

**CITY OF ORTING
WASHINGTON**

ORIGINAL

ORDINANCE NO. 2019-1049

AN ORDINANCE OF THE CITY OF ORTING, WASHINGTON, ADOPTING A ZONING ORDINANCE TO ADD CHAPTER 13-9 TO THE ORTING MUNICIPAL CODE, ENTITLED “WIRELESS COMMUNICATIONS SERVICES FACILITIES.”

WHEREAS, the City of Orting is a non-charter optional municipal code city as provided in Title 35A RCW, incorporated under the laws of the state of Washington; and

WHEREAS, in the Telecommunications Act of 1996 (the 1996 Act), Congress enacted sweeping new provisions intended to facilitate the deployment of telecommunications infrastructure; and

WHEREAS, several provisions of the 1996 Act speak directly to Congress’s determination that certain state and local regulations are unlawful; and

WHEREAS, Section 253(a) provides that “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;” and

WHEREAS, Congress specified in Section 332(c)(7) that “the regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof—(I) shall not unreasonably discriminate among providers of functionally equivalent services; and (II) shall not prohibit or have the effect of prohibiting the provision of personal wireless services;” and

WHEREAS, Section 332(c)(7) generally preserves state and local authority over the “placement, construction, and modification of personal wireless service facilities” but with certain limitations; and

WHEREAS, the Federal Communications Commission (FCC) has authority to interpret Sections 253 and 332 of the 1996 Act to further elucidate what types of state and local legal requirements run afoul of the statutory parameters Congress has established; and

WHEREAS, America is preparing to transition to the next generation of wireless services, known as 5G; and

WHEREAS, in preparing for that transition, and to improve existing deficits in their 4G networks, wireless providers have been increasingly looking to densify their networks with new small cell deployments that have antennas often no larger than a small backpack; and

WHEREAS, the challenge for the City’s policymakers is that the deployment of these small cell networks will look different than the 3G and 4G deployments of the past, which often involved the construction of large cell towers; and

WHEREAS, to support advanced 4G or 5G offerings, wireless providers must build out small cells at a faster pace and at a far greater density of deployment than before; and

WHEREAS, to meet rapidly increasing demand for wireless services and prepare our national infrastructure for 5G, wireless providers must deploy infrastructure at significantly more locations using these new, small cell facilities; and

WHEREAS, on September 27, 2018, in the context of the forthcoming small cell deployment, the FCC found it necessary and appropriate to exercise its authority to interpret the 1996 Act and clarify the preemptive scope that Congress intended by issuing its Declaratory Ruling and Third Report and Order (“FCC Order”); and

WHEREAS, the FCC asserts that its Order is part of a national strategy to promote the timely buildout of this new infrastructure across the country by eliminating regulatory impediments that unnecessarily add delays and costs to bringing advanced wireless services to the public; and

WHEREAS, the FCC Order still recognizes that certain reasonable aesthetic considerations do not run afoul of Sections 253 and 332; and

WHEREAS, the regulations contained herein are intended to, among other things, (1) ensure that the design, appearance, and other features of wireless facilities are compatible with nearby land uses; (2) manage the public right-of-way so as to ensure traffic safety and coordinate various uses; and (3) protect the integrity of the City’s historic, cultural, and scenic resources and the quality of life of Orting’s citizens; and

WHEREAS, the FCC Order states that “aesthetics requirements are not preempted if they are (1) reasonable, (2) no more burdensome than those applied to other types of infrastructure deployments, and (3) objective and published in advance; and

WHEREAS, the FCC Order states that “aesthetic requirements that are reasonable in that they are technically feasible and reasonably directed to avoiding or remedying the intangible public harm of unsightly or out-of-character deployments are also permissible;” and

WHEREAS, the FCC has given cities until April 14, 2019 to have adopted and published its aesthetic regulations; and

WHEREAS, the City Council finds that these regulations promote the small cell deployment in a manner that also balances the needs of the community while mitigating the potential negative impacts of that deployment; and

WHEREAS, the City Council acknowledges that the growing use of smart phones and other personal devices have created a substantial need for wireless data transmission; and

WHEREAS, the City Council is the steward of the public right-of-way which will probably host some of the forthcoming small cell facilities; and

WHEREAS, the City of Orting recently adopted new wireless communications services facilities franchise agreements and telecommunication master use permit requirements (City Ordinance 2018-1031); and

WHEREAS, as steward of the public right-of-way, the City Council must consider the various competing uses of the public right-of-way; and

WHEREAS, the City Council recognizes that not all utilities are similarly situated: some (like water and sewer) can only function below ground; some (like wireless antennas) can only function above ground; some (like wireline utilities) require the kind of continuity that can only be provided if they are located in the public right-of-way; and some (like wireless facilities), because they transit radio frequencies, are less reliant than wireline utilities on the continuity provided by the public right-of-way; and

WHEREAS, in light of the different needs of the various utilities, and in light of the limited available space in the right-of-way, the City Council intends to prioritize and preserve the right-of-way for those utilities that most need it; and

WHEREAS, the City Council deems it to be in the public interest to incorporate the FCC guidelines and provide for the streamlined review of applications and greater flexibility in siting wireless communications services facilities, including small cell facilities, within the City, and at the same time to further the protection of the public environment through the adoption of small cell design standards, concealment techniques and dispersion requirements; and

WHEREAS, over the next many years, the deployment of small cell facilities in the numbers contemplated by the FCC is likely to have a cumulative negative visual impact upon the City, which threatens to lower the quality of life of Orting citizens; and

WHEREAS, the City of Orting has adopted architectural design guidelines; all development in the Mixed-Use Town Center and Mixed-Use Town Center North zones and all commercial and public developments are subject to Architectural Design Review to ensure consistency with the adopted Orting theme of "Turn of the Century Western and Victorian," a style of building, architecture, and exterior lighting used in Orting and the area from Statehood in 1889 through World War I. This includes new construction or major renovation and alteration or other modifications to buildings, accessory structures, signs, street furniture, and other public property as described in Section 13.6.6 OMC. Under the architectural design guidelines, evaluation of a

project is based on quality of its design and its relationship to the natural setting of the valley and mountain settings; and

WHEREAS, the aesthetic regulations and dispersion requirements contained in this Ordinance are intended to mitigate some of that negative visual impact of wireless communications services facilities; and

WHEREAS, the dispersion requirement is intended to ensure that the negative visual impact is spread evenly throughout the City, and, in so doing, make it less noticeable than it would be if it was concentrated in certain small cell hot spots containing multiple wireless facilities in close proximity; and

WHEREAS, it is common for cities to adopt interim regulations when amending their codes to address new technology; and

WHEREAS, RCW 35A.63.220 and RCW. 36.70A.390 authorize the City to adopt interim regulations while new plans or regulations are considered and prepared; and

WHEREAS, the City Planning Commission reviewed the proposed interim regulations on April 1, 2019 and recommended adoption of the interim regulations to the City Council; and

WHEREAS, pursuant to RCW 36.70A.390, an interim ordinance may be adopted on an emergency basis without first holding a public hearing; and

WHEREAS, notwithstanding that authority, the City Council held a public hearing on April 10, 2019 for the interim ordinance (2019-1044), and adopted it; and

WHEREAS, the City has continued to refine its wireless regulations in response to public comment, including consultation with the wireless industry and new information since the interim ordinance was adopted; and

WHEREAS, the City Council does not find these regulations to be any more burdensome than those applied to other types of infrastructure deployments; and

WHEREAS, the Planning Commission held a duly noticed public hearing on September 9, 2019, and provided a final recommendation for wireless communications services facilities to the City Council at that meeting; and

WHEREAS, non-project SEPA review was conducted and a Determination of Nonsignificance (DNS) was issued for the development regulations on July 30, 2019; and

WHEREAS, the Growth Management Act requires proposed development regulations be sent to the WA State Department of Commerce Growth Management Services for review and comment 60 days prior to the final City Council adoption, unless expedited review is requested, and the City has complied with GMA noticing requirements; and

WHEREAS, the City Council held another public hearing for the proposed development regulations on September 25, 2019; and

WHEREAS, having considered, among other things, public testimony and the Planning Commission’s recommendations, the City Council finds that the proposed amendments herein are consistent with and would serve to further implement the planning goals of the adopted Comprehensive Plan and the Growth Management Act, bear a substantial relation to the public health, safety or welfare, and promote the best long term interests of the Orting community;

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

Section 1. New OMC Chapter 13-9, “Wireless Communications Services Facilities,” added.

Chapter 13-9 of the Orting Municipal Code, entitled “Wireless Communications Services Facilities,” is hereby adopted to read as set forth in **Attachment A** hereto, which is incorporated herein as if set forth in full.

Section 2. Repeal of Interim Ordinance. The interim ordinance 2019-1044 is hereby repealed upon adoption of this ordinance.

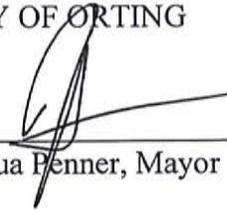
Section 3. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 4. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

Section 5. Adoption of Findings. The City Council hereby adopts as findings of fact in support of the adoption of this Ordinance, the “whereas” clauses above.

