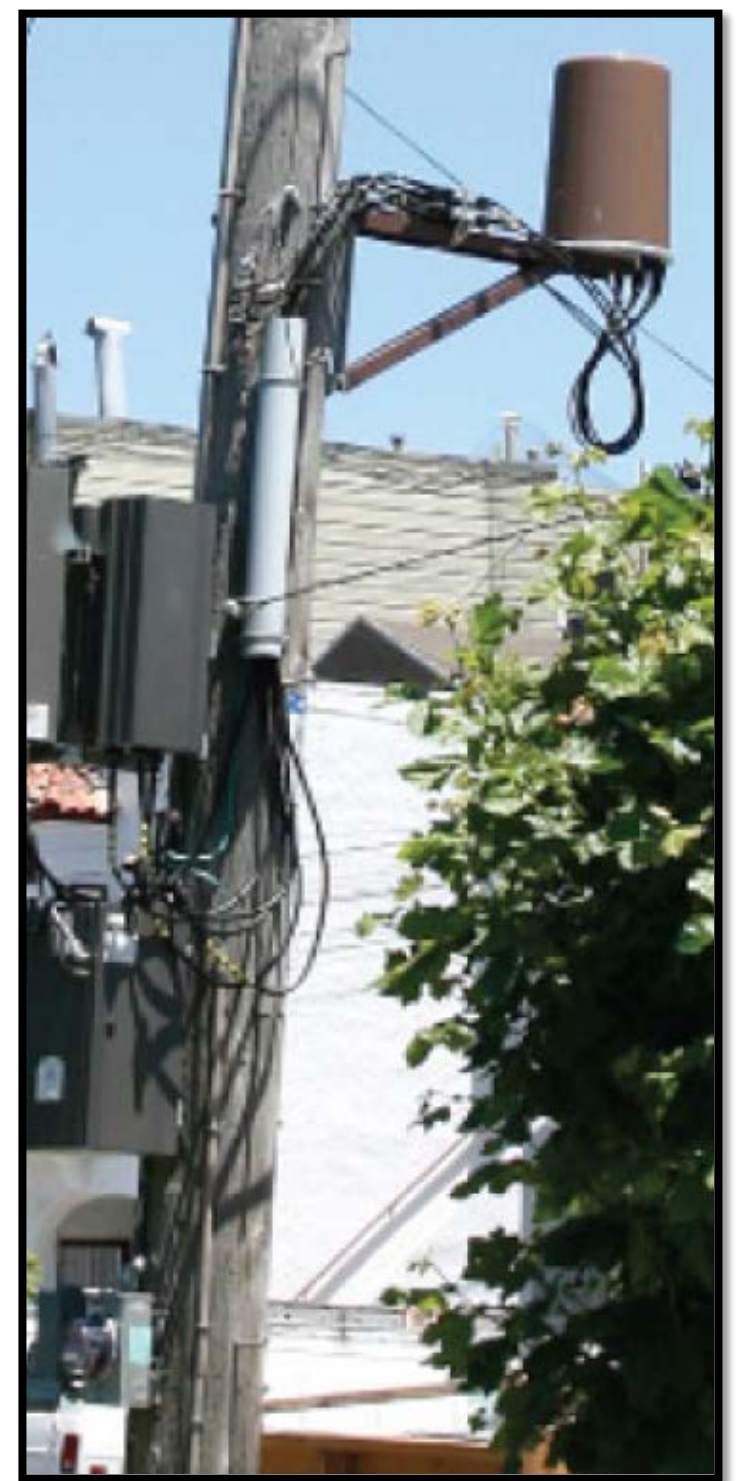


Image Source: <https://sf-planning.org/node/147>

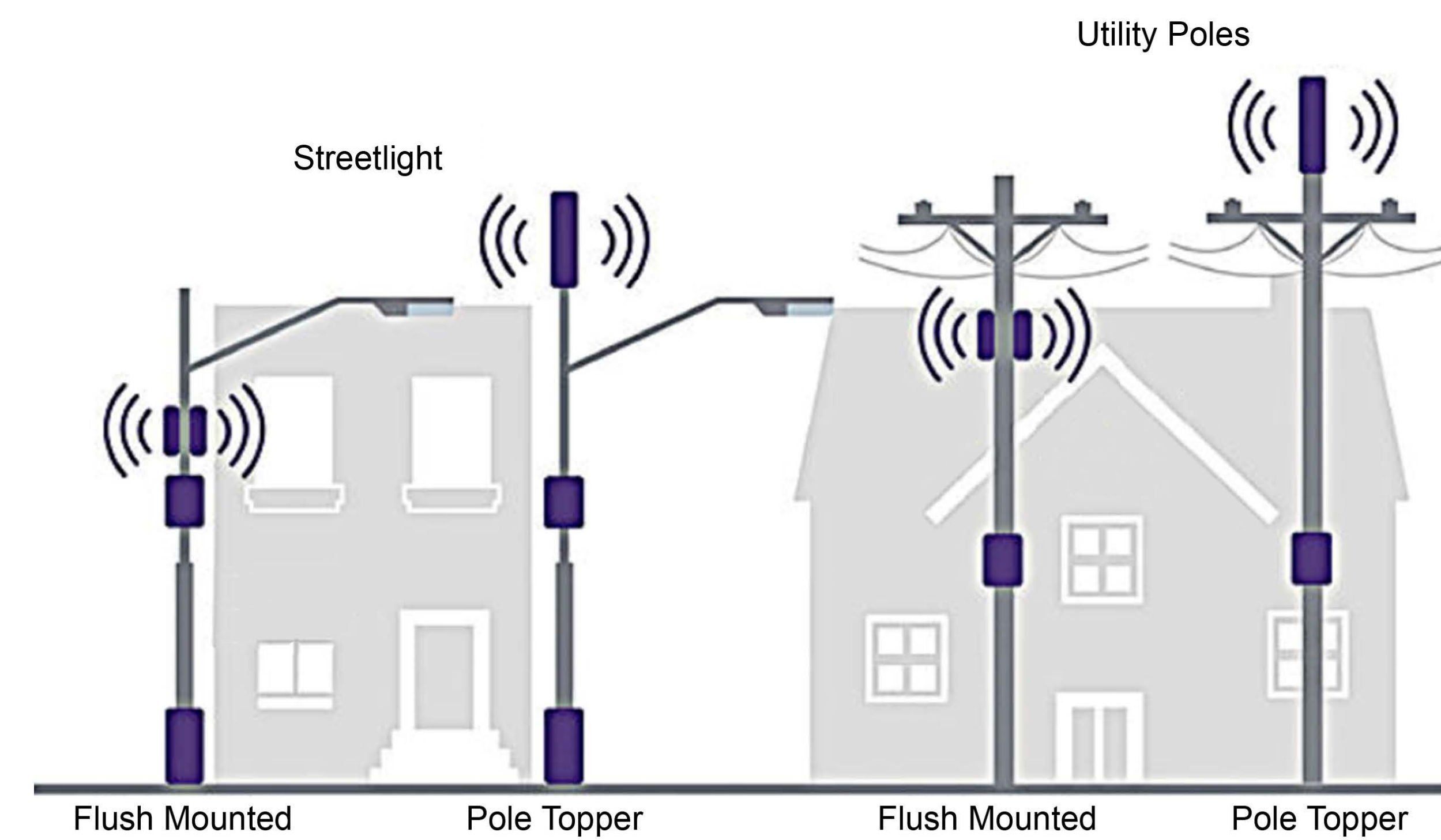


Image Source: <http://www.rentonreporter.com/news/renton-moves-forward-with-updating-small-cell-ordinance/>

