

Draft Small Cell Deployment Regulation
Planning Commission Approved Version

Small Cell Deployment—Franchise and Small Cell Permits

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13.54.010 Overview and Purpose

The Town of Steilacoom is uniquely situated on Puget Sound, the first incorporated town in the State of Washington. The Town was the first in Washington State to establish a National Historic District encompassing its downtown and much of its original residential areas. Overhead wires and other visual clutter can obstruct views throughout Town and introduce unwarranted intrusions of modern devices into the Historic District. The Town has made substantial investments of public effort and expense to protect its vistas and history by placing utilities underground.

The Town of Steilacoom has adopted this process for the deployment of small cell technology in order to manage its rights-of-way in a thoughtful manner. The process balances the need to accommodate new and evolving technologies with the preservation of the natural, historic and aesthetic environment of the Town, while complying with the requirements of state and federal law. Service providers who seek to utilize the public rights-of-way for small cell deployment in order to provide wireless communication, data transmission or other related services to the citizens of the Town must have a valid franchise to provide the specific service seeking to utilize the rights-

of-way and a right-of-way permit to deploy the technology. Entities with franchises who wish to utilize a small cell deployment to upgrade or expand their existing services shall utilize the processes set forth in this chapter to deploy their technology and obtain design approval of specific installations. The right-of-way permit process administers deployment under the franchise. An entity without a franchise shall apply for a franchise and adjunct right-of-way permit which shall be processed concurrently as one master permit within the meaning of RCW 35.99.010(3) and 35.99.030. SMC 13.54.050 outlines the process for entities with a valid franchise.

- A. Nothing in this chapter revises or diminishes the rights and obligations of an existing franchise.
- B. The term “small cell deployment” shall include the deployment of small cell facilities as that term is defined herein. Small cell deployment elements which require SEPA review may utilize these processes only in conjunction with SEPA review.
- C. Existing franchisees with franchises that do not specifically permit small cell deployment shall be required to either amend their existing franchise or enter into a new franchise with the Town.

13.54.020 Definitions

Terms used in this chapter have the following meanings:

- (a) *Action* or *to act* on a siting application means the Town’s grant of a siting application or issuance of a written decision denying a siting application.
- (b) *Antenna* means an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to FCC authorization, for the provision of personal wireless service and any commingled information services. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, or device authorized under part 15 of title 47 CFR.
- (c) *Antenna equipment* means 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.
- (d) *Antenna facility* means an antenna and associated antenna equipment.
- (e) *Applicant* means a person or entity that submits a siting application and the agents, employees, and contractors of such person or entity.
- (f) *Authorization* means the permit issued by the Town pursuant to this Chapter.
- (g) *Collocation*, means

- (1) Mounting or installing an antenna facility on a pre-existing structure, and/or
- (2) Modifying a structure for the purpose of mounting or installing an antenna facility on that structure.

(h) *Concealment* means designing transmission facilities to look like some feature other than a wireless tower or base station or minimizing the visual impact of an antenna or other equipment by use of non-reflective materials, appropriate colors and/or a concealment canister.

(i) *Deployment* means placement, construction, or modification of a personal wireless service facility.

(j) *Facility* or *personal wireless service facility* means an antenna facility or a structure that is used for the provision of personal wireless service, whether such service is provided on a stand-alone basis or commingled with other wireless communications services.

(k) *Franchise* is the non-exclusive grant by the Town to operate a wireless communication system using Town rights-of-way.

(l) *Right-of-way permit* is the permission given by the Town to install small cell facilities in specific locations.

(m) *Siting application* or *application* means a written submission to the Town requesting authorization for the deployment of a personal wireless service facility at a specified location.

(n) *Small wireless facilities* or *small cell facility* are facilities that meet each of the following conditions:

(1) The facilities

(i) are mounted on structures 50 feet or less in height including their antennas as defined herein, or

(ii) are mounted on structures no more than 10 percent taller than other adjacent structures, or

(iii) 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 associated antenna equipment (as defined in the definition of antenna herein), is no 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 regulations in part 17 of Title 47 CFR; and

(5) The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in under FCC regulations in Title 47 CFR.

(o) *Structure* means a pole, tower, base station, or other building, whether or not it has an existing antenna facility, that is used or to be used for the provision of personal wireless service, whether on its own or comingled with other types of services.

