CITY OF KIRKLAND
PLANNING AND BUILDING DEPARTMENT
123 FIFTH AVENUE, KIRKLAND, WA 98033
425.587.3600 - www.kirklandwa.gov

MEMORANDUM

DATE: June 15, 2016

TO: Houghton Community Council

FROM: Jeremy McMahan, Development Review Manager
Allison Zike, Planner

SUBJECT: Final Approval - Amendments to the Kirkland Zoning Code, Wireless and Utility Regulations, File No. CAM15-00485

RECOMMENDATION

Staff recommends the Houghton Community Council approve by motion Resolution 2016-2 to approve amendments to the Kirkland Zoning Code, Wireless and Utility Regulations, File No. CAM15-00485.

BACKGROUND DISCUSSION

On June 21, 2016, staff anticipates that the Kirkland City Council will adopt Ordinance O-4520, consistent with the recommendations of the Planning Commission and Houghton Community Council. The Planning Commission and Houghton Community Council held a joint public hearing on May 12, 2016 and both bodies unanimously recommended approval of the amendments.

Attachments

Ordinance 4520

ORDINANCE O-4520

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, AND LAND USE AND AMENDING THE FOLLOWING CHAPTERS OF THE KIRKLAND ZONING ORDINANCE 3719, AS AMENDED: 5, 115, AND 117; AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. CAM15-00485.

WHEREAS, the City Council has received a recommendation from the Kirkland Planning Commission to amend certain sections of the text of the Kirkland Zoning Code, Ordinance 3719, as amended, as set forth in the report and recommendation of the Planning Commission dated May 27, 2016, and bearing Kirkland Planning and Building Department File No.; CAM15-00485 and

WHEREAS, prior to making the recommendation, the Kirkland Planning Commission, following notice as required by RCW 35A.63.070, on May 12, 2016, held a public hearing on the amendment proposals and considered the comments received at the hearing; and

WHEREAS, on April 5, 2016, draft regulations were forwarded to the Washington State Department of Commerce for review, as required by RCW 36.70A.106; and

WHEREAS, pursuant to the State Environmental Policy Act (SEPA), a SEPA Addendum to Existing Environmental Documents issued by the responsible official pursuant to WAC 197-11-600 and WAC 197-11-625 has accompanied the legislative proposal and recommendation through the entire consideration process; and

WHEREAS, in a regular public meeting the City Council considered the environmental documents received from the responsible official, together with the report and recommendation of the Planning Commission; and.

NOW THEREFORE, the City Council of the City of Kirkland do ordain as follows:

Section 1. Zoning text amended: The following specified sections of the text of Ordinance No. 3719, as amended, the Kirkland Zoning Ordinance, are amended as set forth in Attachment A attached to this Ordinance and incorporated by reference.

Section 2. If any section, subsection, sentence, clause, phrase, part or portion of this Ordinance, including those parts adopted by reference, is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

Section 3. To the extent the subject matter of this ordinance, pursuant to Ordinance 2001, is subject to the disapproval jurisdiction of the Houghton Community Council, this ordinance shall become

effective within the Houghton Community Municipal Corporation only upon approval of the Houghton Community Council or the failure of said Community Council to disapprove this ordinance within 60 days of the date of the passage of this ordinance.

Section 4. Except as provided in Section 3, this Ordinance shall be in full force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to Kirkland Municipal Code 1.08.017, in the summary form attached to the original of this Ordinance and by this reference approved by the City Council.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2016.

Signed in authentication thereof this _____ day of _____, 2016.

_____
MAYOR

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

KZC Amendments – Electrical Transmission Lines

5.10.358 High Consequence Land Use

A land use that if located in the vicinity of a hazardous liquid pipeline represents an unusually high risk in the event of a pipeline failure due to characteristics of the inhabitants or functions of the use. High consequence land uses include:

1. Land uses that involve a high-density on-site population that are more difficult to evacuate. These uses include:
   - Schools (through grade 12).
   - Hospitals, clinics, and other facilities primarily for use by the elderly or handicapped, other than those within single-family residences.
   - Stadiums or arenas.
   - Day care centers, and does not extend to family day care or adult family homes.

2. Land uses that serve critical "lifeline" or emergency functions, such as fire and police facilities, utilities providing regional service, or water supplies if exposed to a significant risk that will curtail its lifeline function for a critical period of time. Utilities that provide system redundancies so that lifeline functions are not curtailed for a critical period of time are not considered high consequence land uses.

3. Uses with similar characteristics as determined by the Planning Official.

5.10.745 Public Utility

A private business organization such as a public service corporation, including physical plant facilities, performing some public service and subject to special governmental regulations, or a governmental agency performing similar public services, the services by either of which are paid for directly by the recipients thereof. Such services shall include but are not limited to: water supply, sewer pump stations, electric power, telephone, cable television, gas and transportation for persons and freight. For the purposes of this code, public utility does not include ~~personal~~ wireless service facilities ~~as defined in KZC 117.05, Definitions~~. (Ord. 3814 § 1, 2001)

5.10.745 Public Utility, Electrical Transmission Lines

An electrical line of 115kV or greater that distributes electrical power between transmission switching and transmission stations and between distribution substations, and which link generators to such stations.

115.107 Public Utility, Electrical Transmission Lines

1. Purpose – The purpose of this section is to regulate proposals for new electrical transmission lines and to address the impacts associated with such facilities on surrounding areas by minimizing visual and environmental impacts. These facilities are necessary to support growth in the community but typically do have negative impacts in

some locations and conditions. The review process is intended to provide the City with a mechanism to weigh alternatives and impacts associated with a project. Because these facilities typically cross multiple zoning districts, this section also provides a consistent and consolidated review process.

2. General – The following regulations shall apply to the installation of new electrical transmission lines.

3. Required Review – Applications for new electrical transmission lines shall be reviewed pursuant to Process IIA, described in Chapter 150 KZC, unless any portion of the application is within the disapproval jurisdiction of the Houghton Municipal Corporation, in which case the application shall be reviewed pursuant to Process IIB, described in Chapter 152 KZC.

4. Decisional Criteria – In addition to the criteria established in 150 or 152 KZC, the City may approve an electrical transmission line only if it finds that, based on the Siting and Design Analysis, the applicant has demonstrated that the proposal, to the extent technically and operationally feasible, has been sited and designed to minimize and mitigate impacts to:

a. Critical areas, critical area buffers, and significant trees as regulated in applicable chapters of the KZC; and
b. Views from public properties and rights-of-way that are designated in the Comprehensive Plan; and
c. Schools and residential areas.