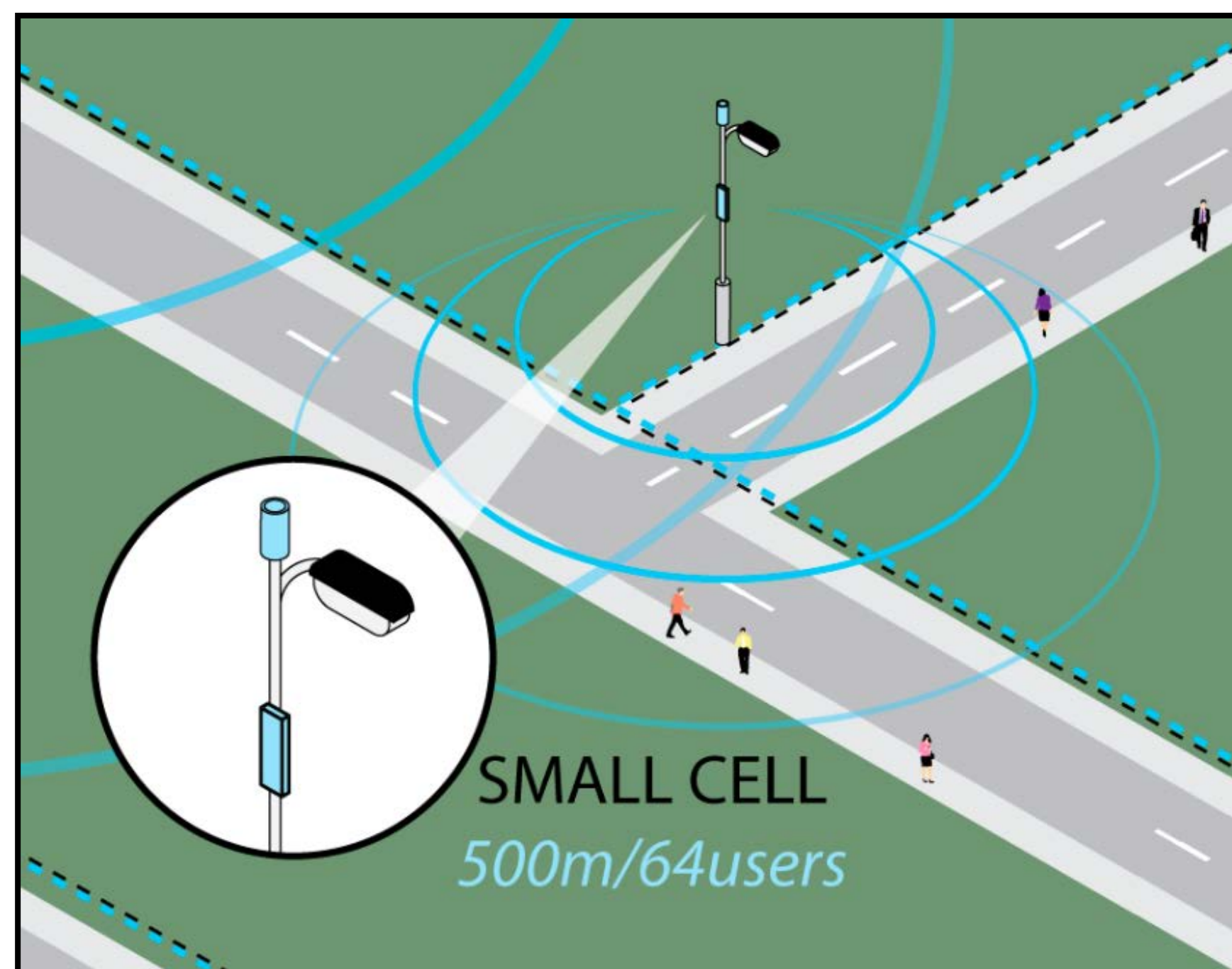


Image Source: <https://www.steelintheair.com/cell-site-types/>

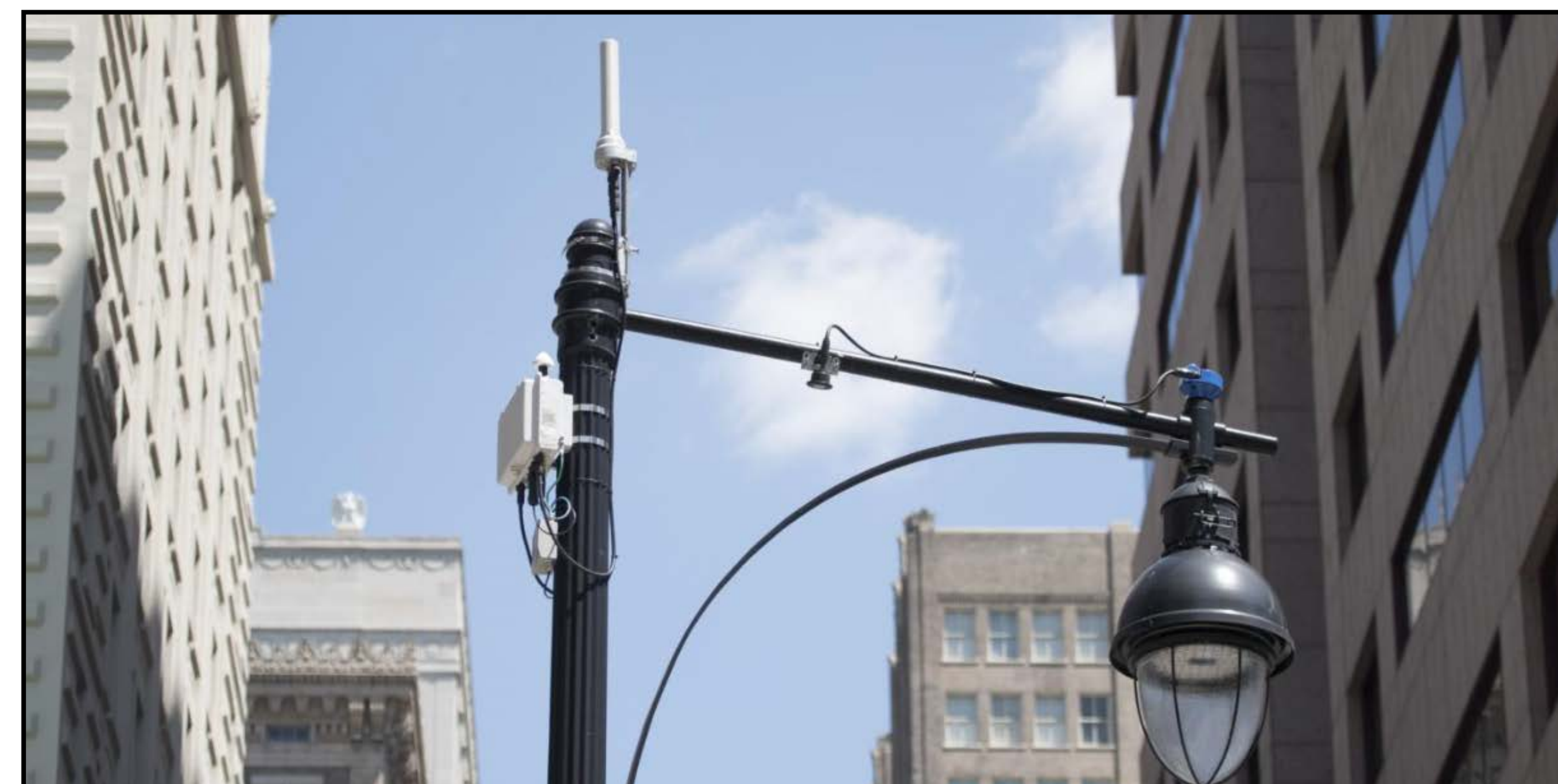


Image Source: <https://newsroom.sprint.com/tiny-mighty-small-cells.htm>



Image Source: <https://www.capegazette.com/article/five-att-cellphone-towers-installed-rehoboth/171309#&gid=1&pid=4>

# Stealth Technology Examples:



Image Source: <https://www.thegreenhead.com/2004/09/can-you-spot-hidden-cell-towers.php>



Image Source: <https://www.westernplanner.org>



Photograph via jaycrew on Reddit

Image Source: <https://twistedifter.com/2012/08/examples-of-cell-phone-tower-disguises/>



Photograph by Robert Voit (via AmusingPlanet)

Image Source: <https://twistedifter.com/2012/08/examples-of-cell-phone-tower-disguises/>



Photograph by Robert Voit (via AmusingPlanet)