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

13.54.030 Design zones designated

The following areas are hereby designated “design zones” for the purpose of this chapter. Design zones shall include the following districts:

A. Steilacoom Historic District as defined in Chapter 2.14 SMC.

13.54.040 Franchise application

Applicants for a small cell facility franchise shall apply using the Town’s franchise application form and submit a fee according to the Town’s fee schedule. The Town Administrator is charged with administration of small cell deployments and other wireless communication review processes established under this chapter. All franchise applications shall designate the entire Town right-of-way as the franchise boundary. Small cell facility franchises shall comply with all provisions of Chapter 13.53 SMC Utilities Franchises excluding the timeframes for issuance under SMC 13.53.100. Small cell facility franchises shall be issued as provided herein.

13.54.050 Application and designation of facilities

The following information shall be provided by all applicants for franchises seeking small cell deployment. Existing franchisees who seek to implement an existing franchise for small cell deployment shall provide the following information as a part of their right-of-way permit application:

A. The application shall identify and provide:

1. Specific locational information including GIS coordinates of all proposed small cell deployment facilities;
2. Whether and where small cell facilities are to be located on existing utility poles including Town-owned light standards;

3. Whether the deployment will utilize replacement utility poles, new poles, towers, and/or other structures and where such replacement will take place; and
4. Detailed schematics and visual renderings of the facilities.

B. Conduit and/or ground-mounted equipment necessary for and intended for use in the deployment shall also be specified regardless of whether these facilities are constructed by the applicant or leased from an infrastructure provider.

C. An email contact and telephone number for public comment as provided in SMC 13.54.070 D.

D. Liability insurance naming the Town of Steilacoom as an additional insured, in amounts the Town Administrator shall determine are sufficient to provide protection for the Town, but not less than \$1,000,000.00.

D. Failure to provide sufficient detail may result in a later need to modify the permit if the significant elements were not shown on the originally approved franchise exhibit. Failure to include significant elements may also result in the requirement that new or undocumented elements complete the approval processes detailed in Section 13.54.080.

13.54.060 Implementation—Right-of-way permits for small cell deployment.

The rights granted under the franchise are implemented through the issuance of right-of-way permits. The franchise application may be accompanied by one or more applications for a right-of-way permit to deploy small cells. An initial franchise and all related right-of-way permit applications shall be processed concurrently as one master permit under Chapter 35.99 RCW.

A. Up to twenty sites may be specified in one right-of-way permit application for processing. At the discretion of the Town Administrator, up to five additional sites may be included in order to consider small cell sites within one service area in one application.

B. Issuance of a right-of-way permit to install a small cell deployment shall be contingent upon approval of a franchise or the possession of a valid franchise.

C. If more than one application for a right-of-way permit is submitted by an applicant, they shall be considered in the order received. If multiple applications are submitted on the same date, the applicant shall indicate which application shall be considered first. All right-of-way permits which are submitted in conjunction with a franchise application shall be considered as one master permit. Any element of a deployment which qualifies as either an eligible facilities request or a colocation shall be specifically designated by the applicant and may be addressed separately by the Town Administrator in order to comply with the shot clocks established by federal law and Chapter 18.22 SMC.

D. The Town Administrator may approve, deny or conditionally approve all or any portion of the sites proposed in the right-of-way permit application.

E. Any application for a right-of-way permit which contains an element which is not exempt from SEPA review shall simultaneously apply under Chapter 42.21C RCW and Chapter 16.04 SMC

F. Radio Frequency (RF) Certification. The applicant shall submit a sworn affidavit signed by an RF engineer with knowledge of the proposed project affirming that the small cell deployment will be compliant with all FCC and other governmental regulations in connection with human exposure to radio frequency emissions for every frequency at which the small cell facility and associated wireless backhaul will operate. An existing franchisee applying for a right-of-way permit for small cell deployment shall provide an RF certification for all facilities included in the deployment which are to be installed by the franchisee. If facilities which produce RF radiation are necessary to the small cell deployment and will be provided by another franchisee, then the small cell deployment in the initial franchise or in a subsequent right-of-way permit shall be conditioned on an RF certification showing that the cumulative impact of the RF emissions from the entire installation meets federal requirements.

G. Regulatory Authorization. The applicant shall submit proof of FCC and other regulatory approvals required to provide the service(s) or utilize the technologies sought to be installed.

H. Shot clocks, Tolling and Review Time Frames for Small Cell Applications. The FCC has established “shot clocks” which are time frames within which the Town must act on an application for deployment of Small Cell facilities. Shot clock periods are equal to the number of days the Town has to review the application, set forth in subsection 2, plus any days tolled under subsection 3.

