

BROADBAND AND TELECOMMUNICATIONS REGULATORY UPDATE

PLANNING COMMISSION

December 8, 2020



Jessica Nappi, Planning and Public Works Department
Dan Cardwell, Planning and Public Works Department
Hugh Taylor, Office of the County Council
CBG Communications, Inc.
River Oaks Communications Corporation

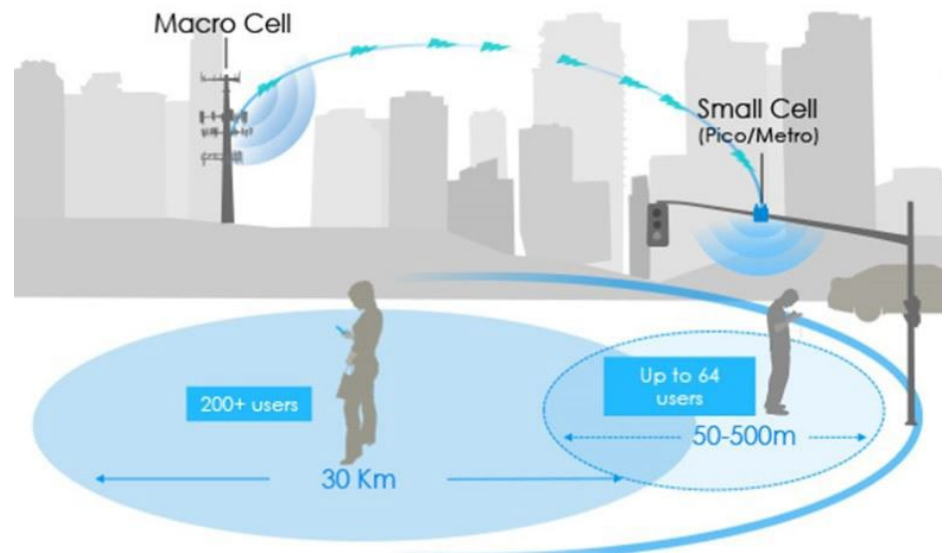


Presentation Outline

- Overview of Small Wireless Facilities
- Overview of County Initiative
- Purpose of the Regulatory Update
- Major Components of the Update
- Next Steps

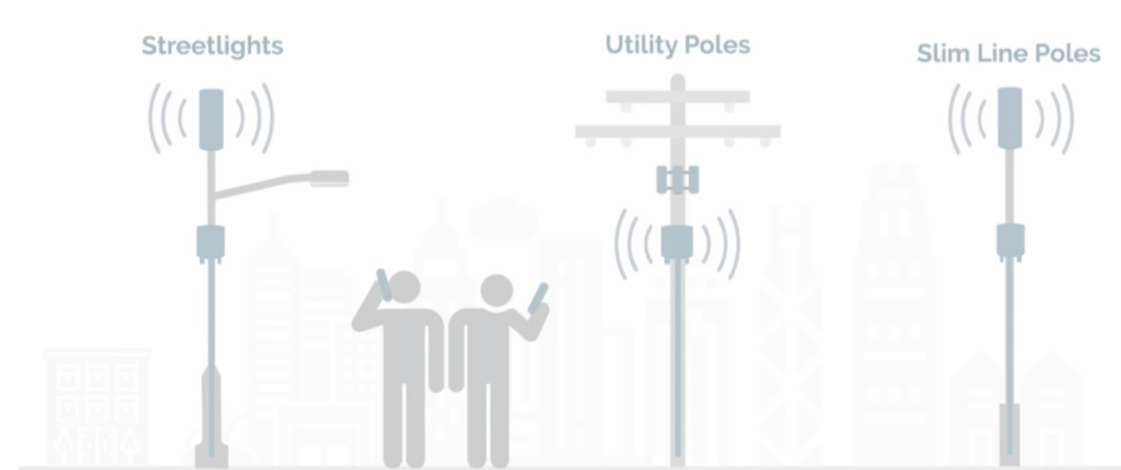
Small Wireless Facilities

- Standards for small wireless facilities will be a significant component of the proposal.
- Small Wireless Facilities are a type of wireless infrastructure that provide spot coverage to a relatively small area (hundreds of square feet) where traditional macro cell towers cover square miles.
- Wireless industry is moving from the construction of cell towers to small wireless facilities that add capacity to their networks.
- FCC rules impose limits on local government regulation and establish permit approval timelines (shot clocks).



Small Wireless Facilities – Characteristics

- Up to 50 feet in height or not more than 10% taller than adjacent structures.
- Each antenna is not more than 3 cubic feet in volume.
- All other associated equipment is not more than 28 cubic feet in volume.
- The facilities cannot result in exposure to RF emissions in excess of FCC standards.