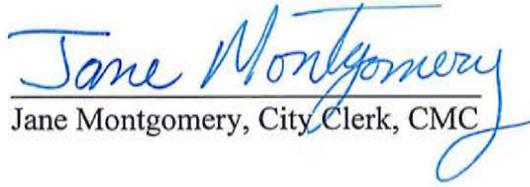
ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 25th DAY OF SEPTEMBER, 2019.

CITY OF ORTING

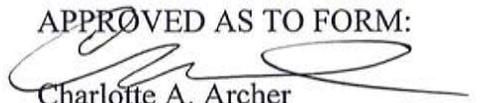


Joshua Penner, Mayor

ATTEST/AUTHENTICATED:


Jane Montgomery, City Clerk, CMC

APPROVED AS TO FORM:


Charlotte A. Archer
Inslee, Best, Doezie & Ryder, P.S.
City Attorney

Filed with the City Clerk: 9.12.19
Passed by the City Council: 9.25.19
Ordinance No. 2019-1049
Date of Publication: 9.27.19
Effective Date: 10.01.19

Ordinance 2019-1049- Attachment A
Title 13 - Development Regulations
Chapter 9 - Wireless Communications Services Facilities

Sections:

- 13-9-1 Purpose.
- 13-9-2 Applicability.
- 13-9-3 Exemptions.
- 13-9-4 Prohibitions.
- 13-9-5 General macro facility siting criteria and design considerations.
- 13-9-6 Permits and shot clocks.
- 13-9-7 Application requirements.
- 13-9-8 Eligible facilities requests.
- 13-9-9 New building-mounted macro wireless communications services facilities standards.
- 13-9-10 New structure-mounted macro wireless communications services facilities standards.
- 13-9-11 New monopole-mounted macro wireless communications services facilities standards.
- 13-9-12 Temporary facilities.
- 13-9-13 Small wireless communications services facilities standards (small cell).
- 13-9-14 Abandonment or discontinuation of use.
- 13-9-15 Maintenance.
- 13-9-16 Definitions.

13-9-1 Purpose.

A. The purpose of this chapter is to regulate the placement, construction, modification and appearance of wireless communications services facilities, in order to protect the health, safety and welfare of the public, while not unreasonably interfering with the deployment of competitive wireless communications services facilities throughout the City. The purpose of this chapter may be achieved through adherence to the following objectives:

1. Protect residential areas and land uses from potential adverse impacts that wireless communications services facilities might create, including but not limited to negative impacts on aesthetics, environmentally sensitive areas, historically significant locations, and health and safety of persons and property;
2. Establishment of clear and nondiscriminatory local regulations concerning wireless communications services facilities and services that are consistent with federal and state laws and regulations;
3. Encourage providers of wireless communications services facilities to locate facilities, to the extent feasible, in areas where the adverse impact on the public health,

safety and welfare is minimal;

4. For macro facilities, encourage the location of those facilities in nonresidential areas and allow macro facilities in residential areas only when necessary to meet functional requirements of the communications industry as defined by the Federal Communications Commission;

5. Minimize the total number of macro facilities in residential areas;

6. Encourage and, where legally permissible, require cooperation between competitors and, as a primary option, joint use of new and existing towers, tower sites and suitable structures to the greatest extent possible, where doing so would significantly reduce or eliminate additional negative impact on the City;

7. Ensure wireless communications services facilities are configured in a way that minimizes the adverse visual impact of the facilities, as viewed from different vantage points, through careful design, landscape screening, minimal impact siting options and camouflaging techniques, dispersion of unscreened features to lessen the visual impact upon any one location, and through assessment of current location options, siting, future available locations, and innovative siting techniques;

8. Enable wireless communication companies to enter into lease agreements with the City to use city property for the placement of wireless facilities, where consistent with other public needs, as a means to generate revenue for the City;

9. Balance the City's intent to minimize the adverse impacts of wireless communications services facilities with the ability of the providers of communications services to deploy such services to the community quickly, effectively and efficiently;

10. Provide for the prompt removal of wireless communications services facilities that are abandoned or no longer inspected for safety concerns and building code compliance, and provide a mechanism for the City to cause these abandoned wireless communications services facilities to be removed as necessary to protect the citizens from imminent harm and danger;

11. Avoid potential damage to people and adjacent properties from tower failure and falling equipment, through strict compliance with state building and electrical codes; and

12. Disperse the adverse impacts of small cell facilities as evenly as possible throughout the community, especially when joint use does not minimize additional visual impact.

B. In furtherance of these objectives, the City shall give due consideration to the zoning code, existing land uses, and environmentally sensitive areas when approving sites for the location of wireless communications services facilities.

C. These objectives were developed to protect the public health, safety and welfare, to protect property values, and to minimize and disperse visual impact, while furthering the development of enhanced communications services in the City. These objectives were designed to comply with the Telecommunications Act of 1996 and its implementing regulations. The provisions of this chapter are not intended to, and any ambiguities herein shall not be interpreted in such a manner that would materially inhibit the deployment of wireless communications services facilities. This chapter shall not be applied in such a manner as to unreasonably discriminate

between providers of functionally equivalent wireless facilities.

D. To the extent that any provision of this chapter conflicts with any other city ordinance, this chapter shall control. Otherwise, this chapter shall be construed consistently with the other provisions and regulations of the City.

E. In reviewing any application to place, construct or modify wireless communications services facilities, the City shall act within federally required time periods. Any decision to deny an application shall be in writing, supported by substantial evidence contained in a written record. The City shall approve, approve with conditions, or deny the application in accordance with this title, this chapter, the adopted Orting comprehensive plan, and other applicable ordinances and regulations.

F. Alternative Methods of Compliance. The City Administrator or designee in consultation with other City staff, as applicable, may accept alternative methods of complying with the development regulations of this chapter, provided it can be demonstrated that the alternative method is at least equivalent to such standards in terms of implementing the general purpose of this chapter. The City Administrator or designee shall not accept alternative methods of compliance that are inconsistent with the City Comprehensive Plan or with conditions of approval imposed through a land use action. Decisions on Alternative Methods of Compliance need to be documented in the project file and can be appealable in the same manner as an Administrative Interpretation. The City Administrator or designee shall periodically forward decisions on Alternative Methods of Compliance to the Planning Commission for its information.

13-9-2 Applicability.

A. Except as provided herein, all wireless communications services facilities shall comply with the provisions of this chapter. The standards and process requirements of this chapter supersede all other review process, setback, height or landscaping requirements of the Orting Municipal Code (OMC).

B. Environmental. All proposed installations are subject to a threshold determination under the State Environmental Policy Act (SEPA) according to Chapter 15-14 OMC unless categorically exempt pursuant to WAC 197-11-800. All proposals are subject to the critical area requirements and the shoreline master program (Title 11 OMC).

C. Master Permit Agreement Needed.

1. Consistent with RCW chapter 35.99 and Chapter 8-8 OMC, any person, corporation or entity that proposes to locate any portion of a wireless communications services facilities within the City right-of-way must have a valid fully executed master permit with the City before submitting applications for right-of-way construction permits.

2. Wireless providers interested in obtaining a master permit must apply according to the procedures of Chapter 8-8 OMC as well as supplying the following, in order to have a complete application:

a. submit three valid fully executed master permits that the provider has with other cities in Washington state, PROVIDED THAT, this requirement shall be excused to the extent that the provider does not have sufficient valid master permits in other jurisdictions to meet that requirement;

D. Right-of-Way Construction Permit. A right-of-way construction permit is required prior to performing any work within the City right-of-way pursuant to OMC Title 8.

13-9-3 Exemptions.

The following are exemptions from the provisions of this chapter:

- A. Routine maintenance or repair of wireless communication facilities.
- B. Radar systems for military and civilian communication and navigation.
- C. Handheld, mobile, marine and portable radio transmitters and/or receivers.
- D. Satellite antennas, including direct to home satellite services.
- E. Licensed amateur (ham) radio stations and citizen band stations.
- F. Earth station antenna(s) one meter or less in diameter and located in any zone.
- G. Earth station antenna(s) two meters or less in diameter and located in the business and commercial zones.
- H. A temporary wireless communications facility or COW installed for providing coverage of a special event such as news coverage or sporting event, subject to approval by the City. The wireless facility shall be exempt from the provisions of this chapter for up to two weeks before and after the duration of the special event.
- I. A temporary wireless communication facility or COW installed for a period of up to 180 days, subject to renewals at the City's discretion, to provide service during repair, replacement, or relocation of an existing facility or construction of a new facility.
- J. Subject to compliance with all other applicable standards of this chapter, in the event of an emergency, the emergency provisions of Chapter 8-8 OMC shall be followed.

13-9-4 Prohibitions.

- A. The following wireless communications services facilities are prohibited in Orting:
 - 1. Guyed towers.
 - 2. Lattice towers.
- B. Monopoles are prohibited in the following locations:
 - 1. All residential zones;
 - 2. MUTC Mixed Use-Town Center Zone;
 - 3. ~~MUTCN Mixed Use-Town Center North Zone;~~
 - 4. OS Open Space and Recreation Zone;
 - 5. ~~PF Public Facilities Zone;~~ and
 - 6. Within the City rights-of-way.