5. Siting and Design Analysis – As part of an application, the applicant shall submit a siting and design analysis describing how the proposed route and project design was selected. The analysis shall include an assessment of how the proposal addresses the City's decisional criteria and justify the proposed siting and design relative to those criteria. In addition, the analysis shall include an assessment of potential technologies and design features that would mitigate the visual and environmental impacts associated with the transmission line. Examples of mitigating technologies and design features include: design, placement and height of the support structures; landscaping and screening; tree retention and restoration; noise reduction; and specific construction techniques. The analysis shall be limited to those alternatives and design features that meet the system needs of the project.

Chapter 117 – ~~PERSONAL~~ WIRELESS SERVICE FACILITIES

Sections:

117.05 User Guide
117.10 Policy Statement
117.15 Definitions
117.20 Applicability
117.25 Exemptions
117.30 Prohibited Devices
117.35 Permit Required
117.40 Application Review Process
117.45 Pre-Submittal Meeting
~~117.50 Application Requirements~~
~~117.55 Determination of Application Completeness~~
117.60 Third Party Review
117.65 ~~PWSF~~WSF Standards
117.70 Equipment and Equipment Structure Standards
117.75 Screening
117.77 Substantial Change Criteria
117.80 Departures from Chapter Provisions
117.85 Nonuse/Abandonment
117.90 Removal from City Property – When Required
117.95 Appeals and Judicial Review
117.100 Lapse of Approval
117.105 Complete Compliance Required
117.110 Time Limit
117.115 Compliance with Other City Codes
117.120 Conflict
117.125 Violations and City Remedies
117.130 Bonds

117.05 User Guide

This chapter establishes the conditions under which ~~personal~~ wireless service facilities (~~PWSF~~WSF) may locate and operate in different areas of the City. The provisions of this chapter add to and in some cases supersede the other regulations of this code. If you wish to install, operate, or alter ~~PWSF~~WSF in Kirkland, you should read the provisions of this chapter.

For properties within jurisdiction of the Shoreline Management Act, see Chapter 83 KZC.

117.10 Policy Statement

The purpose of this chapter is to provide specific regulations for the placement, construction, modification and removal of ~~PWSF~~WSF. Pursuant to the guidelines of Section 704 of the Federal Telecommunications Act of 1996, 47 USC, Chapter 5, Subchapter III, Part I, Section 332(c)(7), the provisions of this chapter are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting the provision of ~~personal~~ wireless services, nor shall the provisions of this chapter be applied in such a manner as to unreasonably discriminate among providers of functionally equivalent ~~personal~~ wireless services.

1. The goals of this chapter are to:

a. Encourage the location of towers in nonresidential areas and to minimize the total number of tall towers throughout the City;

b. Encourage the joint use of existing tower sites;

c. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the impact on the City is minimal;

d. Encourage users of towers and antennas to configure them in a way that minimizes the visual impact of the towers and antennas;

e. Strongly encourage the providers of ~~personal~~ wireless services to use concealment technology;

f. Provide standards for the siting of ~~PWSF~~WSF and other wireless communications facilities (such as television and AM/FM radio towers);

g. Facilitate the ability of the providers of ~~personal~~ wireless services to provide such services throughout the City quickly, effectively and efficiently; and

h. Prioritize the location of ~~PWSF~~WSF on existing structures such as ballfield lights, transmission towers, utility poles or similar structures, particularly when located on public property.

2. Accordingly, the City Council finds that the promulgation of this chapter is warranted and necessary to:

a. Manage the location of towers and antennas in the City;

b. Protect residential areas and other land uses from potential adverse impacts of towers and antennas;

c. Minimize visual impacts of towers and antennas through careful design, siting, landscaping, screening, innovative camouflaging techniques and concealment technology;

d. Accommodate the growing need for towers and antennas;

e. Promote and encourage shared use and co-location on existing towers as a desirable option rather than construction of additional single-use towers; and

f. Avoid potential damage to adjacent properties through engineering and proper siting of ~~PWSF~~WSF.

117.15 Definitions

For the purpose of this chapter, the following terms shall have the meaning ascribed to them below. Terms not defined in this section shall be defined as set forth in Chapter 5 KZC:

1. "Antenna": ~~shall mean~~ any exterior apparatus designed for telephonic, radio, data, Internet or other communications through the sending and/or receiving of radio frequency signals including, but not limited to, equipment attached to a tower, pole, light standard, building or other structure for the purpose of providing ~~personal~~ wireless services ~~and its attendant base station~~. Types of antennas include:

a. An "omni-directional antenna" receives and transmits radio frequency signals in a 360-degree radial pattern;

b. A “whip antenna” is an omni-directional antenna that is up to 15 feet in height and up to four (4) inches in diameter; and

c. A “directional or panel antenna” receives and transmits radio frequency signals in a specific directional pattern of less than 360 degrees.

2. “Antenna height”: shall mean the vertical distance measured from average building elevation to the highest point of the antenna, or if on a rooftop or other structure, from the top of the roof or structure to the highest point of the antenna. For replacement structures, antenna height is measured from the top of the existing structure to the highest point of the antenna or new structure, whichever is greater.

3. “Approved PWSFWSF”: shall mean any personal wireless service facility (PWSFWSF) that has received all required permits.

:4. “Base station”: the structure or equipment at a fixed location that enables wireless communications licensed or authorized by the FCC, between user equipment and a communications –network. The term does not encompass a tower as defined in this section or any equipment associated with a tower.

45. “Cell site”: shall mean a tract or parcel of land or building that contains the PWSFWSF including any antenna, antenna support structure, accessory buildings, and associated parking, and may include other uses associated with and ancillary to personal wireless services.

56. “Co-location”: shall mean the use or placement of PWSFWSF on a tower by two (2) or more personal wireless service providers or by one (1) personal wireless service provider for more than one (1) type of communication technology; or the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communication purposes.

7. ”Concealment”: eligible support structures and transmission facilities designed to look like some feature other than a wireless tower or base station.

68. “Conductor”: means a material or object designed and used to conduct heat, electricity, light, or sound, and contains electrical charges that are relatively free to move through the material. The term “conductor” does not include “insulator” or any connecting or support device.

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9. “Eligible facilities modification”: a proposed facilities modification does not result in a substantial change in the physical dimensions of an eligible support structure.

10. “Eligible facilities modification permit” or “permit”: a written document issued by the approval authority pursuant to this chapter approving an eligible facilities modification application.

11. “Eligible support structure”: any existing tower or base station as defined in this chapter, provided that it is in existence at the time the eligible facilities modification application is filed with the City under this chapter.

712. “Equipment structure”: shall mean a facility, shelter, cabinet or vault used to house and protect electronic or other associated equipment necessary for processing wireless communications signals. “Associated equipment” may include, for example, air conditioning, backup power supplies and emergency generators.

13. “Existing”: a constructed tower or base station that has been reviewed and approved under the applicable zoning or siting process of the City, or under another State, county or local regulatory review process.