Image Source: Kitsap County

Trees or other natural feature



Photograph by AggiePhil04 @ Waymarking.com

Image Source: <https://twistedifter.com/2012/08/examples-of-cell-phone-tower-disguises/>

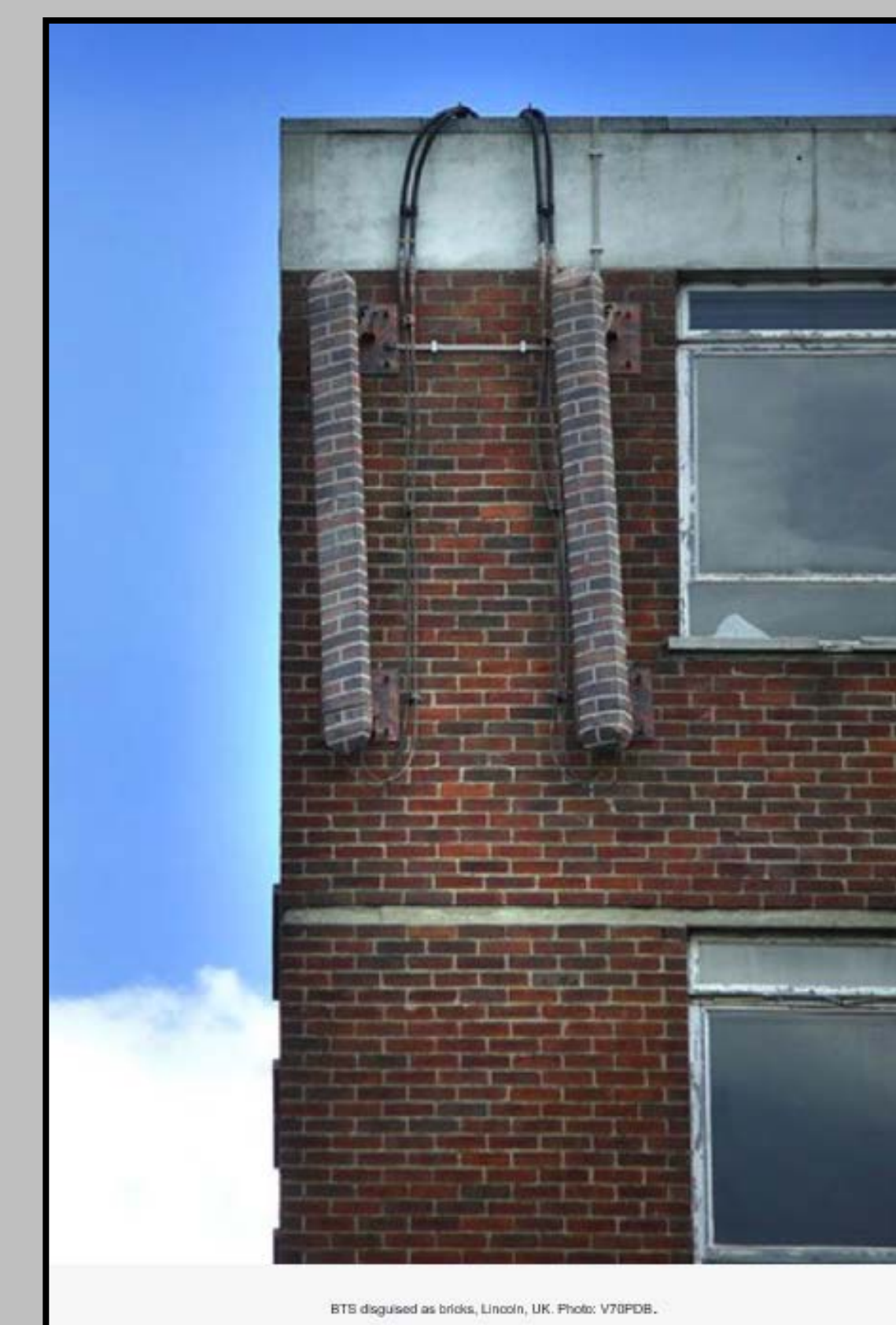


Image Source: <http://rhizome.org/>