13-9-5 General macro facility siting criteria and design considerations.

- A. The City of Orting encourages wireless communication providers to use existing sites or

more frequent, less noticeable sites instead of attempting to provide coverage through use of taller towers. To that end, applicants shall consider the following priority of preferred locations for wireless communications services facilities:

1. Co-location, without an increase in the height of the building, pole or structure upon which the facility would be located;
 2. Co-location, where additional height is necessary above existing building, pole, or structure;
 3. A replacement pole or structure for an existing one;
 4. A new pole or structure altogether.
- B. Co-location shall be encouraged for all wireless communications services facilities applications and is implemented through less complex permit procedures.
1. To the greatest extent technically feasible, applicants for new monopole facilities shall be required to build mounts capable of accommodating at least one other carrier.
 2. New macro wireless communications services facilities that are not co-located will require a conditional use permit (C) under the provisions of OMC 13-6-2 and shall be processed in accordance with OMC Title 15 for a Type III permit. Separation requirements will be a condition of approval.
- C. Noise. Any facility that requires a generator or other device which will create noise audible beyond the boundaries of the site must demonstrate compliance with Chapter 5-8 OMC, Noise Control. A noise report, prepared by an acoustical engineer, shall be submitted with any application to construct and operate a wireless communications services facility that will have a generator or similar device. The City may require that the report be reviewed by a third-party expert at the expense of the applicant.
- D. Business License Requirement. Any person, corporation or entity that operates a wireless communications services facility within the City shall have a valid business license issued annually by the City. Any person, corporation or other business entity which owns a monopole also is required to obtain a business license on an annual basis.
- E. Signage. Only safety signs or those mandated by a government entity with jurisdiction may be located on wireless communications services facilities. No other types of signs are permitted on wireless communications services facilities.
- F. Any application must demonstrate that there is sufficient space for temporary parking for regular maintenance of the proposed facility.
- G. Finish. A monopole may be constructed of laminated wood, fiberglass, steel, or similar material. The pole shall be a neutral color so as to reduce its visual obtrusiveness, subject to any applicable standards of the FAA or FCC.
- H. Design. The design of all buildings and ancillary structures shall use materials, colors, textures, screening and landscaping that will blend the facilities with the natural setting and built environment. All macro towers must be approved by the Architectural Design Board.
- I. Color. All antennas and ancillary facilities located on buildings or structures other than

monopoles shall be of a neutral color that is identical to or closely compatible with the color of the supporting structure so as to make the antenna and ancillary facilities as visually unobtrusive as possible.

J. Lighting. Monopoles shall not be artificially lighted unless required by the FAA, FCC or other government entity with jurisdiction. If lighting is required and alternative lighting options are permitted, the City shall review the lighting alternatives and approve the design that would cause the least disturbance to the surrounding area. No strobe lighting of any type is permitted on any monopole, unless required by the FAA.

K. Advertising. No advertising is permitted at wireless communications services facilities sites or on any ancillary structure or facilities equipment enclosure.

L. Equipment Enclosure. Each applicant shall use the smallest equipment enclosure practical to contain the required equipment and a reserve for required co-location.

M. Radio Frequency Emissions Compliance. The applicant shall demonstrate that the project will not result in levels of radio frequency emissions that exceed FCC standards, including FCC Office of Engineering Technology (OET) Bulletin 65, Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields, as amended.

N. Landscaping and Screening.

1. The visual impacts of wireless communications services facilities should be mitigated and softened through landscaping or other screening materials at the base of a monopole, facility equipment compound, equipment enclosures and ancillary structures. If the antenna is mounted flush on an existing building or camouflaged as part of the building and other equipment is housed inside an existing structure, no landscaping is required. The City may reduce or waive the standards for those sides of the wireless communications services facilities that are not in public view, when a combination of existing vegetation, topography, walls, decorative fences or other features achieve the same degree of screening as the required landscaping; in locations where the visual impact of the facility would be minimal; and in those locations where large wooded lots not capable of subdivision and natural growth around the property perimeter provide a sufficient buffer.

2. Landscaping shall be installed on the outside of fences. Existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for or as a supplement to landscaping or screening requirements. The following requirements apply:

a. A solid screen of evergreen trees or shrubs shall be placed around the perimeter of the equipment cabinet enclosure, except that a maximum 10-foot portion of the fence may remain without landscaping in order to provide access to the enclosure.

b. Landscaping area shall be a minimum of five feet in width around the perimeter of the enclosure.

c. Vegetation selected should be native and drought tolerant.

d. Landscaping shall be located so as not to create sight distance hazards or conflicts with other surrounding utilities.

3. When landscaping is used, the applicant shall submit a performance assurance

pursuant to OMC 13-5-2 (H).

4. The use of chain link, plastic, or wire fencing is prohibited. Ornamental metal, stone, wood, or vinyl fencing materials are preferred.

13-9-6 Permits and Shot Clocks.

A. No person may place, construct, reconstruct, modify or operate a wireless communications services facility, subject to this chapter, without first having in place a master permit agreement for right-of-way locations with a subsequent right-of-way permit and/or a building permit, as applicable, issued in accordance with this chapter. Except as otherwise provided herein, the requirements of this chapter are in addition to the applicable requirements of this title and OMC Title 8 (Public Ways and Property) and Title 11 (Critical Areas and Shoreline Management).

B. Applications will be reviewed based on the type of wireless communications services facilities requested to be permitted. Each wireless communications services facility requires the appropriate type of project permit review, as shown in Table A. In the event of uncertainty on the type of a wireless facility, the City Administrator or designee shall have the authority to determine what permits are required for the proposed facility.

Table A				
Request	Location	Building Permit Required	Right-of-Way (ROW) Permit Required	FCC Shot Clocks for Permit Review
Eligible facilities request	Existing tower or base station	Yes, if any elements on private property	Yes, if any elements in the ROW	60 days
New macro facility	Co-location	Yes, if any elements on private property	Yes, if any elements in the ROW	90 days
New macro facility	New structure or monopole (see 13-9-4 prohibited locations & 13-9-5 (B)(2) above for C Permit)	Yes, if any elements on private property	Yes, if any elements in the ROW	150 days
Small wireless facility (small cell node)	Co-location	Yes, if any elements on private property	Yes, if any elements in the ROW	60 days
Small wireless facility (small cell node)	New structure or freestanding small cell pole	Yes, if any elements on private property	Yes, if any elements in the ROW	90 days
Temporary facility	Varies	Yes, if applicable	Yes, if any elements in the ROW	Standard permit quotes

C. Timelines.

1. Macro cell.

The application review period begins when all required application materials have been received and fees paid. If the City determines that the application is incomplete and provides notice to the applicant within thirty (30) calendar days of the date of application, the clock stops. The clock restarts when the City receives the applicant's supplemental submission in response to the City's notice of incompleteness. For subsequent determinations of incompleteness, the clock tolls (pauses) if the City provides written notice within ten (10) days that a supplemental submission did not provide the requested information. For new structures or monopoles, see OMC 13-9-5 (B)(2) above for C Permit requirement.

2. Small wireless facility (small cell node).

The application review period begins when all required application materials have been received and fees paid. If the City determines that the application is incomplete and provides notice to the applicant within ten (10) calendar days of the date of application, the clock stops. The clock resets to zero (0) when the City receives the applicant's supplemental submission in response to the City's notice of incompleteness. For subsequent determinations of incompleteness, the clock tolls (pauses) if the City provides written notice within ten (10) days that a supplemental submission did not provide the requested information.

D. Batched small wireless facility (small cell node) applications.

If an applicant is applying for a small wireless network in a contiguous service area, multiple identical small wireless facilities may be batched into one application. The City may approve, deny or conditionally approve all or any portion of the small wireless facilities proposed in the application. The denial of one or more small wireless facility locations within one submission shall not be the sole basis for a denial of other locations or the entire batched application for small wireless facilities. Should an applicant file a single application for a batch that includes both collocated and new structures for small wireless facilities, the longer 90-day shot clock shall apply to ensure the City has adequate time to review the new construction sites.

E. Any application submitted pursuant to this chapter for projects located on public or private property shall be reviewed and evaluated by the City as described in this chapter. The Public Works Director or his/her designee shall review all proposed wireless communications services facilities that are located partially or fully within the City rights-of-way. All applications will be reviewed and evaluated pursuant to the provisions of this chapter.

F. All applications for wireless communications services facilities shall be reviewed for compliance with the applicable design standards. Permits for all macro towers must be approved by the Architectural Design Board.

G. The applicant is responsible for obtaining all other permits and approvals from any other appropriate governing body or agency with jurisdiction (i.e., Washington State Department of Labor and Industries, Federal Aviation Administration, Puget Sound Energy, etc.).

H. No provision of this chapter shall be interpreted to allow the installation of a wireless communications services facilities which minimizes parking, landscaping, or other site development standards established by the OMC.

I. Wireless communications services facilities that are governed under this chapter shall not

be eligible for variances under OMC Chapter 13-6-3. Any request to deviate from this chapter shall be based solely on the exceptions set forth in this chapter, including Alternative Methods of Compliance under OMC 13-9-1 (F).