~~8~~14. "Insulator": ~~means~~ a material in a unit form designed and used so as to support a charged conductor and electrically isolate it.

~~9~~15. "Nonresidential" or "nonresidential zone": ~~shall mean~~ (1) all portions of the City (including rights-of-way adjacent thereto, measured to the centerline of the right-of-way) in an area not zoned residential as defined in this chapter, or (2) the I-405 or SR 520 right-of-way.

~~10~~16. "Other support structure": ~~shall mean~~ a structure used to support ~~PWSF~~WSF or equipment structures, excluding buildings, utility poles, and water reservoirs. Examples of "other support structures" include flagpoles and ballfield light standards.

~~11. "Personal wireless services" and "personal wireless service facilities (PWSF)," as used in this chapter, shall be defined in the same manner as in Title 47, United States Code, Chapter 5, Subchapter III, Part I, Section 332(c)(7)(C), as they may be amended now or in the future~~

17. "Prior Approval": certification of approval(s) from the jurisdiction authorizing the initial installation of a specific wireless carrier's WSF on a base station or tower. Prior approval may also include the subsequent approval(s) from the jurisdiction authorizing modifications to the initial installation that have resulted in the existing state of the WSF including, but not limited to, the number and location of equipment structures, antennas, antenna support structures, and ancillary equipment.

18. "Small Cell Network": an interrelated network of spatially separated antenna nodes connected to a common source via a transport medium that provides wireless service within a geographic area. Including facilities similar in nature to small cell facilities, micro-cells, and Distributed Antenna Systems (DAS).

19. "Substantial Change": a proposed facilities modification will substantially change the physical dimensions of an eligible support structure if it meets any of the ~~following~~ criteria in Section 117.77.

~~12~~20. "Residential zone~~,~~": ~~for the purpose of this chapter,~~ shall be as defined in KZC 5.10.785, together with the PLA1 and P zones; and rights-of-way adjacent to each of the aforementioned zones, measured to the centerline of the right-of-way.

~~13~~21. "Tower": ~~shall mean~~ any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas, including any antenna support structure, self-supporting lattice towers or monopole towers. A "tower" shall not include a replacement utility pole as authorized by KZC 117.65(6).

~~14~~22. "Utility pole": ~~shall mean~~ a structure designed and used primarily for the support of electrical wires, telephone wires, television cable, traffic signals, or lighting for streets, parking areas, or pedestrian paths.

23. "Wireless services" and "Wireless Service Facilities (WSF),": shall be defined in the same manner as in Title 47, United States Code, Chapter 5, Subchapter III, Part I, Section 332(c)(7)(C), as they may be amended now or in the future.

117.20 Applicability

1. New ~~PWSF~~WSF – All new ~~PWSF~~WSF shall comply with this chapter unless the applicant had a vested application to site said ~~PWSF~~WSF under a prior version of this chapter, or unless specifically exempted by KZC 117.25. See also subsection (2)(c) of this section.

2. Approved ~~PWSF~~WSF

a. The use of approved ~~PWSF~~WSF shall be allowed to continue. Routine maintenance and repair of ~~PWSF~~WSF shall be permitted. Activity not included in routine maintenance and repair

requires compliance with this chapter except as stated in subsections (2)(b) and (c) of this section.

b. ~~PWSF~~WSF may be replaced by new ~~PWSF~~WSF, if such new ~~PWSF~~WSF are approved as a minor modification pursuant to KZC 117.105. However, the replacement of an existing tower, whether that tower conforms or does not conform to the provisions of this chapter, shall be treated and processed as a new facility.

c. New antennas may be added to existing platforms or arms that are appended to approved towers if such new antennas are approved as a minor modification pursuant to KZC 117.105. However, new platforms or arms on approved towers will require compliance with this chapter.

d. Modifications may be made to eligible support structures pursuant to the provisions of Section 117.40.1(a)(1) of this chapter if they do not constitute a substantial change in the physical dimensions of an eligible support structure.

3. Not Approved ~~PWSF~~WSF – Any ~~PWSF~~WSF for which there is no record of a permit must be removed or receive a permit to comply with this chapter.

4. Other Wireless Communication Facilities – All of the provisions of this chapter, which address ~~personal~~ wireless services and ~~PWSF~~WSF, shall also be deemed to cover other wireless communications facilities (and, in particular, but without limitation, television, satellite radio, global positioning systems (GPS), and AM/FM radio towers not covered by KZC 115.60(2)(c)) to the maximum extent allowed by law.

117.25 Exemptions

The following are exempt from the provisions of this chapter and shall be permitted in all zones, subject to any other applicable provisions of this code:

1. Temporary ~~PWSF~~WSF during an emergency declared by the City.

2. Temporary ~~PWSF~~WSF located on the same site as, and during the construction of, a permanent ~~PWSF~~WSF for which appropriate permits have been granted.

3. Licensed amateur (ham) radio stations.

4. Satellite dish antennas two (2) meters or less in diameter when located in non-residential zones, and satellite dish antennas one (1) meter or less in diameter when located in residential zones, including direct to home satellite services, when used as an accessory use of the property.

117.30 Prohibited Devices

1. Except as exempted pursuant to KZC 117.25, ~~PWSF~~WSF that are not permanently affixed to a support structure and which are capable of being moved from location to location (e.g., “cell on wheels”) are prohibited.

2. Towers are prohibited on properties within jurisdiction of the Shoreline Management Act as set forth in Chapter 83 KZC.

117.35 Permit Required

In all instances, a permit must be obtained from the City before any ~~PWSF~~WSF may be constructed on any public or private land or right-of-way, including I-405 and SR 520.

117.40 Application Review Process

1. Review Process Table

a. ~~After the applicant has satisfied the pre-submittal meeting requirements of KZC 117.45, an~~ An application to site a ~~PWSF~~WSF, or modify an existing facility- shall be processed according to the table below. This table does not include all requirements for ~~PWSF~~WSF. Additional requirements and standards affecting design and location of ~~PWSF~~WSF can be found in KZC 117.65 (~~PWSF~~WSF Standards), 117.70 (Equipment and Equipment Structure Standards), and 117.75 (Screening).

