

**CITY OF BLUFFDALE, UTAH**

**ORDINANCE NO. 2018- 28**

**AN ORDINANCE AMENDING CHAPTER 11-24 OF THE BLUFFDALE CITY CODE RELATED TO SMALL WIRELESS FACILITIES.**

**WHEREAS** during the 2018 General Session the Utah State Legislature adopted S.B. 189, the Small Wireless Facilities Deployment Act, which is codified at Title 54, Chapter 21, of the Utah Code (“Act”);

**WHEREAS** the Act regulates the manner and extent to which the City of Bluffdale (“City”) may exercise its police power regarding small wireless facilities within the public right-of-way;

**WHEREAS** the City desires to protect the public rights-of-way and finds that the regulations contained herein will achieve that goal;

**WHEREAS** the City has previously adopted City Standards and Specifications as provided by Ordinance No. 2-23-99-1, as amended (“Standards”);

**WHEREAS** drawings, in particular, are required to provide a quick reference to concise and relevant information;

**WHEREAS** specifications are required to provide detailed information regarding construction materials, testing, procedures, and methods of construction; and

**WHEREAS**, following due consideration of relevant information, the Bluffdale City Council has determined that the proposed ordinance amendment will protect the public health, safety, and general welfare;

**NOW, THEREFORE, THE BLUFFDALE CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:**

**Section 1. Amendment of Bluffdale City Code.** Chapter 11-24 of the Bluffdale City Code is hereby amended as follows:

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**11-24-2: DEFINITIONS:**

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**FACILITY:** Any facility established for the purpose of providing wireless transmission of voice, data, images or other information including, but not limited to, wireless services, wireless or mobile telephone service, cellular telephone service, personal communications service (PCS), and paging service. A facility can consist of one or more antennas and accessory equipment attached to a support structure, base station, light pole, structure, node, attachment, or facility, and associated frequencies, technologies, and equipment. A facility may also include a small

wireless facility or distributed antenna system.

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MICRO WIRELESS FACILITY: A type of small wireless facility:

(a) that, not including any antenna, is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height;

(b) on which any exterior antenna is no longer than 11 inches; and

(c) that only provides Wi-Fi service.

...

SMALL WIRELESS FACILITY: a type of wireless facility:

(a) on which each wireless provider's antenna could fit within an enclosure of no more than six cubic feet in volume; and

(b) for which all wireless equipment associated with the wireless facility, whether ground-mounted or pole-mounted, is cumulatively no more than 28 cubic feet in volume, not including any:

(i) electric meter;

(ii) concealment element;

(iii) telecommunications demarcation box;

(iv) grounding equipment;

(v) power transfer switch;

(vi) cut-off switch;

(vii) vertical cable run for the connection of power or other service;

(viii) wireless provider antenna; or

(ix) coaxial or fiber-optic cable that is immediately adjacent to or directly associated with a particular collocation, unless the cable is a wireline backhaul facility. ~~Wireless facilities and any support structure for the small wireless facility that do not exceed the volume limitations for small wireless antennas and associated equipment in the first amendment to nationwide programmatic agreement for the collocation of wireless antennas adopted by the Federal Communications Commission.~~

...

UTILITY POLE: A pole or similar structure, whether owned by a public utility or the City, that is in a right-of-way and is or may be used, in whole or in part, for:

(A) wireline communications;

(B) electric distribution;

(C) lighting;

(D) traffic control;

(E) signage; or

(F) the collocation of a small wireless facility.

...

**11-24-3: APPROVAL PROCESS:**

A. Staff Review: All applications for approval of a low power or amateur radio tower or cellular or PCS facility will be reviewed by the staff for conformance to adopted standards.

B. Administrative Approval ~~And~~ Land Use Authority: If the proposed tower is a permitted use in the zone, the application may be approved administratively by the Zoning Administrator. All applications that require a conditional use permit for approval of a low power radio tower or cellular or PCS facility, if approved, shall be in accordance with chapter 20 of this title.