J. **Third-party Review.** Applicants may use various methodologies and analyses, including geographically based computer software, to determine the specific technical parameters of the services to be provided utilizing the proposed wireless communications services facilities, such as expected coverage area, antenna configuration, capacity, and topographic constraints that affect signal paths. In certain instances, a third-party expert may be needed to review the engineering and technical data submitted by an applicant for a permit. The City may at its discretion require third-party engineering and technical review as part of a permitting process. The costs of the technical third-party review shall be borne by the applicant.

1. The selection of the third-party expert is at the discretion of the City. The third-party expert review is intended to address interference and public safety issues and be a site-specific review of engineering and technical aspects of the proposed wireless communications services facilities and/or a review of the applicants' methodology and equipment used, and is not intended to be a subjective review of the site which was selected by an applicant. Based on the results of the expert review, the City may require changes to the proposal. The third-party review shall address the following:

- a. The accuracy and completeness of submissions;
- b. The applicability of analysis techniques and methodologies;
- c. The validity of conclusions reached;
- d. The viability of other site or sites in the City for the use intended by the applicant; and
- e. Any specific engineering or technical issues designated by the City.

K. Notwithstanding other remedies that may be available under federal law, failure of the City to issue permits within or otherwise comply with the FCC shot clock requirements does not provide a "deemed" grant of approval for macro or small wireless facilities, as it does for an Eligible Facilities Request. No work may occur until the permit issues.

13-9-7 Application requirements.

The following information must be submitted as part of a complete application for a wireless communications services facility permit in the City of Orting:

- A. Project description including a design narrative and co-location analysis indicating the alternative locations considered;
- B. Site information on scaled plans, including:
 1. Site plan;
 2. Elevation drawings;
 3. Utility plan showing existing utilities, proposed facility location, and undergrounding;

4. Screening, camouflaging, or landscaping plan and cost estimate, as appropriate;
- C. Photos and photo simulations showing the existing appearance of the site and appearance of the proposed installation from nearby public viewpoints;
- D. Noise report, if applicable;
- E. Radio Frequency (RF) emissions standards. The applicant shall provide the certification of an RF engineer with knowledge of the proposed development that the wireless communications services facilities will comply with RF standards adopted by the Federal Communications Commission (FCC). The City recognizes that the Federal Telecommunications Act of 1996 gives the FCC sole jurisdiction in the field of regulation of RF emissions and wireless facilities that meet FCC standards shall not be conditioned or denied on the basis of RF impacts.
- F. Application for Architectural Design Review.
- G. Any other documentation deemed necessary by the City in order to issue a decision.

13-9-8 Eligible facilities requests.

This section implements section 6409 of the Spectrum Act (codified at 47 U.S.C. 1455), which requires the City of Orting to approve any eligible facilities request for a modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station.

A. Definitions. The following definitions only apply to eligible facilities requests as described in this section and do not apply throughout this chapter.

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

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

b. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and back-up power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems (“DAS”) and small cell networks).

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

The term does not include any structure that, at the time the relevant application is filed with the City under this section, does not support or house equipment described in subsections (A)(1)(a) and (b) of this section.

2. Collocation. The mounting or installation of transmission equipment on an eligible

support structure for the purpose of transmitting and/or receiving radio frequency signals for communication purposes.

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

- a. Collocation of new transmission equipment;
- b. Removal of transmission equipment; or
- c. Replacement of transmission equipment.

4. Eligible Support Structure. Any tower or base station as defined in this section; provided, that it is existing at the time the relevant application is filed with the City.

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

6. Site. For towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.

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

a. For towers other than towers in the public rights-of-way, it increases the height of the tower by more than ten (10) percent or by the height of one (1) 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 ten (10) percent or more than ten (10) feet, whichever is greater.

1) 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 the passage of the Spectrum Act;

b. For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than ten (10) feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet;

- c. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public streets and base stations, it involves installation of any new equipment cabinets on the ground if there are no preexisting ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten (10) percent larger in height or overall volume than any other ground cabinets associated with the structure;
- d. It entails any excavation or deployment outside the current site;
- e. It would defeat the concealment elements of the eligible support structure; or
- f. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment; provided, however, that this limitation does not apply to any modification that is noncompliant only in a manner that would not exceed the thresholds identified above.

B. Qualification as an Eligible Facilities Request. Upon receipt of an application for an eligible facilities request, the City will review the application to determine whether it qualifies as an eligible facilities request.

C. Time Frame for Review. Within sixty (60) days of the date on which a network provider submits an eligible facilities request application, the City must approve the application unless it determines that the application is not covered by this section.

D. Tolling of the Time Frame for Review. The sixty (60) day review period begins to run when the application is submitted, and may be tolled only by mutual agreement by the City and the applicant or in cases where the City determines that the application is incomplete. The time frame for review of an eligible facilities request is not tolled by a moratorium on the review of applications.

1. To toll the time frame for incompleteness, the City must provide written notice to the applicant within thirty (30) days of receipt of the application, clearly and specifically delineating all missing documents or information required in the application.

2. The time frame for review begins running again when the applicant makes a supplemental submission in response to the City's notice of incompleteness.

3. Following a supplemental submission, the City will notify the applicant within ten (10) days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The time frame is tolled in the case of second or subsequent notices pursuant to the procedures identified in this subsection. Second or subsequent notice of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.

E. Determination That Application Is Not an Eligible Facilities Request. If the City determines that the applicant's request does not qualify as an eligible facilities request, the City must deny the application.

F. Failure to Act. In the event the City fails to approve or deny a request for an eligible facilities request within the time frame for review (accounting for any tolling), the request is

deemed granted. The deemed grant does not become effective until the applicant notifies the City in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.

G. To the extent feasible, additional antennas and equipment shall maintain the appearance intended by the original facility, including, but not limited to, color, screening, landscaping, camouflage, concealment techniques, mounting configuration, or architectural treatment.

13-9-9 New building-mounted macro wireless communications services facilities standards.

A. Generally. Wireless communications services facilities located on the roof or on the side of the building shall be grouped together, integrated to the maximum possible degree with the building design, placed toward the center of the roof and/or thoroughly screened from residential building views and from public views using radio frequency-transparent panels. Building-mounted wireless communications services facilities shall be painted with nonreflective colors to match the existing surface where the antennas are mounted.

B. Height. The following requirements shall apply:

1. Mixed-Use Town Center and Mixed-Use Town Center North zones. For buildings at, or which exceed, the height limit of the underlying zone, antennas shall be flush-mounted, and no portion of the antenna may extend above the building on which it is mounted. For buildings below the height limit, antennas may be built to the maximum height of the zone provided they are screened consistent with the existing building in terms of color, architectural style and material. Flush-mounted antennas may encroach into a required setback or into the City right-of-way if a right-of-way use agreement is established with the City. Antennas shall not project into the right-of-way by more than two feet and shall provide a minimum clearance height of 20 feet over any pedestrian or vehicular right-of-way.

2. Outside the Mixed-Use Town Center and Mixed-Use Town Center North zones. The maximum height of building-mounted facilities and equipment shall not exceed ten (10) feet above the top of the roof on which the facility is located. This standard applies to all buildings regardless of whether they are at or above the maximum height of the underlying zone. Such antennas must be well integrated with the existing structure or designed to look like common rooftop structures such as chimneys, vents and stovepipes.

C. Equipment Enclosure. Equipment enclosures for building-mounted wireless communications services facilities shall first be located within the building on which the facility is located. If an equipment enclosure within the building is reasonably unavailable, then an equipment enclosure may be incorporated into the roof design provided the enclosure meets the height requirement for the zone. If the equipment can be screened by placing the equipment below existing parapet walls, no additional screening is required. If screening is required, then the screening must be consistent with the existing building in terms of color, architectural style and material. Finally, if there is no other choice but to locate the equipment enclosure on the ground, the equipment must be enclosed within an accessory structure which meets the setbacks of the underlying zone and be screened in accordance this chapter.

D. Feed Lines and Coaxial Cables. Feed lines and cables should be located below the parapet of the rooftop, if present. If the feed lines and cables are visible from a public right-of-way or

adjacent property, they must be painted to match the color scheme of the building.



Acceptable Building-Mounted Macro Example



Unacceptable Building-Mounted Macro Example

13-9-10 New structure-mounted macro wireless communications services facilities standards.

A. Generally. Wireless communications services facilities located on structures other than buildings, such as utility poles, light poles, flag poles, transformers, and/or tanks, shall be designed to blend with these structures and be mounted on them in an inconspicuous manner. Installation of wireless communications services facilities on utility poles, light poles, transformers, etc. shall comply with the requirements of Puget Sound Energy, as applicable.

1. Wireless communications services facilities located on structures within city rights-of-way adjacent to any residential zone shall satisfy the following requirement:

a. No metal pole or tower shall be used within the right-of-way adjacent to a residentially zoned neighborhood unless required in order to comply with the provisions of the State Electrical Code. Wooden poles of height and type generally in use in the surrounding residential neighborhood shall be used unless prohibited by the State Electrical Code.