Review Process	Facility Type[1]	Review Timeline
1. Eligible Facility Modification *(Planning Official issues decision.)*	Modification to an existing base station or tower with an approved WSF that does not result in a substantial change as set forth in section 17.77 of this chapter, and does not include replacing the existing base station or tower.	60 days from date City accepts application. See section 117.40.2 for "shot clock" regulations. See section 117.40.6for deemed granted regulations.
~~1~~2. Planning Official Decision *(Planning Official issues decision.)*	~~a) Co-location of antennas on existing towers in nonresidential zones.~~ ~~b~~a) Attachment of antennas to existing buildings or mechanical equipment enclosures in a nonresidential zone. See KZC 117.65(7). ~~c~~b) Attachment of antennas to existing water reservoirs, utility poles, or other support structures in any zone.[2] ~~2~~ See KZC 117.65(6) and (7). ~~d~~c) Attachment of antennas to replacement utility poles in any zone, where the diameter[1] of the replacement pole will not exceed ~~18~~ 24 inches ~~or increase the diameter of the existing pole by more than 50 percent, whichever is less~~. See KZC 117.65(6).[2] ~~2~~ ~~e~~d) Attachment of antennas to a replacement utility pole in any zone, where the diameter and height of the replacement utility pole will not exceed the diameter or height the previously approved utility pole. e) Attachment of antennas to existing buildings within a public park, regardless of zone, if approved by the ~~Park Board~~Director of Parks and Community Services. e) Small Cell networks attached to any existing structures or existing WSF in non-residential zones, or attached to an existing utility pole in any zone. [3]	90 days from date City accepts application.
~~2~~3. Process I Permit *(Planning Director decision following public notice and*	a) Co-location of antennas on existing towers in residential zones, not resulting in any increase to tower height. b) New towers in nonresidential zones, not exceeding 40 feet in height.[4]	90 days for co-location of wireless facilities and 150 days for all other wireless

[1] Diameter shall be measured as the widest dimension of the replacement pole

[2] Attachment of antennas to existing water reservoirs or other support structures, or to existing or replacement utility poles, where such attachment results in a height increase to the original support structure, may be approved only once through the review process indicated. Any subsequent proposal that would result in a height increase shall be reviewed through Process IIB.

Review Process	Facility Type[1]	Review Timeline
comment, per Chapter 145 KZC.)	~~c) Attachment of antennas to replacement utility poles in any zone, where the diameter of the replacement pole will not exceed 24 inches or increase the diameter of the existing pole by more than 100 percent, whichever is less. See KZC 117.65(6).[2]~~ ~~d~~c) Attachment of antennas to nonresidential buildings, such as schools or churches, in residential zones, except when located in a public park.~~[3]~~ See KZC 117.65(7). e) Small Cell networks attached to any existing structures or other existing WSF in residential zones[3].	facilities applications from date City deems the application complete.
~~3~~4. Process IIA Permit~~[3]~~ *(Hearing Examiner holds public hearing and issues decision, per Chapter150 KZC.)*	a) New towers in nonresidential zones, exceeding 40 feet in height.~~[4]~~ b) Attachment of antennas to replacement utility poles in any zone, where the diameter[1] of the replacement pole ~~will~~ is increased to a diameter exceeding 24 inches~~the diameter of the existing pole by more than 100 percent, or 24 inches, whichever is less~~. See KZC 117.65(6).~~[2]~~[1] c) Attachment of antennas to multifamily residential buildings in residential zones.~~[3]~~	90 days for co-location of wireless facilities and 150 days for all other wireless facilities applications from date City deems the application complete.
~~4~~5. Process IIB Permit~~[2]~~[3] *(Hearing Examiner holds public hearing, City Council issues decision, per Chapter 152 KZC.)*	a) Co-location of antennas on existing towers in residential zones resulting in an increase in tower height.~~[3]~~ b) New towers in residential zones, not exceeding 40 feet in height.~~[3, 4]~~ c) Departures from standards contained in this chapter, subject to the limitations of KZC 117.80. d) Any facility that does not qualify for review as a Planning Official Decision, Process I permit, or Process IIA permit as listed above.~~[3]~~	90 days for co-location of wireless facilities and 150 days for all other wireless facilities applications from date City deems the application complete.

~~Footnotes:~~

b. ~~1~~ Although this table specifically addresses antennas and towers, it is presumed that for each facility there will be associated equipment structures, and there may be structural alterations to existing support structures. Such equipment structures and structural alterations shall be reviewed through the same process as the facility with which they are associated, subject to the limitations of KZC 117.20.

~~c. 2 Attachment of antennas to existing water reservoirs or other support structures, or to existing or replacement utility poles, where such attachment results in a height increase to the original support structure, may be approved only once through the review process indicated. Any subsequent proposal that would result in a height increase shall be reviewed through Process IIB.~~

~~d.~~c. ~~3~~ If in a residential zone, the applicant shall demonstrate that a diligent effort has been made to locate the proposed facility in a nonresidential zone, and that due to valid considerations including physical constraints or technological feasibility, no other location is available.

~~e.~~d. ~~4~~ An application for a new tower shall not be approved unless the applicant demonstrates, to the satisfaction of the City, that an attempt was made to co-locate the proposed antenna on an existing structure, and that such attempt was spatially, structurally, or technically infeasible. ~~New towers are~~

[3] If a Small Cell installation includes nodes that fall under Planning Official and Process I review per the above table, a Process I review will be required for that installation.

~~prohibited on properties within jurisdiction of the Shoreline Management Act as set forth in Chapter 83 KZC.~~

2. Review "Clock."An application review period begins to run when all required application materials have been submitted and payment has been received.~~,~~ The clock shall stop when the City determines that the application is incomplete and provides notice to the applicant. The clock for the application review period may also be stopped by mutual agreement of the Planning Official and applicant. The timeframe for review begins running again when the City is in receipt of applicant's supplemental submission in response to the City's notice of incompleteness.
3. Application Requirements. All applications required pursuant to this chapter shall be made using forms provided by the Planning Department and shall be accompanied by the information and support materials identified on said forms
4. Completeness Review. The City will conduct a maximum 28 day completeness review prior to deeming the application complete for Eligible Facility Modifications and Planning Official Decisions. Process I, Process IIA, and Process IIB Permits – The determination of completeness for Process I, Process IIA, and Process IIB permit applications shall occur pursuant to the process set forth in Chapters 145, 150, and 152 KZC, respectively.
5. Modification of Application. In the event that, after submittal of an application or as a result of any subsequent submittals, the applicant modifies the proposed eligible facilities modification described in the initial application, the application as modified will be considered a new application subject to commencement of a new application review period.
6. Failure to Act. In the event the City fails to approve or deny an Eligible Facility Modification application seeking approval under this Chapter within the timeline for review (accounting for any tolling), the request shall be deemed granted. The deemed grant does not become effective until the applicant notifies the Planning Official in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.

117.45 Pre-Submittal Meeting

Before an application requiring review through ~~Planning Official decision~~, Process I, Process IIA, or Process IIB will be accepted for processing, the applicant shall attend a pre-submittal meeting with the Planning Official, as required by KZC 145.12, 150.12, or152.12.