Applications for small wireless facilities, micro wireless facilities, and DAS shall follow the procedure and comply with the provisions set forth Section 11-24-4(F).

C. Appeal: Any interested party, including the applicant, may appeal any action of the Planning Commission pursuant to the appeal of conditional use permit procedures contained in section 11-20-5 of this title. Appeals of an action of the Zoning Administrator shall be directed to the ~~Board of Adjustment Appeals and Variance Hearing Officer~~ pursuant to the procedures contained in section 11-36-6 of this title.

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#### **11-24-4: TYPES OF STRUCTURES:**

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F. Small Wireless Facilities, Micro Wireless Facilities, and DAS:

1. Compatible with Surroundings: Small wireless facilities ~~must~~shall be architecturally compatible with the natural surroundings and designed and located so as to minimize any adverse aesthetic impact.

2. Painting and Screening: Small wireless facilities shall be painted or reasonably screened to match as closely as possible the color and texture of the existing structure or pole on which it is mounted.

3. Placement on Existing Structures: Applicants shall have the right to place small wireless facilities on existing structures, including, but not limited to, base stations, buildings, water tanks, transmission towers, utility poles, ~~light poles, traffic signals, signs,~~ or similar structures to which small wireless facilities can be attached.

4. Monopole or Replacement Pole in Public Rights Of Way: A monopole or replacement poles that will support a small wireless facility shall be permitted within utility easements (but excluding public utility easements surrounding lots or parcels) or public rights of way, in accordance with requirements of this section.

a. Small wireless facility located within utility easements or public rights of way are exempted from setback requirements.

b. The ~~easement or~~ public right of way may also contain overhead utility transmission and/or distribution structures that are eighty feet (80') or greater in

height.

c. The height of the monopole or replacement pole may not exceed ~~by more than thirty feet (30')~~ the height of the tallest existing utility support structures fifty feet (50').

~~d. Monopoles and the accessory equipment shall be set back a minimum of fifteen feet (15') from all boundaries of the easement or right of way.~~

~~ed.~~ Single carrier monopoles may be used within utility easements and rights of way due to the height restriction imposed by subsection ~~(F)(4)(c)~~ of this section.

~~fe.~~ Small wireless facilities that use the structure of a utility ~~tower pole~~ for support are permitted under this section. Such poles may extend up to ~~twenty ten~~ feet (20'10') above the height of the utility ~~tower pole~~.

5. Poles Supporting Public Facilities: Monopoles or replacement poles located on public property or within public rights of way that will support public facilities or equipment in addition to small wireless facilities shall be permitted in accordance with requirements of this section. Examples include, but are not limited to, municipal communication facilities, athletic field lights, traffic lights, streetlights, and other types of utility poles in the public right of way.

6. Application Required: Any person seeking to collocate a small wireless facility or DAS in a right-of-way, or install a new, modified, or replacement utility pole associated with a small wireless facility in a right-of-way shall submit an application and pay the applicable fees.

~~67.~~ Application Review: Applications for all small wireless facilities, DAS and other similar networks shall be reviewed administratively and received administrative approval by the zoning administrator in according with ~~subsection-Section~~ Section 11-24-3B of this chapter.

8. Fees; Rates:

a. Application fees shall be as follows:

- i. Collocation of a small wireless facility or DAS on an existing or replacement utility pole, \$100 for each small wireless facility on the same application.
- ii. Installation, modification, or replacement of a utility pole associated with a small wireless facility or DAS, \$250.

b. Rates:

- i. Collocate on Authority Pole: The rate to collocate a small wireless facility or DAS on a City-owned pole is \$50 per year, per pole.
- ii. Use of Right-of-way: The rate to use or occupy a right-of-way shall be the greater of 3.5 percent of all gross revenue related to the wireless provider's use of the right-of-way for small wireless facilities or \$250 annually for each small wireless facility.

