

ORDINANCE NO. _____

**AN ORDINANCE of the City of Pasco, Washington,
Amending PMC 15.10.050 “Determination by City”**

WHEREAS, the City has in its process of adopting regulations for Small Cell Tower Deployment within and outside of the public right-of-way affecting PMC 15.10.050 “Determination by City”; and

WHEREAS, in order to make this section consistent with the other minor changes and revisions in the Small Cell Tower Deployment Ordinances, minor changes have been identified as necessary to clarify the application of this section. NOW, THEREFORE,

**THE CITY COUNCIL OF THE CITY OF PASCO, WASHINGTON, DO ORDAIN
AS FOLLOWS:**

Section 1. That Section 15.10.050 entitled “Determination by City” of the Pasco Municipal Code shall be and hereby is amended and shall read as follows:

15.10.050 DETERMINATION BY CITY.

A) Right-of-Way Use Permits. Within ~~90~~ ninety (90) days after receiving a complete application for a Right-of-Way Use Permit, the City Engineer or her or his designee shall issue a written determination granting or denying the permit application in whole or in part. If the application is denied, the written determination shall include the reason(s) for denial. The decision to grant or deny an application shall be based upon the following standards:

- 1) Whenever the applicant has received all requisite licenses, certificates, and authorizations from the Federal Communications Commission, the Washington Utilities and Transportation Commission, and any other Federal or State agency with jurisdiction over the activities proposed by the applicant;
- 2) The capacity of the public ways to accommodate the applicant’s proposed facilities;
- 3) The capacity of the public ways to accommodate additional utility, cable, open video, and telecommunications facilities if the permit is granted;
- 4) The damage or disruption, if any, of public or private facilities, improvements, service, travel or landscaping if the permit is granted;
- 5) The public interest in minimizing the cost and disruption of construction with the public ways;
- 6) The service that applicant will provide to the community and region;

- 7) The effect, if any, on public health, safety and welfare if the permit is granted;
- 8) The availability of alternate routes and/or locations for the proposed facilities;
- 9) Applicable Federal and State communications laws, regulations and policies;
- 10) Such other factors as may demonstrate that the grant to use the public ways will serve the community interest; and
- 11) Such other and future factors as may be deemed appropriate by the City.

B) Other Franchises. Other than Franchises for Small Cell Tower deployment as provided in PMC 15.40.050, all other telecommunication Franchises as provided in PMC 15.40.100, and all other franchises shall, within one hundred fifty (150) days of receiving a complete application under as required by ~~Pasco Municipal Code~~ PMC Section 15.10.040 for a Franchise, ~~the City shall be reviewed by the City which~~ shall issue a written determination granting or denying the application in whole or in part. Prior to granting or denying a Franchise, the City Council shall conduct a public hearing and make a decision upon the standards set forth in Pasco Municipal Code Section 15.10.050(A). Pursuant to RCW 35A.47.040, the City Council shall not approve any Franchise hereunder until the next regularly schedule Council meeting following the public hearing. If the application is denied, the written determination shall include the reason for denial.

C) Facilities Leases. Recognizing that the City is under no obligation to grant a Facilities Lease for the use of City property, the City shall strive to consider and take action on applications for Facilities Leases within ninety (90) days after receiving a complete application for such a lease. When such action is taken, the City Engineer shall issue a written determination granting or denying the lease in whole or in part, applying the standards set forth below. If the lease application is denied, the written determination shall include the reason for denial, if any.

- 1) The capacity of the City property and public ways to accommodate the applicant's proposed facilities.
- 2) The capacity of the City property and public ways to accommodate additional utility and telecommunications facilities if the lease is granted.
- 3) The damage or disruption, if any, of public or private facilities, improvements, service, travel or landscaping if the lease is granted.
- 4) The public interest in minimizing the cost and disruption of construction upon City property and within the public ways.
- 5) The service that applicant will provide to the community and region.

- 6) The effect, if any, on public health, safety, and welfare if the lease requested is approved.
- 7) The availability of alternate routes and/or locations for the proposed facilities.
- 8) Whether the applicant is in compliance with applicable Federal and State telecommunications laws, regulations and policies, including, but not limited to, the registration requirements administered by the Washington Utilities and Transportation Commission.
- 9) The potential for radio frequency and other interference with existing public and private telecommunications or other facilities located upon the City property.
- 10) The potential for radio frequency and other interference or impacts upon residential, commercial, and other uses located within the vicinity of the City property.
- 11) Such other factors as may demonstrate that the lease to use the City property will serve the community interest. (Ord. 3287 Sec. 1, 1998.)

PASSED by the City Council of the City of Pasco, Washington, and approved as provided by law this ____ day of _____, 2019.

Matt Watkins, Mayor

ATTEST:

Angela Pashon, Interim City Clerk

APPROVED AS TO FORM:

Kerr Ferguson Law, PLLC, City Attorney