~~117.50 Application Requirements~~

~~2. All applications required pursuant to this chapter shall be made using forms provided by the Planning Department and shall be accompanied by the information and support materials identified on said forms.~~

~~1. The City shall act within 90 days for co-location of wireless facilities and 150 days for all other wireless facilities applications which are complete applications submitted pursuant to this chapter. Any decision to deny such a request shall be in writing and supported by substantial evidence contained in a written record. When an application is filed for co-location of wireless facilities and the application is to be processed pursuant to Process IIB, the City shall attempt to meet the applicable 90-day processing and decision timeframe. However, in some cases it may not be possible to fully process and decide a Process IIB co-location application within 90 days. In such cases, the City and the applicant shall agree to extend the 90-day processing and decision period, but only to the extent necessary to fully process and decide the application.~~

~~117.55 Determination of Application Completeness~~

~~1. Planning Official Decisions – Within 28 calendar days after the date of submittal of the application, the Planning Official shall determine whether the application is complete. If the application is not complete, the Planning Official shall identify and communicate the needed components to the applicant. Once the application is complete, the Planning Official shall process the application.~~

~~2. Process I, Process IIA, and Process IIB Permits – The determination of completeness for Process I, Process IIA, and Process IIB permit applications shall occur pursuant to the process set forth in Chapters 145, 150, and 152 KZC, respectively.~~

117.60 Third Party Review

In certain instances (particularly Process IIA and Process IIB permit applications) there may be a need for expert review by a third party of the technical data submitted by the applicant. The City may require such a technical review, to be paid for by the applicant. The selection of the third party expert shall be by mutual agreement between the applicant and the City, and such agreement not to be unreasonably withheld by either party. The third party expert shall have recognized training and qualifications in the field of radio frequency engineering.

The expert review is intended to be a site-specific review of technical aspects of the ~~PWSF~~WSF, and other matters described herein, and not a subjective review of the site selection. In particular, but without limitation, the expert shall be entitled to provide a recommendation on the height of the proposed facilities relative to the applicant's coverage objectives and system design parameters. Such a review should address the accuracy and completeness of the technical data, whether the analysis techniques and methodologies are legitimate, the validity of the conclusions, and any specific technical issues outlined by the City or other interested parties.

To facilitate the expert review, an applicant for a Process IIB permit for a new tower in a residential zone, or for the co-location of antennas on existing towers in residential zones resulting in an increase in tower height, the applicant shall submit a map of the area to be served by the facility, its relationship to other sites in the applicant's network, and an evaluation of existing available land and buildings and structures taller than 30 feet within one-quarter (1/4) mile of the proposed site. The applicant shall demonstrate that he/she contacted the landowners or owners of structures taller than 30 feet within a 1/4-mile radius of the proposed site, and was denied permission by those owners to locate the facility on their land or their structures.

Based on the results of the third party review, the City may require changes to the application to comply with the recommendations of the expert.

117.65 ~~PWSF~~WSF Standards

1. Context – The location and design of a cell site shall consider its visual and physical impact on the surrounding neighborhood and shall, to the extent feasible, reflect the context within which it is located.

2. Design Compatibility – ~~PWSF~~WSF shall be architecturally compatible with the surrounding buildings and land uses or otherwise integrated, through location, design, and/or concealment technology, to blend in with the existing characteristics of the site and streetscape to the maximum extent practical.

3. Concealment Technology – One (1) or more of the following concealment measures must be employed unless the City determines through the applicable review process that alternative measures would be more appropriate given the contextual setting of the ~~PWSF~~WSF:

a. For ~~personal~~ wireless service towers:

If within an existing stand of trees, the tower shall be painted a dark color, and be made of wood or metal. A greenbelt easement is required to ensure permanent retention of the surrounding trees.

Towers in a more open setting shall have a backdrop (for example, but not limited to, trees, a hillside, or a structure) on at least two (2) sides, be a color compatible with the backdrop, be made of materials compatible with the backdrop, and provide architectural or landscape screening for the remaining sides. If existing trees are the backdrop, then a greenbelt easement is required to ensure permanent retention of the surrounding trees.

The greenbelt easement shall be the minimum necessary to provide screening and may be removed at the landowner's request in the event the facility is removed.

Antennas shall be integrated into the design of any tower to which they are attached. External projections from the tower shall be limited to the greatest extent technically feasible. Where antennas are completely enclosed within the tower, the need for the backdrop described in the preceding paragraph may be reduced or eliminated, depending on the tower design and context.

b. For rooftop antennas or antennas mounted on other structures:

Omni-directional antennas mounted on the roof shall be of a color compatible with the roof, structure or background.

Other antennas shall use compatible colors and architectural screening or other techniques approved by the City.

Antennas shall be integrated into the design of the structure to which they are attached. External projections from the structure shall be limited to the greatest extent technically feasible.

c. Antennas mounted on one (1) or more building facades shall:

(1) Use color and materials to provide architectural compatibility with the building;

(2) Be mounted on a wall of an existing building in a configuration as flush to the wall as technically possible; and

(3) Not project above the wall on which it is mounted.

d. Where feasible, cable and/or conduit shall be routed through the inside of any new tower, utility pole, or other support structure. Where this is not feasible, or where such routing would result in a structure of a substantially different design or substantially greater diameter than that of other similar structures in the vicinity or would otherwise appear out of context with its surroundings, the City may allow or require that the cable or conduit be placed on the outside of the structure. The outside cable or conduit shall be the color of the tower, utility pole, or other support structure, and the City may require that the cable be placed in conduit.

e. Alternative measures for concealment may be proposed by the applicant and approved by the City, if the City determines through the applicable review process that the optional measures will be at least as effective in concealing the ~~PWSF~~WSF as the measures required above.

f. Notwithstanding the above, the manner of concealment for any ~~PWSF~~WSF that requires approval through Process IIA or Process IIB shall be reviewed and determined as part of that process.

4. Setbacks – The following regulations apply, except for structures located in public right-of-way:

a. New towers in any zone shall be set back a minimum of 20 feet from any property line, plus an additional one-half (1/2) foot for each foot of tower height above 40 feet (e.g., if the tower is

40 feet in height, the setback will be 20 feet from any property line; if the tower is 50 feet in height, the setback shall be 25 feet from any property line).

b. Replacement structures intended to accommodate a ~~PWSF~~WSF shall be set back a distance equal to or greater than the setback of the original structure from any property line adjacent to or across the street from a residential use or residential zone; and the lesser of 10 feet or the distance of the original structure from any property line adjacent to or across the street from all other uses or zones.