Small Wireless Facilities – Federal Provisions

- Telecom Act of 1996
- Middle Class Tax Relief and Job Creation Act of 2012 – Eligible Facilities Request
- FCC Wireless Orders and Rulings
- U.S. Code and Code of Federal Regulations
- U.S. Ninth Circuit Court of Appeals – August decision – Aesthetics

Small Wireless Facilities – Federal Provisions

47 U.S.C. Section 253(a)

- No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

47 U.S.C. Section 253(c)

- Nothing in this section affects the authority of a State or local government to manage the public rights-of-way or to require fair and reasonable compensation from telecommunications providers, on a competitively neutral and non-discriminatory basis, for use of public rights-of-way on a non-discriminatory basis, if the compensation required is publicly disclosed by such government.

47 U.S.C. Section 332 (c) (7)

- (iv) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions.

Small Wireless Facilities – Need for Standards

- Nationwide deployment of small wireless facilities is occurring – with a projection of 800,000 small cells in next decade.
- Explosive growth and right-of-way management are issues.
- Public rights-of-way are prime candidates for small wireless facility deployment because they cover most County areas.
- Small wireless facility coverage is limited resulting in a significant number of facilities in a small area – densification.

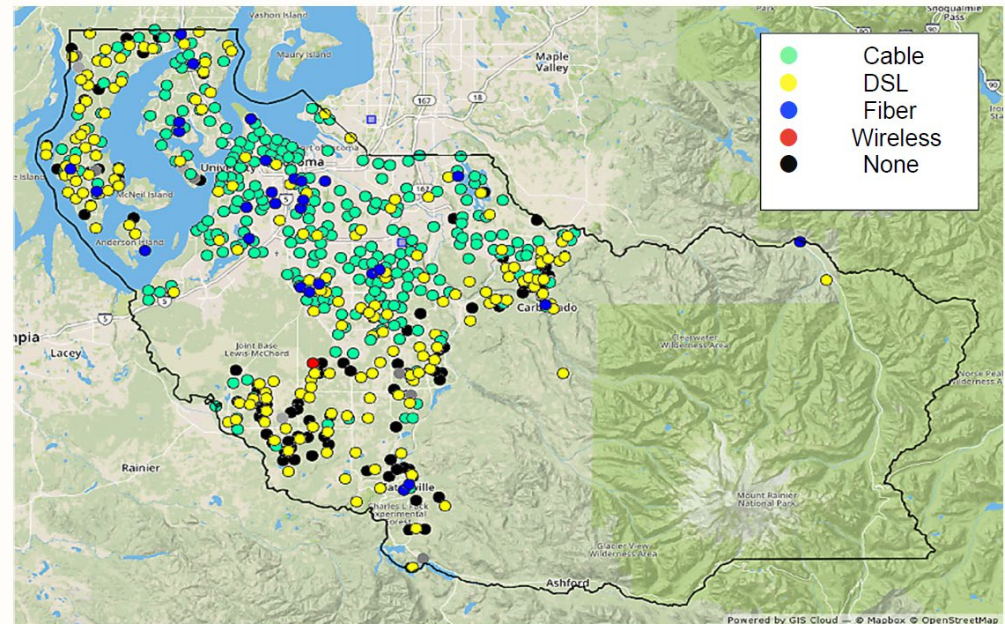
Broadband Access Evaluation

Pierce County completed a countywide broadband access evaluation in April 2019.

Findings of the evaluation:

- Many communities within Pierce County—particularly areas outside its cities—do not have the broadband they need.
- The broadband gaps are largely between the urban cities and in more remote areas.
- Innovative approaches are required to get more, better broadband and maximized benefits.
- Demand for connectivity will only increase due to new broadband applications and functions.

Figure 5.20 Responses by Type of Broadband Connections, Including None Available



Points represent location of survey respondents and type of service.

Pierce County Resolution No. R2019-74

- Pierce County Council adopted Resolution No. R2019-74 declaring that wireline and wireless communications forms the basis of an essential infrastructure in our digital world and economy, and that it is vital to the economic development and quality of life for the residents, businesses and institutions.
- Resolution No. R2019-74 initiated a review and revision of existing County policies, standards, and code to remove barriers to broadband delivery.

Overall Goal and Approach

- Overall goal is to improve broadband service in Pierce County by removing barriers and providing incentives.
- Regulatory approach for small wireless facilities will generally be in line with approaches taken elsewhere in the region.
- Regulations will update code provisions to be consistent with current federal requirements and industry practices.

Small Wireless Facilities

Proposed Regulatory Update

Title 17B
(Road Standards)

- Definitions and obstructions in the right-of-way.

Chapter 18.25
(General Provisions)

- Definitions for consistency with FCC language.