1. General. The Town Administrator or his/her designee shall review an application for completeness and shall notify the applicant on or before the 10th day after submission if the application is materially incomplete, and clearly and specifically identify any missing documents or information along with the specific rule or regulation creating the obligation to submit such documents or information.

a. If an application is deemed incomplete, the time frame for review shall be tolled as provided herein.

b. Following resubmission of documents by the applicant, the Town Administrator or his/her designee shall review an application for completeness and shall notify the applicant on or before the 10th day after resubmission if the application is materially incomplete. If it is incomplete the Town Administrator shall issue a notice of deficiency, clearly and specifically identify any missing documents or information along with the specific rule or regulation creating the obligation to submit such documents or information.

c. No application shall be deemed complete without the required fee deposit.

2. Time frames. The Town shall act on applications seeking authorization for deployments in the categories set forth below:

a. The time frame for review of an application to collocate a Small Wireless Facility using an existing structure is 60 days.

b. The time frame for review of an application to deploy a Small Wireless Facility using a new structure is 90 days.

- c. For single applications seeking authorization for multiple deployments, all of which collocate a Small Wireless Facility using existing structures, the time frame for review is 60 days.
- d. For single applications seeking authorization for multiple deployments, all of which deploy a Small Wireless Facility on new structures, the time frame for review is 90 days.
- e. For single applications seeking authorization for multiple deployments, the components of which are a mix of deployments on existing and new structures the time frame for review is 90 days.

3. Tolling periods.

- a. The Town and an applicant may agree in writing to modify the tolling periods herein.
- b. In the absence of a written agreement between the Town and an applicant modifying the tolling periods set forth below, the shot clock date calculation shall restart at zero on the date on which the applicant submits all the documents and information identified by the Town to render the application complete.
- c. For resubmitted applications following a notice of deficiency, the tolling period shall be the number of days from the day after the date the Town issues the notice of deficiency, until the date the applicant submits all the documents and information identified by the Town to render the application complete

4. Shot clock date.

The shot clock date for a siting application is determined by counting forward, beginning on the day after the date the application is submitted, by the number of calendar days of the shot clock period identified pursuant to this section. If the date calculated in this manner is a legal holiday, the shot clock date is the next business day after such date.

I. Removal.

- 1. The permits issued herein are for small cell facilities that are in active use only. The applicant, or successor in interest, shall remove any small cell facility including antennas and other equipment within six months of cessation of use.
- 2. After removal of the facility and all equipment, the applicant, or successor in interest, shall restore any street light pole, utility pole, sidewalk, paving, and landscaping to a condition equal to or better than that existing prior to removal.

13.54.070 Review process

The following provisions relate to applications for a franchise or right-of-way permit for small cell deployments:

- A. Review of Facilities. Review of the site locations proposed by the applicant shall be governed by the provisions of 47 USC Section 253 and 47 USC Section 332 and

applicable case law. Applicants for franchises and the right-of-way permits which implement the franchise shall be treated in a competitively neutral and nondiscriminatory manner with other service providers utilizing supporting infrastructure which is functionally equivalent, that is, service providers whose facilities are similarly situated in terms of structure, placement or cumulative impacts. Franchise and right-of-way permit review under this chapter shall neither prohibit nor have the effect of prohibiting the ability of an applicant to provide telecommunications services.

B. Concealment for Small Cell. In any zone not designated as a design zone the Town will permit small cell deployment on existing or replacement utility poles conforming to the Town's generally applicable design standard pursuant to this chapter and in the franchise agreement. The design standards in this section seek to implement concealment of the small cell facilities. Accordingly, small cell facilities installed pursuant to this concealment authorization may be expanded pursuant to an eligible facilities request when the Town Administrator determines that such expansion does not defeat the concealment elements of the facilities as outlined in this chapter. The applicable design standards are as follows:

1. Design Standards.

a. One facility per pole. Only one small cell facility is permitted per utility pole.

b. Phase out of wooden poles. In order to avoid cables on the exterior of utility poles, wooden poles selected as sites for small cell facilities shall be replaced by the applicant with non-wooden poles meeting Town standards.

c. Internal cables. All conduit, cables, wires and fiber must be routed internally in the non-wooden pole. Full concealment of all conduit, cables, wires and fiber is required within mounting brackets, shrouds, canisters or sleeves if attaching to exterior antennas or equipment, except for the minimum amount necessary to directly connect to the antennas or equipment.

d. Height Restrictions. All small cell facilities shall be in compliance with height restrictions in SMC 13.54.020.