5. Tower and Antenna Height – The applicant shall demonstrate, to the satisfaction of the City, that the tower and antenna are the minimum height required to function satisfactorily. ~~Personal~~

a. Wireless service towers shall not exceed 40 feet in residential zones, as measured from the average building elevation at the tower base to the highest point of the tower, antenna, or other physical feature attached to or supported by the tower. Examples of information that can be used to demonstrate that the tower and antennas are the minimum height necessary include, but are not limited to, propagation maps showing the necessity of the height to provide the required coverage, and a letter from a radio frequency engineer stating and explaining the necessity of the proposed height.

~~a.~~b. WSF modifications qualifying for an Eligible Facility Modification review set forth in section 117.40 may increase the height of an existing tower facility beyond the maximum height in subsection (5)(a) of this section provided that the changes are not a substantial change per section 117.77.The existing height shall be measured as the height of the existing approved antennas/tower prior to February 22, 2012.

6. Antennas on a Utility Pole – Antennas mounted to an existing or replacement utility pole shall be subject to the following height limits:

a. In any zone, 15 feet above the top of a pole not used to convey electrical service;

b. In a residential zone, 15 feet above the electrical distribution or transmission conductor (as opposed to top of pole) if the pole is used to convey electrical service; and

c. In a nonresidential zone, 15 feet above an electrical distribution conductor or 21 feet above an electrical transmission conductor (as opposed to top of pole) if the pole is used to convey electrical service.

d. In any zone, antennas on a utility pole or replacement utility pole that have prior approval and exceed the height limits in subsections a-c, may be replaced with new antennas at, but not exceeding, previously approved antenna tip height.

~~d~~e. On Seattle City Light transmission towers, regardless of zone, 15 feet above the top of the tower, before any tower extensions, subject to the concealment measures identified in subsection (3) of this section.

f. a. WSF modifications qualifying for an Eligible Facility Modification review set forth in section 117.40 may increase the height of an existing utility pole mounted antennas beyond the maximum height in subsection (6)(a-e) of this section provided that the changes are not a substantial change per section 117.77 and the modification does not include replacing the existing utility pole. The existing height shall be measured as the height of the existing approved antennas prior to February 22, 2012.

7. Antennas on a Building, Mechanical Equipment Enclosure, or Water Reservoir

a. Antennas, including panel or directional antennas, may be attached to the sides, parapets, mechanical penthouses, or similar elements, of buildings, subject to the limitations of this chapter.

b. Antenna height is measured above the top of the roof, not from the parapet or from the average building elevation of the building, mechanical equipment enclosure, or water reservoir.

c. Omni-directional antennas may be roof-mounted, but may not be mounted on top of rooftop appurtenances. No panel or directional antennas may be mounted on roofs or project above the roofline, except as provided in subsection (7)(g) of this section. The "roofline" of a water reservoir that incorporates a curved roof shall be the point at which the vertical wall of the water reservoir ends and the curvature of the roof begins.

d. Whip antennas may exceed the structure height by 15 feet, and other omni-directional antennas may exceed the structure height by 10 feet.

e. ~~g.~~ Antennas, including flush-mounted panel or directional antennas, may be attached to an existing conforming mechanical equipment enclosure or stair or elevator penthouse or similar rooftop appurtenance which projects above the roof of the building, but may not project any higher than the enclosure. Antennas may also be allowed on safety railings located at the roofline of a water reservoir; provided, that the antennas do not extend above the safety railing.

~~e~~f. Roof-mounted antennas must be set back from the edge of the roof a distance equal to 100 percent of antenna height.

~~f~~g. Roof-mounted antennas shall be consolidated and centered in the roof to the maximum extent feasible rather than scattered.

~~g. Antennas, including flush-mounted panel or directional antennas, may be attached to an existing conforming mechanical equipment enclosure or stair or elevator penthouse or similar rooftop appurtenance which projects above the roof of the building, but may not project any higher than the enclosure. Antennas may also be allowed on safety railings located at the roofline of a water reservoir; provided, that the antennas do not extend above the safety railing.~~

h. Except for ~~PWSF~~WSF installed in an existing rooftop penthouse, ~~PWSF~~WSF shall occupy no more than 10 percent of the total roof area of a building. Rooftop conduit shall be excluded from this calculation.

i. Building parapets or other architectural features, including rooftop mechanical equipment enclosures, stair or elevator penthouses, or similar rooftop appurtenances, shall not be increased in size or height solely for the purpose of facilitating the attachment of ~~PWSF~~WSF components.

j. WSF modifications qualifying for an Eligible Facility Modification review set forth in section 117.40 may increase the height of existing base station or eligible support structure beyond the standards in subsection (7)(a-e) of this section provided that the changes are not a substantial change per section 117.77. The existing height shall be measured as the height of the existing approved antennas prior to February 22, 2012.

8. Designated Historic Community Landmarks –

a. Applications for ~~PWSF~~WSF on buildings, structures, or objects designated in Table CC-1 List A and B located in the Historic Resources section of the Community Character Element in the Comprehensive Plan shall be subject to the provisions of this chapter. The City shall notify the King County Historic Preservation Office in order to provide an opportunity for comments and recommendation on the application. The recommendation will be considered when making a decision on the application.

Applications for ~~PWSF~~WSF towers on properties designated in Table CC-1 only as historic sites shall be reviewed subject to the provisions of this chapter and pursuant to the notification and consideration requirements in subsection (8)(a) of this section. Other ~~PWSF~~WSF applications on designated site-only properties are subject to the provisions of this chapter but do not require the notification and consideration requirements in subsection (8)(a) of this section.

~~9. Signal Interference – No antennas shall cause localized interference with the transmission or reception of any other communications signals including, but not limited to, public safety signals, and television and radio broadcast signals.~~

~~10~~11. Support Wires – No guy or other support wires shall be used in connection with antennas, antenna arrays or support structures except when required by construction codes adopted by the City.

~~11~~12. Views – ~~PWSF~~WSF, including towers, must be located and oriented in such a way as to minimize view blockage.

~~12~~13. Lights, Signals and Signs – No signals, lights or signs shall be permitted on towers unless required by the FCC or the FAA.

~~13~~14. Noise – The installation and operation of ~~PWSF~~WSF shall comply with the noise standards set forth in KZC 115.95.

~~14~~15. Federal Requirements – All ~~PWSF~~WSF must meet current standards and regulations of the FAA, the FCC and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, the owners of the ~~PWSF~~WSF shall bring such ~~PWSF~~WSF into compliance with such changes in accordance with the compliance deadlines and requirements of such changes. Failure to bring towers and antennas into compliance shall constitute grounds for the removal of the tower or antenna at the owner's expense. If, upon inspection, the City concludes that a ~~PWSF~~WSF fails to comply with such regulations and standards and constitutes a danger to persons or property, then, upon notice being provided to the owner of the ~~PWSF~~WSF, the owner shall have 30 days to bring such ~~PWSF~~WSF into compliance with such standards and regulations. If the owner fails to bring such ~~PWSF~~WSF into compliance within said 30 days, the City may remove such ~~PWSF~~WSF at the owner's expense.