9. Completeness of Application:

- a. Within 30 days after the day on which the City receives an application for the collocation of a small wireless facility or for a new, modified, or replacement utility pole, the authority shall:
  - i. determine whether the application is complete; and
  - ii. notify the applicant in writing of the authority's determination of whether the application is complete.
- b. If the City determines within the time specified that the application is incomplete:
  - i. The City shall specifically identify the missing information in the written notification sent to the applicant; and
  - ii. The processing deadline is tolled from the day on which the City sends the applicant the written notice to the day on which the City receives the applicant's missing information, or as otherwise agreed by the City and the applicant.
  - iii. The City shall approve or deny a revised application within 30 days after receipt of a revised application.

10. Exemptions from Application Requirement: Applications, permits and accompanying fees are not required for the following:

- a. routine maintenance;
- b. the replacement of a small wireless facility with a small wireless facility that is substantially similar or smaller in size; or
- c. the installation, placement, maintenance, operation, or replacement of a micro wireless facility that is strung on a cable between existing utility poles, in compliance with the National Electrical Safety Code.

Nothing in this section may be interpreted as eliminating the requirement to obtain an encroachment permit for work that requires work within a public right-of-way.

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11. Expiration of Application: An application for a small wireless facility expires if the City notifies the applicant that the application is incomplete and the applicant fails to respond within 90 days after the day on which the City notifies the applicant.

12. 7-Administrative Review and Approval: Small wireless facilities, micro wireless facilities, DAS and other similar networks shall be allowed in any zoning district after administrative review and administrative approval in accordance with the standards set forth in this chapter.

- a. The City shall approve or deny an application:
  - i. For the collocation of a small wireless facility, within 60 days after the day on which the City receives the complete application, and
  - ii. For a new, modified, or replacement utility pole, within 105 days after the day on which the City receives the complete application.
- b. If the City fails to approve or deny an application within the applicable time

period, the application is approved.

- c. The City may extend the applicable period for a single additional period of 10 business days if the City notifies the applicant before the day on which approval or denial is originally due.
- d. The City may deny an application to collocate a small wireless facility or to install, modify, or replace a utility pole that meets the height limitations only if the action requested in the application:
  - i. Materially interferes with the safe operation of traffic control equipment;
  - ii. Materially interferes with a sight line or a clear zone for transportation or pedestrians;
  - iii. materially interferes with compliance with the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12101 et seq., or a similar federal or state standard regarding pedestrian access or movement;
  - iv. fails to comply with applicable laws or legal obligations;
  - v. creates a public health or safety hazard; or
  - vi. obstructs or hinders the usual travel or public safety of the right-of-way.
- e. Denial; Deficiencies; Cure: If an application is denied, the City shall document the basis for the denial, including any specific law upon which the denial is based and send the documentation to the applicant on or before the day on which the City denies the application. Thereafter, an applicant may cure deficiencies in an application as set forth in the Utah Small Wireless Facilities Deployment Act ("Act").

13. Location of Small wireless facilities within a public right-of-way: Small wireless facilities may be located within a public right-of-way that is designated by the City a local, collector, or arterial street, with a right-of-way at least 50 feet in width.

14. Franchise Agreement Required: Any applicant to place a small wireless facility in a public right-of-way shall enter into a franchise agreement with the City in accordance with Title 7, Chapter 3, Telecommunications Use of Rights of Way.

15. Design Standards: Applicants shall comply with the City's adopted Standards and Specifications.

16. Decorative Poles: If necessary to collocate a small wireless facility, a wireless provider may replace a decorative pole, if the replacement pole reasonably conforms to the design aesthetic of the displaced decorative pole in the City's reasonable discretion.

17. Underground or Concealed Facilities: Applicants shall comply with the requirements of Section 7-3 of the Bluffdale City Code regarding underground facilities within public rights-of-way or completely conceal equipment, excluding antennae, within utility poles. An Applicant may seek a waiver from this requirement by submitting a written request to the City Council setting forth the reasons why a waiver is just under the applicable circumstances. The City Council in its sole discretion may approve or deny a waiver request. The City Council shall allow the Applicant to be heard and shall consider the Applicant's request in a fair, reasonable, and nondiscriminatory manner. The City Council shall have a rational basis for its decision to either approve

or deny the waiver request.