e. New and Replacement Poles. The new or replacement poles shall match height, color and material of the original or adjacent non-wooden poles and shall be subject to approval by the the Town Administrator, who may approve variances as described in Section 13.54.080.

f. Interior Concealment. Antennas and the associated equipment enclosures (including disconnect switches and other appurtenant devices) shall be fully concealed within the pole, unless such concealment is otherwise technically infeasible, or is incompatible with the pole design. If technically infeasible, then the antennas and associated equipment enclosures must be camouflaged to appear as an integral part of the pole or flush-mounted to the pole, meaning

up to 12 inches off of the pole, or the minimum needed to achieve safety clearances and antenna needs, and must be the minimum size necessary for the intended purpose, not to exceed the volumetric dimensions of small wireless facilities. If the equipment enclosure is permitted on the exterior of the pole, the applicant is required to place the equipment enclosure behind any banners or road signs that may be on the pole; provided, that such location does not interfere with the operation of the banners or signs.

g Flush-Mounted Standoff Brackets or Pole-Top Antennas. In situations when interior concealment pursuant to subsection (B)(1)(d) of this section is not possible, installation of an antenna on a pole shall be flush mounted, if feasible or located at the top of the pole. Flush mounting includes using brackets that offset the inside edge of such equipment from the utility pole by twelve inches or less, except as otherwise required by the pole owner or a controlling electrical code such as the National Electrical Safety Code, National Electric Code or State Electrical Code and when approved by the Town. Standoff brackets are permitted so long as the antennas are mounted as close to the pole as technically feasible, but no more than twelve inches off the pole.

h. Antenna Design. Antennas shall be located in an enclosure of no more than three cubic feet in volume, or in case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three cubic feet. No more than four antennas are permitted on a single utility pole and with a total volume not to exceed nine cubic feet.

The diameter of an antenna on top of an existing pole may not exceed 16 inches, measured at the top of the pole, unless the applicant can demonstrate that more space is needed. The antennas shall be integrated into the pole design so that they appear as a continuation of the original pole, including colored or painted to match the pole, and shall be shrouded or screened to blend with the pole except for canister antennas which shall not require screening. All cabling and mounting hardware/brackets from the bottom of the antenna to the top of the pole shall be fully concealed and integrated with the pole.

i. Primary Equipment Enclosure Location and Dimensions. The applicant shall minimize the primary equipment enclosure space and use the smallest amount of enclosure possible to fit the necessary equipment. The primary equipment enclosure shall be located using one of the following methods:

i. Concealed completely within the pole or pole base. If within the pole base, the base shall meet the ADA requirements and not impact the pedestrian access route.

ii. Located on a pole. If located on a pole, the equipment enclosure shall be twenty-eight cubic feet or less in size.

iii. Underground in a utility vault. If located underground, the access lid to the primary equipment enclosure shall be located outside the footprint of any pedestrian curb ramp and shall have a nonskid surface meeting ADA requirements if located within an existing pedestrian access route.

iv. Private property. If located on private property, the applicant shall submit a copy of an executed easement or lease agreement with the private property owner prior to the right-of-way permit issuance.

j. Material and Color. Small cell facility antennas, conduit, mounting hardware and cabinets shall be painted to match the color of the pole and shall be non-reflective.

k. No Illumination. Small cell facilities shall not be illuminated, except incidentally from street lighting.

l. Generators and Backup Battery. Applicant shall not install any generators. Backup battery power is permitted as part of the associated equipment.

m. Liability. The applicant is responsible for the repair or replacement of any pole damaged during installation of the small cell facility.

n. Underground Areas and Design Zone Aesthetics. The design plans for all small cell facilities in design zones shall be compatible with the character and aesthetics of the neighborhoods, parks, public spaces, and commercial districts located in whole or in part within the design zone. Applicant shall propose design concepts and the use of camouflage or stealth materials, as necessary to blend its installations with the overall character of the design zone. Applicants are encouraged to meet with the Town prior to submitting a concealment element plan subject to this section and SMC 13.54.130.

p. Location. New poles shall be placed at the intersection of property lot lines and the street right of way line.