117.70 Equipment and Equipment Structure Standards

1. Maximum Size of Ground-Mounted Equipment in Residential Zones – Equipment structures shall not exceed five (5) feet in height. Equipment structure enclosures shall not exceed 125 square feet each. These limitations shall apply to each individual equipment structure and enclosure; provided, that equipment structures that are fully contained within a legally established building that houses or is accessory to a principal permitted use shall not be subject to these limitations.

2. Maximum Size in Nonresidential Zones – Gross floor area of equipment structures shall be the minimum necessary but not greater than 240 square feet per provider.

a~~-~~ Maximum height for ground mounted equipment structures is 10 feet above average building elevation~~.~~.

b. Maximum height of rooftop mounted equipment structures shall be reviewed as rooftop appurtenances subject to KZC 115.120.

These limitations shall not apply to equipment structures that are fully contained within a building that houses or is accessory to a principal permitted use and that satisfies the dimensional regulations of the underlying zone.

3. Equipment Structures Located in Right-of-Way

a. If ground-mounted, equipment structures shall not exceed a height of 30 inches. If mounted on poles, said structures shall comply with subsection (6) of this section. Setback requirements do not apply to equipment structures located in the right-of-way.

b. Exception – The Planning Official may increase the 30-inch height limitation for ground-mounted equipment structures to a maximum of 66 inches, if:

1) The height increase is required by the serving electrical utility; and

2) No feasible alternative exists for reducing the height of the structure; and

3) Concealment measures are employed; and

4) The height increase will not adversely impact the neighborhood or the City.

4. Setbacks When Located on Private Property – Ground-mounted equipment structures over 30 inches in height shall be set back at least 10 feet from all property lines; provided, that equipment structures that are fully contained within a legally established building that houses or is accessory to a principal permitted use shall not be subject to this requirement.

5. Equipment Structures on or Above a Structure in Any Zone– Equipment structures on or above a structure shall be subject to the regulations in Chapter 115.120 KZC.~~subject to the following criteria~~:

~~a. Equipment structure height is measured above the top of the roof, not the parapet.~~

~~b. When mounted to the roof of a building with a pitched or stepped roof form, roof-mounted equipment structures shall be incorporated into the stepped roof form, and not appear as a separate penthouse or box.~~

6. Equipment Mounted on Poles or Towers

a. Electronic and other associated equipment may be mounted on utility poles or towers. The location and vertical clearance of such structures shall be reviewed by the Public Works Department and verified by the underlying utility owner to ensure that the structures will not pose a hazard to other users of the right-of-way.

b. Electronic and other associated equipment mounted on utility poles or towers shall be located in a manner that minimizes clutter and visual impact.

c. Electronic and other associated equipment mounted on utility poles or towers shall be of a similar color to that of the pole or tower to which it is attached, unless alternative measures are approved by the City as part of the applicable review process.

7. Compatibility – Equipment structures shall be designed to be compatible with the surrounding area in which they are located. For example, in a residential area, a sloped roof or wood siding may be required.

8. Concealment – One (1) or more of the following concealment measures must be employed unless the City determines through the applicable review process that alternative measures would be more appropriate given the contextual setting of the equipment or equipment structure:

a. Locating within a building or building appendage constructed in accordance with all applicable City codes;

b. Locating on top of a building, with architecturally compatible screening;

c. Locating underground; or

d. Locating above ground with a solid fence and landscaping subject to the limitations of KZC 117.75(3).

9. Noise Standards – Equipment structures shall be oriented so that exhaust ports or outlets are pointed away from properties that may be impacted by noise. The installation and operation of equipment structures shall comply with noise regulations in KZC 115.95. The City may require an assessment of noise after operation begins and remediation if the noise levels created are not within the prescribed limits. Cumulative noise impacts will be measured in cases where there is more than one (1) equipment structure.

117.75 Screening

1. General – Landscaping shall be required to screen as much of the ~~PWSF~~WSF and any ground-mounted features, including fencing, as possible, and in general soften the appearance of the site. The City may allow or require the use of concealment technology, as described in KZC 117.65(3), either instead of or in addition to required landscaping, to achieve effective screening. The effectiveness of visual mitigation techniques will be evaluated by the City, taking into consideration the site as built. If the antenna is mounted on a building, and the equipment structure is housed inside the building, landscaping shall not be required.

2. Existing Vegetation – Existing vegetation shall be preserved or improved, and disturbance of the existing topography of the site shall be minimized, unless such disturbance will result in less visual impact of the site on the surrounding area.

3. Buffering

a. Except for ~~PWSF~~WSF located in a public right-of-way and subject to review as a Planning Official decision, buffering of ground-mounted ~~PWSF~~WSF shall be required around the perimeter of the facility as follows:

1) Provide a 5-foot-wide landscaped strip with one (1) row of trees planted no more than 10 feet apart on center along the entire length of the buffer, with deciduous trees of 2-inch caliper, minimum, and/or coniferous trees at least six (6) feet in height, minimum. At least 50 percent of the required trees shall be evergreen.

2) Living ground covers planted from either 4-inch pots with 12-inch spacing or 1-gallon pots with 18-inch spacing to cover within two (2) years 60 percent of the land use buffer not needed for viability of the trees.

b. As an option to the buffering measures described in subsection (3)(a) of this section, the City may approve or require one (1) or more of the measures provided for below, if the City determines that such measures will provide effective screening. Such optional measures include, but are not limited to, the following:

1) Walls or solid fencing, of a height at least as high as the equipment it screens, subject to subsection (4) of this section, Fencing.

2) Architectural features, such as parapets, mechanical penthouses, or building fin walls.

3) Climbing vegetation supported by a structure such as a fence or trellis, of a type and size that will provide a dense visual barrier at least as high as the equipment it screens within two (2) years from the time of planting.

4) Screening by the natural topography of the site or the adjoining property or right-of-way.

4. Fencing – Fencing may be allowed or required if it is needed for security purposes, or if it is part of concealment technology. The use of chain link, plastic, vinyl or wire fencing is prohibited unless it is fully screened from public view. Landscaping shall be installed on the outside of fences. Fencing installed specifically for the purpose of screening ground-mounted ~~PWSF~~WSF shall not be taller than necessary to provide appropriate screening.

5. Maintenance – The applicant shall maintain the screening in good condition and shall replace any plants required by this chapter or approved or required as part of the permit approval that are unhealthy or dead. In the event that screening is not maintained at the required level, the City, after giving 30 days' advance written notice to the provider, may maintain or establish the screening and bill both the landowner and provider for such costs until such costs are paid in full.