2. Wireless communications services facilities located on structures shall be painted with nonreflective colors in a scheme that blends with the underlying structure.

B. Height.

1. The maximum height of structure-mounted wireless communications services facilities shall not exceed the maximum height specified for each structure or zoning district; provided the wireless communications services facilities may extend up to six feet above the top of the structure on which the wireless communications services facilities is installed. Antennas and related equipment shall be mounted as close as practicable to the structure.

2. Only one extension is permitted per structure.

3. If installed on an electrical transmission or distribution pole, a maximum 15-foot vertical separation is required from the height of the existing power lines at the site (prior to any pole replacement) to the bottom of the antenna. This vertical separation is intended to allow wireless carriers to comply with the electrical utility's requirements for separation between their transmission lines and the carrier's antennas.

C. Equipment Enclosure. If the equipment enclosure is within the right-of-way, the enclosure shall be underground. It is preferred that equipment enclosures on private property be underground; however, if there is no other feasible option but to locate the equipment enclosure above ground on private property, the equipment must be enclosed within an accessory structure which meets the setbacks of the underlying zone and be screened in accordance this chapter.

D. Feed Lines and Coaxial Cable. Feed lines and cables must be painted to closely match the color scheme of the structure which supports the antennas.

E. Only wireless communication providers with a valid master permit shall be eligible to apply for a right-of-way construction permit, which shall be required prior to installation of facilities within the City right-of-way and be in addition to other permits specified in this chapter.



Acceptable Structure-Mounted Macro Example



Unacceptable Structure-Mounted Macro Example

13-9-11 New monopole (macro wireless communications services facilities) standards.

A. To the greatest extent technically feasible, applicants for new monopole facilities must build mounts capable of accommodating at least one additional carrier.

B. No part of a monopole, antennas or antenna equipment may exceed the maximum height of the zone where the facility is located.

C. Monopoles must be completely shrouded. All antennas, equipment and cables must be concealed.

D. All monopole facilities must conform to the following site development standards:

1. To the greatest extent possible, monopole facilities shall be located where existing trees, existing structures and other existing site features camouflage these facilities and/or stealth technology is utilized. Stealth technology will be reviewed by the Architectural Design Board for compliance with Architectural Design Review (ADR) Guidelines.

2. Existing mature vegetation should be retained to the greatest possible degree in order to help conceal the facility.

3. It is preferred that equipment enclosures on private property be underground; however, if there is no other feasible option but to locate the equipment enclosure above ground on private property, the equipment must be enclosed within an accessory structure which meets the setbacks of the underlying zone and be screened in accordance with this chapter. See OMC 13-9-4 for monopole prohibited locations.



Acceptable Monopole Macro Examples



Unacceptable Monopole Macro Example

13-9-12 Temporary facilities.

- A. The installation of a “cell-on-wheels” or COWs and the installation site shall comply with all applicable laws, statutes, requirements, rules, regulations, and codes, including, but not limited to, the adopted Building, Fire, and Electrical Codes.
- B. All COWs and related appurtenances sited for emergencies, shall be completely removed from the installation site within 30 days of the date of the end of the emergency as determined by the City Administrator or designee.

13-9-13 Small wireless communications services facilities standards (small cell).

Unlike macro facilities which are intended to provide wireless coverage over large areas, the goal of a small wireless deployment is to provide additional capacity in localized areas, including residential neighborhoods, using smaller antennas and equipment. The intent of this section is to describe the City’s location options for small cell deployments and provide appropriate design standards to ensure that the negative visual impacts of wireless facilities are minimized, and the City’s long-term goal of utility undergrounding is not frustrated.

- A. Permitted locations.
 - 1. Small cell attachments to buildings are permitted in any zone and are not subject to the dispersion requirement below.
 - 2. Dispersion Requirement: No two small wireless facilities shall be located within 300 lineal feet of each other as measured along the right-of-way line.
 - 3. Installations in the Mixed-Use Town Center and Mixed-Use Town Center North zones shall be limited to building attachments or through the replacement or new installation of a street light designed to contain a small wireless facility that complies with the adopted architectural design review guidelines.

B. Location options.

Wireless providers shall attempt to site their small wireless communications services facilities pursuant to the following siting preferences (in descending order starting with the most preferred):

- 1. Outside the Right-of-Way / Private Property:
 - a. Roof-mounted on an existing building.
 - 1) Small cell facilities may be built to the maximum height of the

underlying zone provided they are screened consistent with the existing building in terms of color, architectural style and materials.

2) Such facilities must be concealed and well-integrated with the existing structure or designed and located to look like common rooftop elements such as chimneys, elevator penthouses or screened HVAC equipment.

3) Height exception. Antennas may be located on buildings that are nonconforming for height provided that, they are constructed to be no taller than the adjacent façade or an existing parapet. Equipment may be located on a roof behind a parapet that is nonconforming for height.

b. Façade-mounted on an existing building.

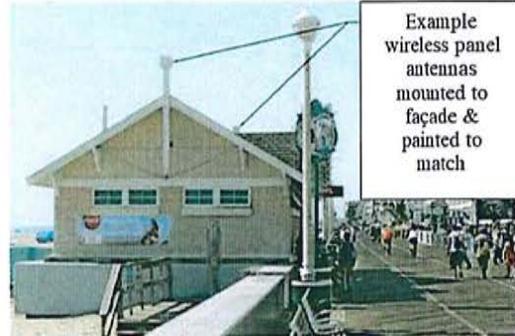
1) Small cell antennas may be mounted to the side of a building if they do not interrupt and are integrated with the building's architectural theme.

2) To the extent technically feasible, new architectural features such as columns, pilasters, corbels, or similar ornamentation that conceals the antennas should be used if it complements the architecture of the existing building.

3) If concealment is not feasible, the antennas must be camouflaged. The smallest feasible mounting brackets must be used, and the antennas must be painted and textured to match the adjacent building surfaces, to the extent technically feasible.

4) Façade-mounted antennas may encroach into a required setback. Antennas may not project into the right-of-way more than twelve (12) inches and shall provide a minimum clearance height of 20 feet over any pedestrian or vehicular right-of-way.

5) To the extent technically feasible, all other equipment must be located within the building,



screened by an existing parapet, or completely concealed and well-integrated with the existing structure or designed and located to look like common rooftop elements such as chimneys, elevator penthouses or screened HVAC equipment. Exposed cabling/wiring is prohibited.

6) Height exception. Antennas may be located on buildings that are nonconforming for height provided that, they are constructed to be no taller than the adjacent façade or an existing parapet. Equipment may be located on a roof behind a parapet that is nonconforming for height.

c. Freestanding small cell on private property

1) Dimensional requirements

- a) A freestanding small cell may not exceed 50 feet in height measured from the top of the foundation to the top of the cantenna/antenna.
- b) The cantenna/antenna must have a maximum outer diameter of 16 inches, to the extent technically feasible, and be tapered to transition from the upper pole.

2) Appearance requirements

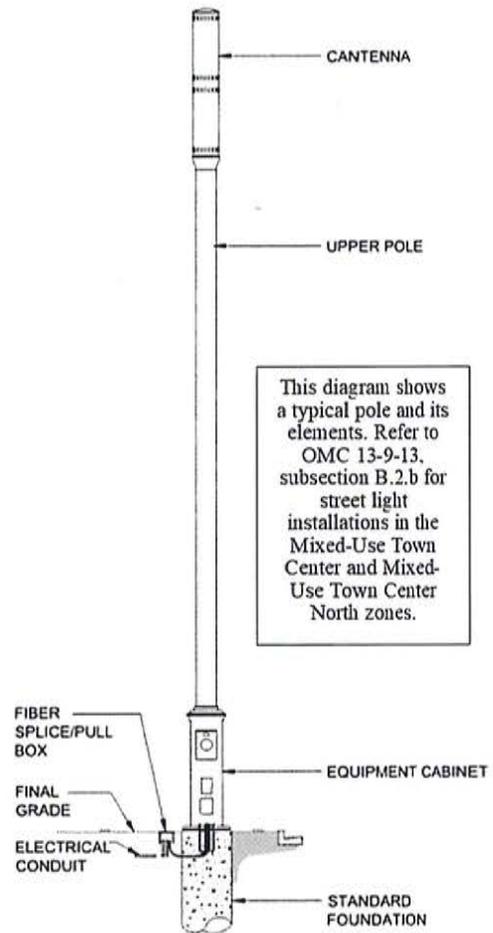
a) All small cell carrier equipment must be housed internal to the equipment cabinet or hidden within the cantenna/antenna. The cantenna/antenna, upper pole and equipment cabinet must be the same color, unless otherwise approved by the City.

b) All hardware connections shall be hidden from view.

c) To the extent technically feasible, no equipment may be attached to the outside of the pole.

d) The freestanding small cell pole must be served by underground power and fiber, if fiber is to be connected.

e) May provide space for future collocation by another provider inside the same freestanding small cell pole facilities.