2. Third Party Requirements.

a. All installations of small cell facilities must have permission from the pole/structure owner to install facilities on such structure. Permission for use of Town-owned poles and structures is included in the issuance of a right-of-way permit under this section.

b. Governing Construction or Electrical Code. All installations of small cell facilities shall comply with any governing construction or electrical code such as the National Electrical Safety Code, the National Electric Code or state electrical code, as applicable. All installations of ground-mounted or

replacement structures shall comply with the Town's adopted standards for construction in the right-of-way.

c. Electrical Connection. Connection to the Town's electric utility for each small cell facility shall be included in the Town right-of-way permit. Any third party utility providing electricity must obtain a franchise from the Town prior to operating in the rights-of-way.

d. Transport/Telecommunications Connection. The Town is not responsible for providing transport connectivity (i.e., fiber) to small cell facilities. Any third party utility providing such transport connectivity must obtain a franchise from the Town prior to operating in the rights-of-way.

C. Design Review. Small cell deployment in design zones and underground areas, as well as certain new or replacement facilities are subject to the design requirements provided for in the approved franchise, this section and SMC 13.54.130.

D. Public Comment.

1. The Town shall place a notice of application for franchises and right-of-way permits for small cell deployments on the Town's website upon application. The notice shall include a link to the application, an email contact and telephone number for the applicant to answer citizen inquiries. The applicant shall supply the email contact and telephone number as part of the application.

2. The applicant is required to host informational meetings for the public regarding the deployment. The Town shall post meeting notices for informational meetings on its website. These meetings are for the public's information and are neither hearings nor part of any land use appeal process.

13.54.080 Right-of way permits for small cell facilities

A. The Town Administrator shall review applications for a right-of-way permit for a small cell deployment approved by a franchise or described in a concurrent franchise application. The plans submitted may only be approved by the Town Administrator if the dimensions or volume of small cell facilities do not exceed the cumulative total provided by the definition of a small cell facility herein and concealment technologies conform to the applicable design standards.

B. Variations from design standards. The Town Administrator may approve the following:

1. Replacement components of an existing, approved small cell facility, and the addition of antennas on a pole that exceed a cumulative total of nine cubic feet, provided, however, that in each instance the replacement components are consistent with the intent of the concealment features set by Town's generally applicable pole design standard adopted pursuant to the franchise, or Section 13.54.070.

C. Right-of-way permits to install small cell facilities including approval of variations shall be processed within the time frames set forth in SMC 13.54.060. A right-of-way use permit for small cell deployment is a police power regulation adopted pursuant to RCW 35.99.040(2) and accordingly is not subject to the thirty-day use permit issuance requirement contained in RCW 35.99.030(2).

D. The decision of the Town Administrator to approve or deny a right-of-way permit for a small cell facility with conditions, if any, shall be final and is not subject to appeal under Town code or further legislative review.

13.54.090 Amendments to the franchise agreement

Amendments to the franchise agreement, for whatever reason, shall be processed in the same manner as a new agreement.

13.54.100 Review of wireless communications facilities other than small cell deployments.

Wireless communication facilities other than small cell deployment in the public right-of-way shall be reviewed pursuant to Chapter 18.22 SMC.

13.54.110 Ground-mounted equipment—ADA compliance required.

A. In areas of the Town where overhead utility lines have been undergrounded (undergrounded areas), in designated design zones, and in other areas where necessary to permit full use of the public right-of-way by pedestrians, bicycles and other users, all ground-mounted equipment shall be undergrounded in a vault meeting the Town's construction standards, unless not technologically feasible.

B. The location of ground-mounted equipment (to the extent undergrounding such equipment is not technologically feasible), replacement poles, and/or street lights shall comply with the Americans with Disabilities Act (ADA), Town development standards, and state and federal regulations in order to provide a clear and safe passage within the public right-of-way. Ground-mounted equipment is also permitted on private property adjacent to the public right-of-way with a recorded easement or lease agreement.

13.54.120 Small cell facilities in undergrounded areas or design zones

A. In order to obtain approval for the use of replacement poles or new street lights to be used as supports for small cell facilities within any undergrounded area or design zone, the applicant must establish that:

1. The proposed facility complies with an approved stealth installation plan as described in this section for an undergrounded area or design zone; and
2. The facilities shall comply with SMC Chapter 2.14 for the Historic District, SMC, Chapter 18.22 for Wireless Communication, SMC Chapter 16.08 for Shoreline Management, SMC Chapter 16.16 for Critical Areas and SMC Chapter 16.04 for SEPA; and

3. For utility poles and/or street lights not owned by the Town, the applicant shall enter into an agreement with the owner of the utility pole or street light to allow the use of the pole or light and provide an executed copy of the agreement to the Town prior to right-of-way permit issuance.