18. Compliance with Law: An applicant for a small wireless facility shall comply in all respects with the Act, franchise agreements, and all other applicable local, state, and federal law. In case of conflict between the provisions of this chapter and the Act, the Act shall control.

~~11.~~ Appeals: Appeals of final orders and decisions of the Zoning Administrator shall be made to the City's Appeals and Variance Hearing Officer pursuant to Section 11-3-4, Variance and Appeal Procedures.

19.

20. Removal: An applicant shall remove a facility or utility pole within 60 days of non-use.

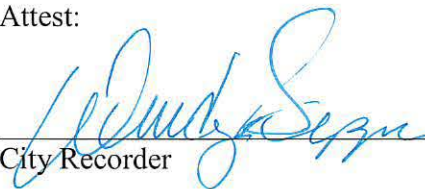
**Section 2. Adoption of Revised Standards.** The City Council hereby adopts the attached standard drawings and specifications as part of the City Standards and Specifications, as contained in **Exhibit A**. Any prior Standards inconsistent with the attached Standards are hereby amended. All other existing Standards, details, and specifications are not hereby amended and remain in full force and effect.

**Section 3. Effective Date.** This Ordinance shall take effect upon publication or posting, or thirty (30) days after passage, whichever occurs first.

PASSED AND ADOPTED: November 14, 2018.

  
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Mayor

Attest:

  
\_\_\_\_\_  
City Recorder



Voting by the City Council:

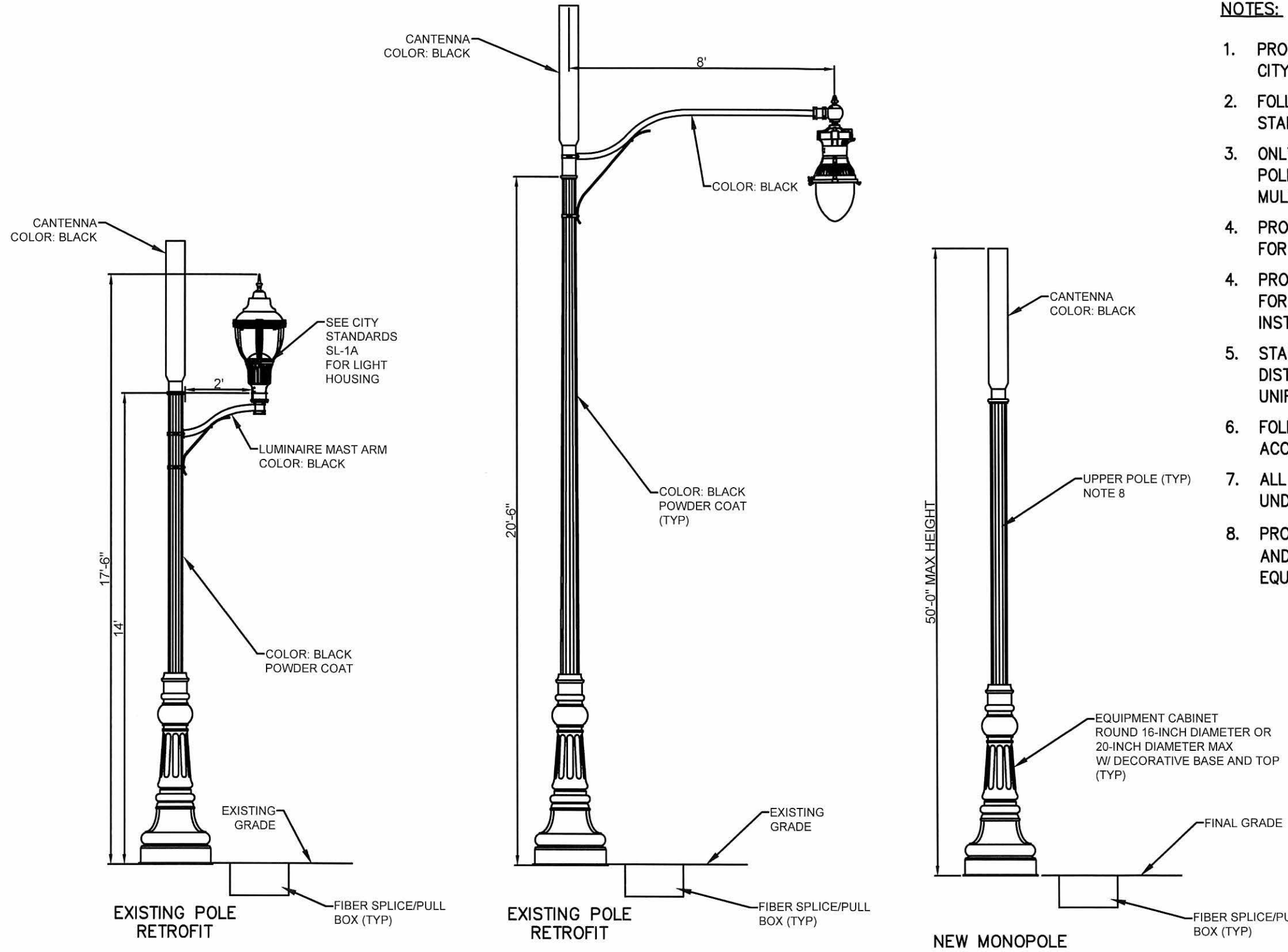
Yes No

Councilmember Aston	<u>  X  </u>	_____
Councilmember Higby	<u>  X  </u>	_____
Councilmember Kallas	<u>  X  </u>	_____

Councilmember Nielsen	<u>X</u>	_____
Councilmember Preece	<u>X</u>	_____

**EXHIBIT A**  
**STANDARDS AND SPECIFICATIONS**

Path: \\BLUFFDALE-SVR\Engineering\Standards\1 - City\Planning Commission and Council Updates\Small Cell\SWF-1\_DRAFT small wireless facilities.dwg | plot date: November 01, 2018 | plotted by: tandra



**NOTES:**

1. PROVIDE ELECTRICAL COMPONENTS THAT MEET CITY STANDARDS AND REQUIREMENTS.
2. FOLLOW CITY DETAIL SL-1A FOR STREET LIGHT STANDARDS.
3. ONLY ONE WIRELESS CARRIER SERVICE PER UTILITY POLE UNLESS EQUIPMENT IS COMPATIBLE FOR MULTIPLE CARRIERS.
4. PROVIDE INDUSTRY STANDARD POLE LOAD ANALYSIS FOR NEW MONOPOLE INSTALLATION.
4. PROVIDE INDUSTRY STANDARD POLE LOAD ANALYSIS FOR RETROFITTING DEVICES TO EXISTING POLE INSTALLATION.
5. STAGGER NEW MONOPOLE INSTALLATIONS MID DISTANCE FROM EXISTING LIGHT POLES FOR UNIFORMITY.
6. FOLLOW ALL APPLICABLE RULES AND REGULATION IN ACCORDANCE WITH SB189.
7. ALL EQUIPMENT AND FIBEROPTICS INSTALLED UNDERGROUND OR IN BASE OF POLE.
8. PROVIDE HOLOPHANE "NORTH YORKSHIRE" POLES AND BOSTON HARBOUR CROSSARMS OR APPROVED EQUAL.



City of Bluffdale  
Engineering Standards

Approved \_\_\_\_\_  
City Engineer Date

STANDARD DETAIL TITLE

**SMALL WIRELESS FACILITIES - TYPICAL**

DETAIL SERIES:  
CELL

DETAIL NO.  
SWF-1