Architectural or structural

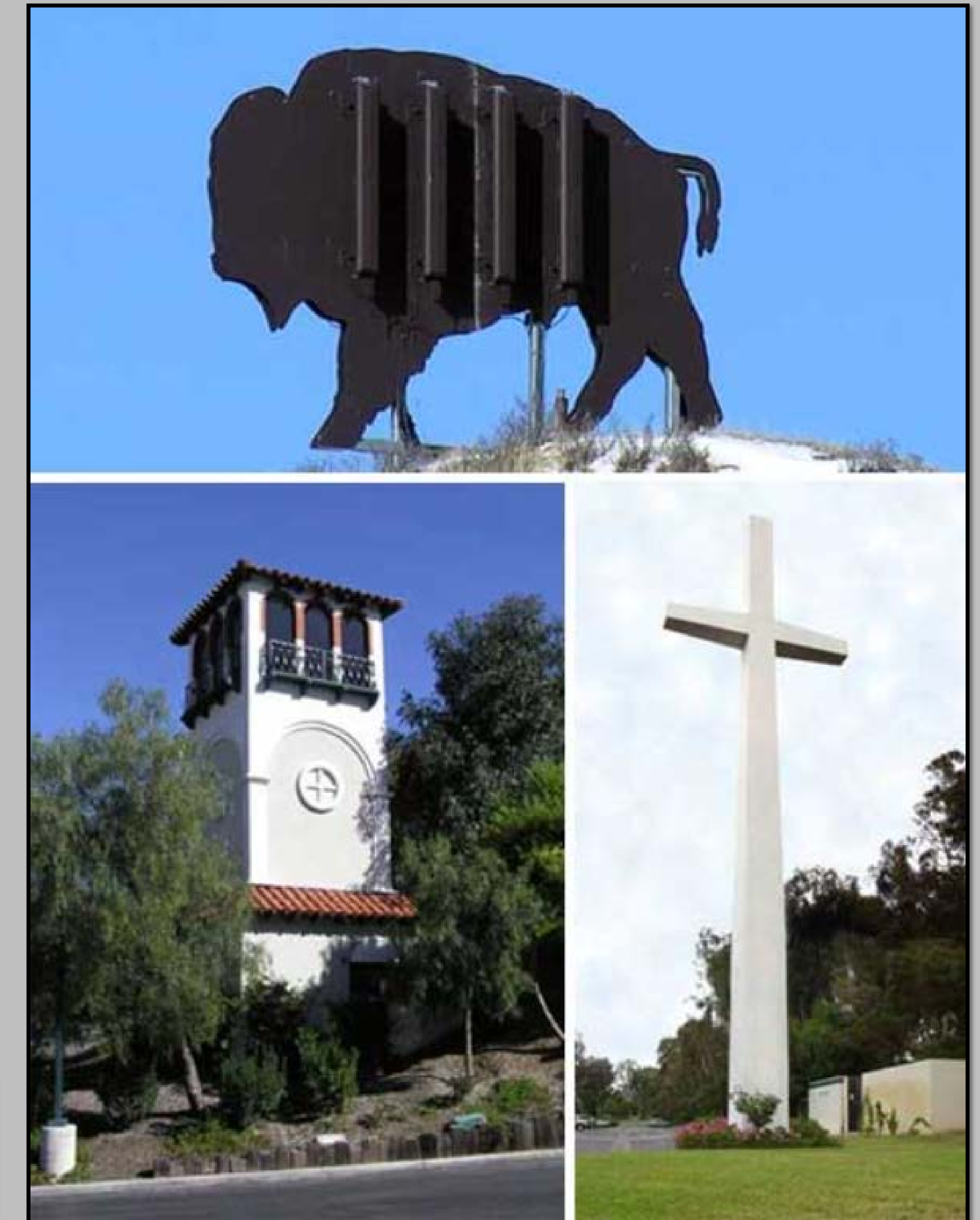


Image Source: <https://weburbanist.com/2010/03/26/faux-ny-towers-cleverly-concealed-cellular-sites/>



Image Source: <http://www.proterra-design.com/telecommunications/>