B. **Stealth Installation Plan Required.** Applications for proposed installations in underground areas and design zones shall be required to submit a stealth installation plan. Such plan shall include the design of the screening, fencing or other concealment technology for a base station, tower, utility pole, or equipment structure, and all related transmission equipment or facilities associated with the proposed wireless facility, including but not limited to fiber and power connections.

1. **Purpose of Stealth Installation Plan, Generally.** Stealth installation plans shall seek to minimize the visual obtrusiveness of installations using methods including, but not limited to, integrating the installation with architectural features or building design components, utilization of coverings or concealment devices of similar material, color and texture—or the appearance thereof—as the surface against which the installation will be seen or on which it will be installed.

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

3. The Town Administrator shall apply this section, as well as all design requirements applicable in the underground area or design zone in which an installation is proposed.

4. **Review of Stealth Installation Plan for Non-substantial Change Colocations.** Where a proposed collocation does not constitute a substantial change, a stealth installation plan shall be reviewed to ensure the proposed collocation does not defeat the concealment features approved as part of the initial installation at that location.

5. **Review of Stealth Installation Plan for Initial Installations and Substantial Change Colocations.** For initial installations and substantial change colocations in underground areas and design zones, the Town Administrator shall conduct an administrative review of stealth installation plans for compliance with this section and all applicable Town design guidelines.

C. **Replacement Utility Pole—Street Lighting.** With the Town Administrator’s approval, a replacement utility pole or a request for a new utility pole may be permitted in the form of a new street light. The design of the street light shall be in accordance with Town standards for the area surrounding the new street light. Replacement utility poles/street light standards located within a design zone shall conform to the adopted streetscape

design standard for the design zone. Wherever technologically feasible, all equipment and cabling shall be internal to the replacement street lighting standard.

The applicant shall pay the costs for the purchase and installation of replacement utility poles and new street light poles. The Town Administrator may enter into a written agreement with an applicant to install replacement utility poles and new street light poles. Following installation, the applicant shall transfer ownership of the replacement utility pole or new street light pole to the Town. Ownership of the small cell facilities shall remain the property of the applicant.

The height of any replacement pole may not extend more than 10 feet above the height of the existing pole or the minimum additional height necessary.

D. Undergrounded Areas. It is the stated policy of the Town that all utilities shall be underground in areas that currently have underground utilities. No new utility poles shall be erected in undergrounded areas, except that an applicant may request to install a new street light as provided in subsection C.

E. Franchise and Small Cell Deployment Facility Approvals and Processes. Approval of a franchise, right-of-way permit and/or other approval referenced in this chapter are conditioned on the following requirements:

1. Satisfy applicable design requirements, including, but not limited to, noise and light regulations.
2. Comply with adopted design and concealment standards, applicable to replacement utility poles and new utility poles in a design zone or undergrounded areas.
3. Obtain the written approval of the owner of any utility pole not owned by the Town for the installation of its facilities on such utility pole. Unless specifically provided for in a franchise agreement, approval of a franchise does not authorize attachment to Town-owned utility poles or other structures.
4. Comply with all Town construction standards and state and federal codes and standards when operating in the right-of-way and obtain a required permit to enter the right-of-way.
5. A right-of-way permit for small cell deployment which includes a facility not exempt from SEPA review shall be processed in the provisions of Chapter 16.16 SMC.

Small cell facilities approved pursuant to this chapter shall be considered as an outright permitted use when located within the right-of-way.

13.54.130 Compliance with state processing limitations

Review of franchise and right-of-way permits shall comply with the provisions of RCW 35.99.030. Applications shall be reviewed, completeness determined and the time frame tolled as provided in 13.54.060. A right-of-way use permit for small cell deployment is a police power regulation adopted pursuant to RCW 35.99.040(2) and accordingly is not subject to the thirty-day use permit issuance requirement contained in RCW 35.99.030(2).

13.54.140 Determination of appropriate regulation.

A. The Town Administrator may request additional information if necessary from the applicant to evaluate the application under other provisions of this chapter and applicable law, including Chapter 18.22 SMC.

B. The Town Administrator shall determine the applicable Town regulations for the applicant's request, and the request shall be processed in accordance with those regulations.

13.54.150 Additional review procedure

Wireless communication facilities in design zones, shoreline management environments, undergrounded areas or critical areas are subject to additional review as provided in SMC Chapter 2.14 for the Historic District, SMC Chapter 18.22 for Wireless Communication, SMC Chapter 16.08 for Shoreline Management, SMC Chapter 16.16 for Critical Areas and SMC Chapter 16.04 for SEPA.