Title 18A*
(Zoning)

- Use tables / categories, small wireless facilities, and incentives for broadband deployment to unserved / underserved areas.

Title 18J*
(Design)

- Design standards for macro cell towers and include design requirements for small wireless facilities.

* Additional amendments per the Supplemental Report.

Proposed Regulatory Update: 17B

Title 17B (Road Standards)

- **Definitions and obstructions in the right-of-way.**

- 17B.10: Add definitions for “Sight obscuring” and “Small wireless facilities.”
- 17B.10: Update fee information for consistency with proposed changes to the Manual on Accommodating Utilities in Pierce County Right-of-Way.
- 17B.10.121: Modify (Obstructions in Public Road Right-of-way, Easements, or Tracts) to reference small wireless facilities, equipment cabinets, and other facilities normally found in the right-of-way.
- 17B.20.040: Modify (Minimum Existing Offsite Private Road Requirements) to reference small wireless facilities, equipment cabinets, and other facilities normally found in the right-of-way.

Chapter 18.25 (General Provisions)



- **Definitions for consistency with FCC language.**

- 18.25: Modify the definition of “Collocation” for consistency with FCC terminology.
- 18.25: Add definitions for “Distributed Antenna System (DAS),” “Eligible Facilities Request,” “Macro cell tower,” “Small wireless facilities,” and “Unified enclosure.”

Title 18A (Zoning)

- **Use tables / categories, small wireless facilities, and incentives for broadband deployment to unserved / underserved areas.**
- 18A.33: Modify the description of “Telecommunication Towers or Wireless – Level 1” to incorporate small wireless facilities, distributed antenna systems and Eligible Facility Requests within this Use Level and provide a reference to applicable design standards and permitting requirements.
- New 18A.69: Incorporate a new Chapter 18A.69, “Broadband Development Incentives” into Title 18A.
 - * 18A.33.230 A.1: Modify to increase the allowed size of a panel antenna from 16 square feet to 17 square feet.*

* As shown in the Supplemental Report.

Proposed Regulatory Update: 18J

Title 18J* (Design)



- **Design standards for macro cell towers and include design requirements for small wireless facilities.**
- 18J.15.270: Reorganize (Telecommunication Towers and Wireless Facilities) for clarity and ease of use.
- 18J.15.270: Modify tower standards to better differentiate macro cell towers from other wireless facilities and reference applicable design standards.
 - * 18J.15.270 E: Modify criteria for camouflaged or concealed design for macro cell towers, including eliminating the criteria for placing a tower within a structure.
- New 18J.15.272: Add new section 18J.15.272 that addresses procedures for Eligible Facilities Requests.
 - * 18J.25.272 A: Modify to eliminate the specific list of FCC reports and orders as such reports and orders change over time.

* As shown in the Supplemental Report.

Proposed Regulatory Update: 18J (continued)

Title 18J* (Design)



- **Design standards for macro cell towers and include design requirements for small wireless facilities.**
- New 18J.15.275: Add new Section 18J.15.275 that addresses small wireless facilities and distributed antenna systems to include: 1) establishing application and permitting procedures; 2) establishing design standards; 3) providing procedures for third party technical review; and 4) establishing abandonment provisions.
 - * Modification of 18J.15.275 (Standards – Design – New Poles) to include a design standard for small wireless facilities on new poles in addition to those located on existing or replacement poles.
 - * Modification of 18J.15.275 (Standards – Design – Nonwooden Poles) to exclude unified enclosures from being required to be concealed within a nonwooden pole.
 - * Modification of 18J.15.275 (Abandonment) to shorten the time period for removing abandoned small wireless poles or other equipment from one year to six months.

* As shown in the Supplemental Report.

Staff Recommendation

Staff Recommendation:

Approval of the proposed amendments set forth in the attachments associated with the Staff Report and Supplemental Staff Report.

- Supports the deployment of telecommunication infrastructure throughout unincorporated Pierce County and provides appropriate standards addressing the deployment of small wireless facilities.
- Minimize the visual impact of small wireless facilities particularly in and near residential areas and along highly visible corridor.
- Promote the public health, safety and welfare.
- Preserve the aesthetic character of the communities.
- Reasonably regulates the development and operation of wireless facilities within the County to the extent permitted under State and federal law.
- Preserve the opportunity for continued and growing service from the wireless industry and to accommodate the need and demand for wireless services in the community.

Next Steps

December 8, 2020 Meeting

Planning Commission to consider Staff Recommendation:

- Approval of the proposed amendments set forth in the attachments associated with the Staff Report and Supplemental Staff Report.

Planning Commission to receive public comment



Pierce County Council Action

January/February 2021 (TBD)

Questions

Contact:

Jessica Nappi, AICP

(253) 798-2389

jessica.nappi@piercecountywa.gov