3) Placement requirements. Freestanding small cells shall be located as follows, to the extent technically feasible:

a) Located such that they in no way impede, obstruct, or hinder the usual pedestrian or vehicular travel, or violate applicable law.

b) Outside the Residential Zones, Mixed-Use Town Center, and Mixed-Use Town Center North zones.

c) Not to be located along the frontage of a Historic building, deemed historic on a federal, state, or local level.

d) Not to significantly create a new obstruction to property sight lines.

e) In alignment with existing trees, utility poles, and streetlights.

f) With appropriate safety clearance from existing utilities.

g) On the same side of the street as existing power lines, regardless of whether power is underground or overhead;

h) No two freestanding small cell poles may be located within 300 lineal

feet of each other as measured along the right-of-way line.

2. Within the right-of-way - existing/replaced hollow street light pole or utility pole:

a. Installation of small wireless communications services facilities on street lights and utility poles shall comply with the requirements of Puget Sound Energy, as applicable.

b. Combination small cell and streetlight pole should be located where an existing streetlight pole can be utilized or removed and replaced with a pole that allows for small wireless facility installation in the same location.

c. Pole design shall match or be compatible with the aesthetics of existing streetlights installed adjacent to the pole. In the Mixed-Use Town Center and Mixed-Use Town Center North zones, poles designed to contain a small wireless facility shall comply with the adopted architectural design review guidelines.

d. A decorative transition shall be installed over the equipment cabinet upper bolts, or a decorative base cover shall be installed to match the equipment cabinet size.

e. An internal divider shall separate electrical wiring and fiber, per the pole owner.

f. Weatherproof grommets shall be integrated in the pole design to allow cable to exit the pole, for external shrouds, without water seeping into the pole.

g. For installations on existing street lights, the antenna shall either be fully concealed within the pole or placed on top of the pole. A cantenna/antenna on top of a pole shall be integrated into the pole design so that it appears as a continuation of the original pole, including colored or painted to match or be compatible with the pole. All cabling and mounting hardware/brackets from the bottom of the



antenna to the top of the pole shall be fully concealed and integrated with the pole, to the extent technically feasible.

h. Street light pole shall be located as follows, to the extent technically feasible:

1) In a manner that does not impede, obstruct, or hinder pedestrian or vehicular travel.

a) In alignment with existing trees, utility poles, and streetlights.

b) Within the street amenity zone wherever possible.

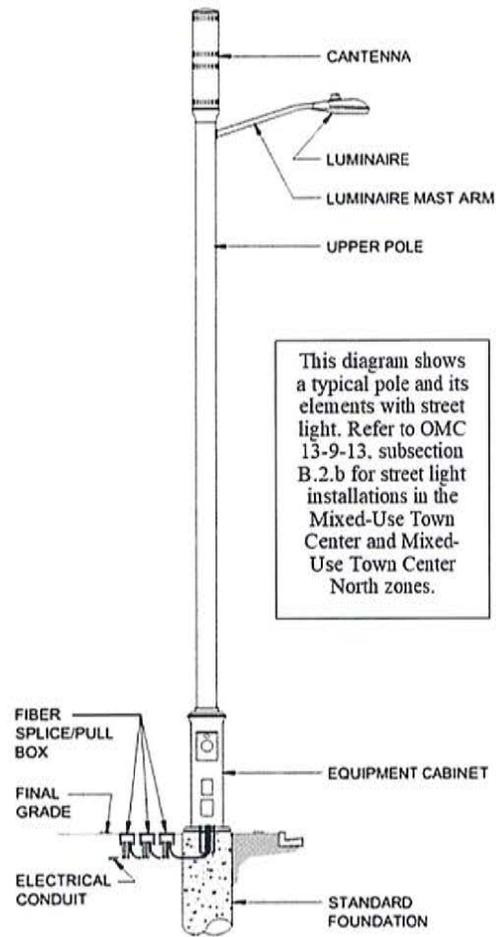
c) Equal distance between trees when possible, with a minimum of 15-foot separation such that no proposed disturbance shall occur within the critical root zone of any tree.

d) With appropriate clearance from existing utilities.

e) Outside the clear sight triangle, as determined by the City, at intersection corners.

f) 10-feet away from the intersection of an alley with a street.

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



3. Within the right-of-way - existing single-phase power pole (installation on top of pole):

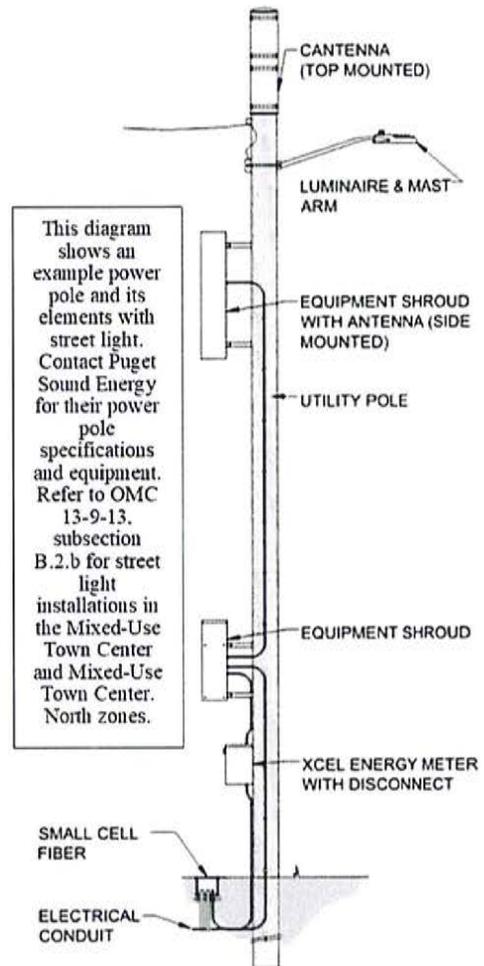
a. Installation of small wireless communications services facilities on existing single-phase power poles shall comply with the requirements of Puget Sound Energy.

b. A antenna/antenna on top of a pole shall be integrated into the pole design so that it appears as a continuation of the original pole, including colored or painted to match or be compatible with the pole. All cabling and mounting hardware/brackets from the bottom of the antenna to the top of the pole shall be fully concealed and integrated with the pole, to the extent technically feasible.

c. Equipment enclosures and all ancillary equipment and boxes shall be colored or painted to match the color of the surface of the pole in which they are attached. All related equipment shall not be mounted more than five (5) inches from the surface of the pole, unless a further distance is technically required, and is confirmed in writing by the pole owner.

d. All cables and wires shall be routed through conduit along the outside of the pole. The outside conduit shall be colored or painted to match or be compatible with the color of the surface of the pole. The number of conduit shall be minimized to the number technically necessary to accommodate a small wireless facility.

e. An existing power pole in a proposed location may be replaced with a taller pole for the purpose of accommodating a small wireless facility; provided, that the height of any replacement pole may not exceed fifty (50) feet to the top of the antenna(s), or the maximum height allowed by the definition of "small wireless facility", whichever is greater.



f. The replacement pole shall comply with the City's sidewalk clearance requirements and ADA requirements.

4. Within the right-of-way - freestanding small cell pole or new street light

a. Refer to OMC 13-9-13, subsections (B)(1)(c) for dimensional and appearance standards. Installation of small wireless communications services facilities on street lights shall comply with the requirements of Puget Sound Energy, as applicable.

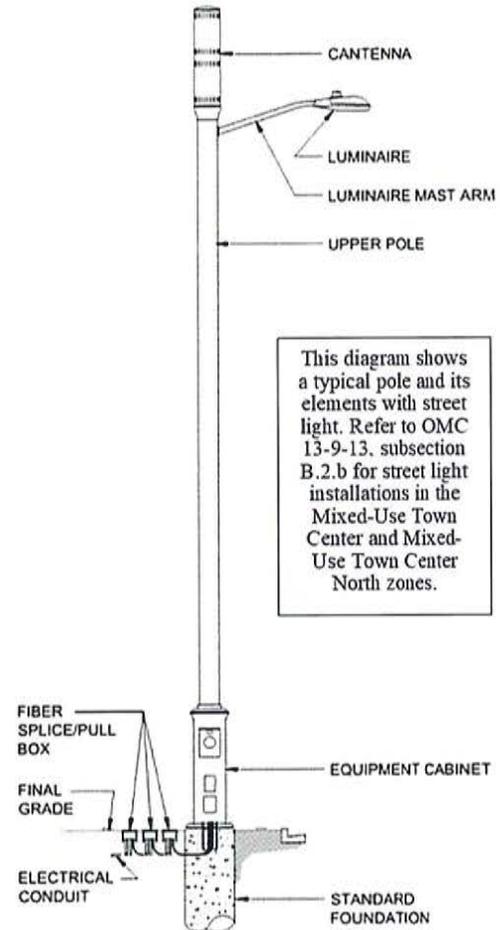
b. New street light. The replacement street light pole requirements are also applicable to the new street light option, except that a street light would be incorporated into the design of the facility. In addition, the following applies, to the extent technically feasible:

1) A street light shall not be installed unless it has been identified by the Public Works Director or designee that a street light is necessary at the location in which the small cell facility is proposed. A street light may be required to be installed instead of a freestanding pole.