6. Notwithstanding the above, the manner of screening for any ~~PWSF~~WSF that requires approval through Process IIA or Process IIB shall be reviewed and determined as part of that process.

117.77 Substantial Change Criteria

A modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

1. For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten (10) feet, whichever is greater;
    a. Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to February 22, 2012.[4]
2. For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;
3. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;
4. It entails any excavation or deployment outside the current site;
5. It would defeat the concealment elements of the eligible support structure; or
6. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is noncompliant only in a manner that would not exceed the thresholds identified in this section KZC 117.77.

117.80 Departures from Chapter Provisions

[4] The date of enactment of the Spectrum Act.

Provisions of this chapter shall not be subject to variances described in Chapter 120 KZC. However, through Process IIB, Chapter152 KZC, the City may consider departures from chapter provisions for new ~~PWSF~~WSF, except for the following:

1. The 40-foot height limit for ~~personal~~ wireless service towers in residential zones; and/or

2. The 15-foot limit for antennas projecting above an existing or replacement utility pole or electrical distribution or transmission conductor in residential zones.

117.85 Nonuse/Abandonment

1. Bond – The City may require a bond or other suitable performance security pursuant to Chapter 175 KZC to cover the costs of removal of the antenna or tower.

2. In the event the use of any ~~PWSF~~WSF will be discontinued for a period of 60 consecutive days, the owner or operator shall so notify the City in writing, and the ~~PWSF~~WSF shall thereafter be deemed to be abandoned. Determination of the date of abandonment shall be made by the City which shall have the right to request documentation and affidavits from the ~~PWSF~~WSF owner or operator regarding the issue of ~~PWSF~~WSF usage. Upon such abandonment, the owner or operator of the ~~PWSF~~WSF or the owner of the property upon which such facility is located shall have an additional 60 days within which to:

a. Reactivate the use of the ~~PWSF~~WSF or transfer the ~~PWSF~~WSF to another owner or operator who makes actual use of the ~~PWSF~~WSF; or

b. Dismantle and remove the ~~PWSF~~WSF. If such ~~PWSF~~WSF is not removed within said 60 days from the date of abandonment, the City may remove such ~~PWSF~~WSF at the facility owner's and property owner's expense. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

At the earlier of 60 days from the date of abandonment without reactivation or upon completion of dismantling and removal, City approval of the tower or antenna ~~PWSF~~WSF shall automatically expire.

117.90 Removal from City Property – When Required

A ~~PWSF~~WSF mounted to any City-owned property, utility pole, or other structure shall be removed if the City deems removal is necessary for the undergrounding of utilities, the sale, development, or redevelopment of City-owned property, or the demolition or alteration of a City-owned building or other structure. The ~~PWSF~~WSF shall be removed at no expense to the City.

117.95 Appeals and Judicial Review

1. The decision of the Planning Official is appealable using the applicable appeal provisions of Chapter 145 KZC.

2. Appeals of Process I, IIA, or IIB permits are processed, and judicial review shall occur, according to the appeal and judicial review procedures and provisions for Process I, IIA, or IIB respectively.

117.100 Lapse of Approval

For Planning Official decisions required by this chapter and issued on or before December 31, 2014, the applicant must begin construction or submit to the City a complete building permit application for the development activity or other actions approved under this chapter within seven (7) years after the final approval of the City of Kirkland on the matter, or the decision becomes void; provided, however, that in the event judicial review is initiated per KZC 117.95, the running of the seven (7) years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the development activity or other actions. For

Planning Official decisions required by this chapter and issued on or after January 1, 2015, the applicant must begin construction or submit to the City a complete building permit application for the development activity or other actions approved under this chapter within five (5) years after the final approval of the City of Kirkland on the matter, or the decision becomes void; provided, however, that in the event judicial review is initiated per KZC 117.95, the running of the five (5) years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the development activity or other actions.

For Planning Official decisions issued on or before December 31, 2014, the applicant must substantially complete construction for the development or other actions approved under this chapter and complete the applicable conditions listed on the notice of decision within nine (9) years after the final approval on the matter or the decision becomes void. For Planning Official decisions issued on or after January 1, 2015, the applicant must substantially complete construction for the development or other actions approved under this chapter and complete the applicable conditions listed on the notice of decision within seven (7) years after the final approval on the matter, or the decision becomes void.

For development activity or other actions with phased construction, lapse of approval may be extended when approved under this chapter and made a condition of the notice of decision.

Refer to the lapse of approval requirements for all other review processes required by this chapter.

117.105 Complete Compliance Required

1. General – Except as specified in subsection (2) of this section, the applicant must comply with all aspects, including conditions and restrictions, of all prior approvals in order to do everything authorized by that approval.

2. Exception – Subsequent or Minor Modification – The Planning Official may approve a subsequent or minor modification to the permit for the ~~PWSF~~WSF if:

a. The modification is minor and will not ~~substantially~~ significantly change the ~~PWSF~~WSF; and

b. There will not be any substantial changes in the impacts on the neighborhood or the City as a result of the change.

Any modification, other than as specified in subsection (2) of this section, must be reviewed and decided upon as a new ~~PWSF~~WSF under this chapter.

117.110 Time Limit

Any time limit, pursuant to Chapter 36.70B RCW, upon the City's processing and decision upon applications under this chapter may, except as specifically otherwise stated in this chapter, be modified by a written agreement between the applicant and Planning Director. In the event a permit constitutes or presents a special circumstance under the provisions of this chapter, the time limits for the City to make a final decision and issue its notice of decision under Chapter 36.70B RCW are extended by the number of days that the final decision of the City was delayed as a result of that special circumstance.

117.115 Compliance with Other City Codes

Compliance with the provisions of this chapter does not constitute compliance, or remove from the applicant the obligation to comply, with other applicable provisions of this code, the Comprehensive Plan, or any other ordinance or regulation of the City including, but not limited to, regulations governing construction or implementing the State Environmental Policy Act or the Shoreline Management Act.

117.120 Conflict

Notwithstanding the requirements of KZC 117.115, to the extent that any provision or provisions of this chapter are inconsistent or in conflict with any other provision of the Zoning Code, Comprehensive Plan or any

ordinance or regulation of the City, the provisions of this chapter shall be deemed to control. ~~PWSF~~WSF are permitted in the City pursuant to this chapter notwithstanding the fact they are not mentioned in the use zone charts in Chapters 15 through 60 KZC.

117.125 Violations and City Remedies

Any person who violates any of the provisions of this chapter shall be subject to the provisions of Chapter 1.12 KMC, Code Enforcement. In addition to fines, the City shall have the right to seek damages and injunctive relief for any and all violations of this chapter and all other remedies provided at law or in equity.

117.130 Bonds

The Planning Official may require a bond under Chapter 175 KZC to ensure compliance with any aspect of this chapter.