2) In the Mixed-Use Town Center and Mixed-Use Town Center North zones, poles designed to contain a small wireless facility shall comply with the adopted architectural design review guidelines.

c. Placement requirements for freestanding small cell poles. Freestanding small cell poles shall be located in compliance with the following, to the extent technically feasible:

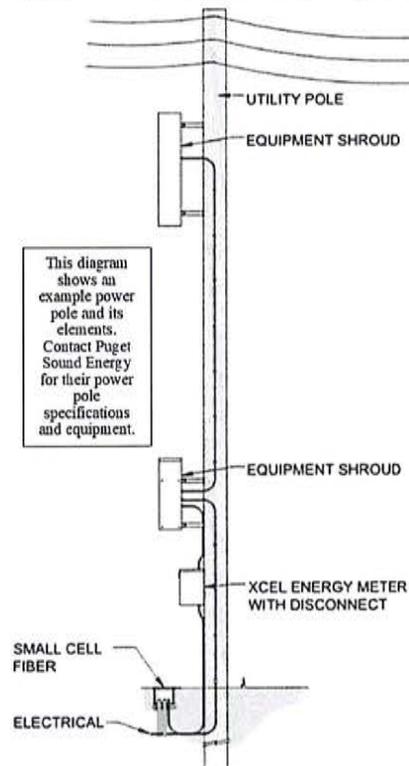
1) Located such that they in no way impede, obstruct, or hinder the usual pedestrian or vehicular travel, obstruct the legal access to or use of the public ROW, violate applicable law, violate or fail to substantially comply with public ROW design standards, specifications, or design district requirements, violate the Federal Americans with Disabilities Act of 1990, or in any way create a risk to public health, safety, or welfare.



- 2) Outside the Mixed-Use Town Center and Mixed-Use Town Center North zones.
- 3) Not to be located along the frontage of a Historic building, deemed historic on a federal, state, or local level.
- 4) Not to significantly create a new obstruction to property sight lines.
- 5) In alignment with existing trees, utility poles, and streetlights.
- 6) Within the street amenity zone wherever possible.
- 7) Equal distance between trees when possible, with a minimum of 15-foot separation such that no proposed disturbance shall occur within the critical root zone of any tree.
- 8) With appropriate clearance from existing utilities.
- 9) Outside the clear sight triangle, as determined by the City, at intersection corners.
- 10) 10-feet away from the intersection of an alley with a street.
- 11) On the same side of the street as existing power lines, regardless of whether power is underground or overhead;
- 12) No two freestanding small cell poles may be located within 300 lineal feet of each other as measured along the right-of-way line.

5. Within the right-of-way - existing power pole (installation below top of pole):

- a. Installation of small wireless communications services facilities on existing power poles shall comply with the requirements of Puget Sound Energy.
- b. Antennas should be placed in an effort to minimize visual clutter and obtrusiveness.
- c. The inside edge of a side mounted canister antenna/equipment shroud shall be no more than twelve (12) inches from the surface of the pole.
- d. Antennas and equipment located within a unified enclosure shall not exceed twenty eight (28) cubic feet. To the extent possible, the unified enclosure shall be placed so as to appear as an integrated part of the pole or behind banners or signs.
- e. The unified enclosure may not be placed more than six (6) inches from the surface of the pole, unless a further



distance is technically required and confirmed in writing by the pole owner.

f. Equipment enclosures and all ancillary equipment and boxes shall be colored or painted to match the color of the surface of the pole in which they are attached. All related equipment shall not be mounted more than six (6) inches from the surface of the pole, unless a further distance is technically required, and is confirmed in writing by the pole owner.

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

h. An existing power pole in a proposed location may be replaced with a taller pole for the purpose of accommodating a small wireless facility; provided, that the height of any replacement pole may not extend more than ten (10) feet above the height of the existing pole, or the maximum height allowed by the definition of "small wireless facility," whichever is greater, unless a further height increase is required and confirmed in writing by the pole owner and that such height increase is the minimum extension possible to provide sufficient separation and/or clearance from electrical and wireline facilities.

i. The replacement pole shall comply with the City's sidewalk clearance requirements and ADA requirements.

6. Within the right-of-way – strand-mounted

a. Installation of small wireless communications services facilities mounted on cables strung between existing utility poles shall comply with the requirements of Puget Sound Energy.

b. Each strand mounted antenna shall not exceed three (3) cubic feet in volume.

c. Only two strand mounted facilities are permitted between any two existing poles.

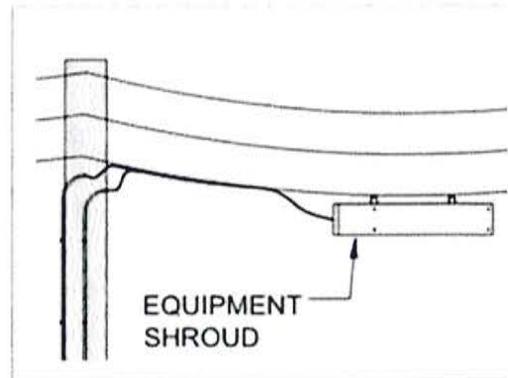
d. The strand mounted devices shall be placed as close as possible to the nearest utility pole, in no event more than five (5) feet from the pole unless a greater distance is technically necessary or required for safety clearance and confirmed in writing by the pole owner.

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

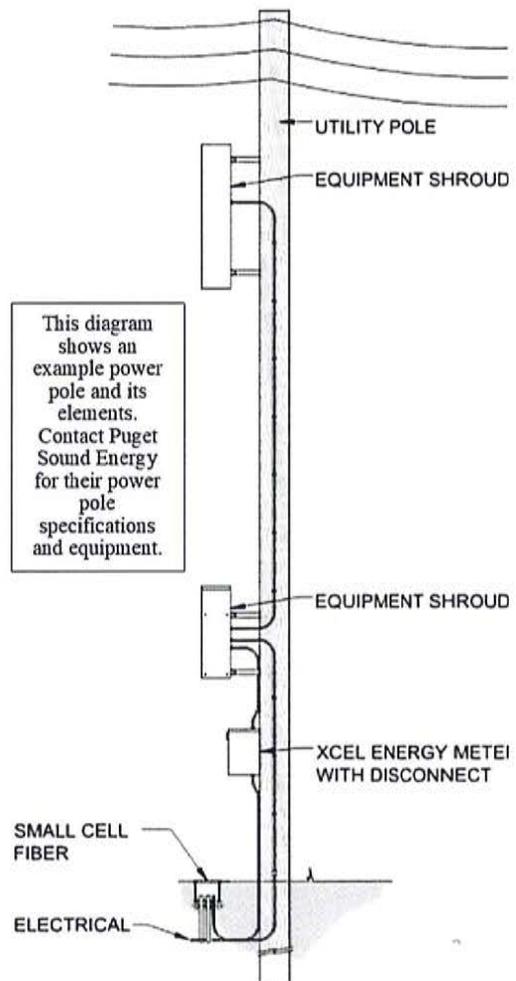
f. Ground mounted equipment to accommodate such strand mounted facilities is not permitted, except when placed in pre-existing equipment cabinets, underground or on zoned property or when required by another party, such as an electrical meter.

g. Pole mounted equipment enclosures and all ancillary equipment and boxes shall be colored or painted to match the color of the surface of the pole in which they are attached. All related equipment shall not be mounted more than six (6) inches from the surface of the pole, unless a further distance is technically required, and is confirmed in writing by the pole owner.

1) All cables and wires shall be routed through conduit along the outside of the pole. The outside conduit shall be colored or painted to match the color of the surface of the pole. The number of conduit shall be minimized to the number



This graphic is intended to represent an example strand mount antenna. Contact Puget Sound Energy for their specifications and equipment requirements / allowances.



technically necessary to
accommodate a small cell wireless
facility

h. Such strand mounted devices must be installed with the minimum excess exterior cabling or wires (other than the original strand) necessary to meet the technological needs of the facility.

C. Location preference criteria.

A proposed small wireless facility location shall only be allowed in a lower ranking location as provided in the location hierarchy in subsection B above, if the applicant can demonstrate that all higher-ranking locations are not technically feasible to locate the particular small wireless facility.

D. Small wireless facility general standards.

1. Ground mounted equipment in the rights-of-way is prohibited, unless such facilities are placed underground, or the applicant can demonstrate that pole mounted or undergrounded equipment is technically infeasible. If ground mounted equipment is necessary, then the applicant must submit a plan of how the equipment will be concealed that is consistent with these standards. Generators located in the rights-of-way are prohibited.

2. No equipment shall be operated to produce noise in violation of Chapter 5-8 OMC.

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

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

5. The design criteria as applicable to small wireless facilities described herein shall be considered concealment elements and such small cell facilities may only be expanded upon through an eligible facilities request described in Section 13-9-8 OMC, when the modification does not defeat the concealment elements of the facility.

6. No signage, message, or identification other than the manufacturer’s identification or identification required by governing law is allowed to be portrayed on any antenna, and any such signage on equipment enclosures shall be of the minimum amount possible to achieve the intended purpose; provided, that signs are permitted as concealment techniques where appropriate.

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

8. Side arm mounts for antennas or equipment are prohibited.

13-9-14 Abandonment or discontinuation of use.

- A. At such time that a licensed carrier plans to abandon or discontinue operation of a wireless communications services facility, such carrier will notify the City by certified U.S. Mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations.
- B. In the event that a licensed carrier fails to give such notice, the wireless communications services facilities shall be considered abandoned upon the discovery of such discontinuation of operations.
- C. Within 90 days from the date of abandonment or discontinuation of use, the carrier shall physically remove the wireless communications services facilities. "Physically remove" shall include, but not be limited to:
 - 1. Removal of antennas, mounts or racks, the equipment enclosure, screening, cabling and the like from the subject property.
 - 2. Transportation of the materials removed to a repository outside of the City.
 - 3. Restoration of the wireless communications services facilities site to its pre-permit condition, as determined by the City, and that any landscaping provided by the wireless communications services facilities operator may remain in place.
 - 4. If a carrier fails to remove a wireless communications services facility in accordance with this section, the City shall have the authority to enter the subject property and physically remove the facility. Costs for removal of the wireless communications services facility shall be charged to the wireless communications services facilities owner or operator in the event the City removes the facility.

13-9-15 Maintenance.

- A. The applicant shall maintain the wireless communications services facility to standards that may be imposed by the City by ordinance or through a permit condition. Such maintenance shall include, but not be limited to, repair of damaged shrouds or enclosures, painting, structural integrity, and landscaping.
- B. In the event the applicant fails to maintain the facility, the City of Orting may undertake enforcement action as allowed by existing codes and regulations.

13-9-16 Definitions.

- A. Antenna(s). Any apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Commission authorization, for the provision of personal wireless service and any commingled information services.
- B. "Cell-on-wheels (COW)" are used to provide temporary service, usually for special events, before the installation of a permanent wireless site, or in emergencies.
- C. "Co-location" means the mounting or installation of an antenna on an existing tower, building or structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes, whether or not there is an existing antenna on the structure.

D. Concealed facility. A wireless communications services facility where: (A) the antennas, mounting apparatus, and any associated equipment are fully recessed/concealed from all sides with a structure that achieves total integration with the existing building or structure; and (B) all cable is routed internally or completely screened from view; and (C) the associated equipment is completely within the building or structure, placed in an underground vault, or is within another element such as a bench, mail box or kiosk.

E. “Distributed antenna system (DAS)” is a network of spatially separated antenna sites connected to a common source that provides wireless service within a discrete geographic area or structure.

F. Equipment. Any equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with an antenna, located at the same fixed location as the antenna, and, when collocated on a structure, is mounted or installed at the same time as such antenna.

G. “Freestanding small cell pole” is a freestanding structure which consists of a single vertical pole, fixed into the ground and/or attached to a foundation built for the sole purpose of supporting small wireless antennas and associated equipment.

H. “Guyed tower” means a monopole or lattice tower that is tied to the ground or other surface by diagonal cables.

I. “Lattice tower” is a wireless communication support structure which consists of metal crossed strips or bars to support antennas and related equipment.

J. “Licensed carrier” is a company authorized by the Federal Communications Commission to build and operate a commercial mobile radio services system.

K. Macro cell facility (macro facility). A large wireless communications services facility that provides radio frequency coverage served by a high-power cellular system. Generally, macro cell antennas are mounted on ground-based towers, rooftops and other existing structures, at a height that provides a clear view over the surrounding buildings and terrain. Macro cell facilities typically contain antennas that are greater than three (3) cubic feet per antenna and typically cover large geographic areas with relatively high capacity and are capable of hosting multiple wireless service providers.

L. “Monopole” means a freestanding structure which consists of a single vertical pole, fixed into the ground and/or attached to a foundation with no guy wires built for the sole or primary purpose of supporting macro antennas and their associated equipment.

M. Poles. Utility poles, light poles or other types of poles, used primarily to support electrical wires, telephone wires, television cable, lighting, or guide posts; or are constructed for the sole purpose of supporting wireless communications services facilities.

N. “Satellite earth station antenna” includes any antenna in any zoning district that:

1. Is designed to receive direct broadcast satellite service, including direct-to-home satellite services, and that is one meter or less in diameter;
2. Is two meters or less in diameter in areas where commercial or industrial uses are generally permitted;
3. Is designed to receive programming services by means of multi-point distribution

services, instructional television fixed services, and local multi-point distribution services, that is one meter or less in diameter or diagonal measurement; and

4. Is designed to receive television broadcast signals.

O. Small wireless facility (or small cell node / small cell facility). A wireless facility that meets each of the following conditions:

1. The facilities:

a. Are mounted on structures 50 feet or less in height including their antennas, or

b. Are mounted on structures no more than 10 percent taller than other adjacent structures, or

c. Do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;

2. Each antenna associated with the deployment, excluding antenna equipment, is not more than three cubic feet in volume;

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;

4. The facilities do not require antenna structure registration under FCC rule;

5. The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified by FCC rule.

P. "Unlicensed wireless services" means the offering of communications services using duly authorized devices which do not require individual licenses but does not mean the provision of direct-to-home satellite services.

O. Wireless communications services facilities / wireless communications facility (WCF) means an unstaffed facility for the transmission and reception of radio or microwave signals used for commercial communications. A WCF provides services which include cellular phone, personal communication services, other mobile radio services, and any other service provided by wireless common carriers licensed by the Federal Communications Commission (FCC). WCFs are composed of two or more of the following components:

- Antenna;
- Mount;
- Equipment enclosure;
- Security barrier.

R. Wireless communications services facilities / wireless communications facility (WCF), "building-mounted" means a wireless communications services facility mounted to the roof, wall or chimney of a building.

S. Wireless communications services facilities / wireless communications facility (WCF), "camouflaged" means a wireless communications services facility that is disguised, hidden, or integrated with an existing structure that is not a monopole, guyed or lattice tower, or placed

within an existing or proposed structure.

T. Wireless communications services facilities / wireless communications facility (WCF), “equipment enclosure” means a small structure, shelter, cabinet, or vault used to house and protect the electronic equipment necessary for processing wireless communication signals. Associated equipment may include air conditioning and emergency generators.

U. Wireless communications services facilities / wireless communications facility (WCF), “related equipment” is all equipment ancillary to a wireless communications services facilities such as coaxial cable, GPS receivers, conduit and connectors.

V. Wireless communications services facilities / wireless communications facility (WCF), “structure-mounted” means a wireless communications services facility located on structures other than buildings, such as light poles, utility poles, flag poles, transformers, and/or tanks.

W. “Wireless communication services” means any personal wireless services as defined in the Federal Telecommunications Act of 1996, including federally licensed wireless communications services consisting of cellular services, personal communications services (PCS), specialized mobile radio services (SMR), enhanced specialized mobile radio services (ESMR), paging, and similar services that currently exist or that may be developed in the future.



CITY OF ORTING

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September 26, 2019

James L. Beck
Gordon Thomas Honeywell
1201 Pacific Ave., Suite 2100
Tacoma, WA 98402
jbeck@gth-law.com

Re: Public records request received August 21, 2019
PRR No. 19-44

Dear Mr. Beck:

On August 21, 2019, the City of Orting received your public records request, requesting the following:

- 1. A copy of any and all emails or text messages from Treasurer Scott Larson regarding a meeting with Judge John Curry regarding Kaaren Woods from January 1, 2019 to present; and**
- 2. A copy of any and all investigative records and documents regarding reports made by Kaaren Woods of conduct in violation of RCW 49.60 or other applicable Washington law, including, but not limited to, the reports outlined in this letter.**

This letter is written in response to these requests. Upon receipt these requests was assigned as PRR #19-44 for tracking purposes.

Please note: under the Public Records Act, Ch. 42.56 RCW, a public records request must be for identifiable records in existence at the time your request was made. Pursuant to the Public Records Act, RCW 42.56, the City is not obligated to create a new record to satisfy a records request. Additionally, the City is not required to respond to questions, do research, or to give information that is not the subject of an identifiable public record.

The City has interpreted your first request as seeking all emails or text messages sent by Scott Larson pertaining to a meeting he attended with Judge Curry on July 16, 2019, sent between January 1, 2019 and August 21, 2019. If the City has misinterpreted your request, please let us know so that we can locate any additional responsive records.

The City has interpreted your second request as seeking all investigative records and documents regarding: complaints reported to the City of Orting by Ms. Woods pertaining to violations of Washington law. Again, if the City has misinterpreted your request, please let us know so that we can locate any additional responsive records.

A first installment of responsive records is available for your retrieval. Pursuant to the City's Public Records Request Policy, the cost for electronic transmittal of your responsive records is \$0.43 (\$0.05 per four electronic files; the first installment includes thirty-five electronic files). If you prefer to receive your records in hard-copy, the cost would be approximately \$75 (\$0.15 per page; the first installment includes approximately 500 pages). If you would like to receive them on a flash drive, the cost of the drive will be included in the amount owed. Please confirm the format in which you would like to receive your third installment of responsive records.

The City is working to review additional records for potential exemptions. Due to current staffing levels and workloads, and the breadth of your request, it is estimated that you will receive the first installment of your records on or before October 29, 2019.

Should you have any questions please let me know.

Sincerely,

Jane Montgomery
City Clerk / Public Records Official