

Ordinance No. 119395

MC

The City of Seattle
Council Bill/Ordinance

Council Bill No. 112557

AN ORDINANCE relating to the Seattle City Light Department; defining and prescribing terms and conditions for different types of attachments to City-owned poles; and amending Seattle Municipal Code Chapter 15.32.300, Attachments to City-owned Poles.

3-4-99 *do per*
3-8-99 Full Cou
(Excused C

CF No. _____

Date Introduced: <u>FEB 1 - 1999</u>		
Date 1st Referred: <u>FEB 1 - 1999</u>	To: (committee) <u>UTILITIES & ENVIRONMENTAL MANAGEMENT COMMITTEE</u>	
Date Re - Referred:	To: (committee)	
Date Re - Referred:	To: (committee)	
Date of Final Passage: <u>3-8-99</u>	Full Council Vote: <u>850</u>	
Date Presented to Mayor:	Date Approved:	
Date Returned to City Clerk:	Date Published: <u>7/99</u>	T.O. <input type="checkbox"/> E.T. <input checked="" type="checkbox"/>
Date Vetted by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

This file is complete and ready

Law Department

Law Dept. Review

R

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: _____

PAGELER
Councilmember

(ES)

Committee Action:

3-4-99 do pass AS amended 2-0

8-99 Full Council Passed 2-0

(Excused Choe, Drago, Pageler, Podlowski)

This file is complete and ready for presentation to Full Council. Committee: _____

(Initial/date)

Law Department

Law Dept. Review

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Review

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City Clerk
Review

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ORDINANCE 119395

1
2
3 AN ORDINANCE relating to the Seattle City Light Department; defining and prescribing terms and
4 conditions for different types of attachments to City-owned poles; and amending Seattle
Municipal Code Chapter 15.32.300, Attachments to City-owned Poles.

5 WHEREAS, Seattle Municipal Code Chapter 15.32.300, Ordinance 116633 Section 2 (adopted 1993),
6 established terms and conditions for attaching to City-owned poles and has been amended by
Ordinances 117569 Sections 88 and 89, 118397 Section 102, and 118409 Section 81;

7 WHEREAS, the Mayor and the Seattle City Council are committed to facilitating increased technologies
8 to improve the quality of life for Seattle's citizens; and

9 WHEREAS, the City Council, upon recommendation of the Mayor, adopted Resolution 29344,
10 encouraging the use of City real property and/or facilities in siting wireless facilities when
appropriate and when disruptive impacts on neighborhoods will be minimal; and establishing
11 guidelines for the siting of wireless facilities on City property; and

12 WHEREAS, the Mayor and the Seattle City Council approved Ordinance 118737, authorizing
13 agreements for the use of City real and personal property for siting facilities and other equipment
for wireless communication transmission facilities by commercial communications services
14 providers; and

15 WHEREAS, various public and private entities have requested permission to attach to City-owned poles
16 non-linear, non-wireline devices, related to advanced and competitive communication
technologies, such as wireless communication antennas and remote-site cameras; and

17 WHEREAS, the Pole Attachment Ordinance does not address attachment of wireless
18 telecommunications equipment and other non-linear attachments; NOW THEREFORE,

19 BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

20 Section 1. Seattle Municipal Code 15.32.300 is amended as follows:

21 SMC 15.32.300 Attachments to City-owned poles.

22 The terms and conditions for attaching to City-owned poles by entities other than co-
23 owners of the poles shall be as follows:

24 A. Definitions: The following words, as used in this ordinance, have the following
meanings:

1 1. "Pole" means City-owned poles including electrical distribution poles and other poles
2 owned or installed by the City, but excluding facilities for electrical transmission purposes.

3 2. "Communication Space" means that portion of a pole above the minimum ground
4 clearance for communication conductors and below the maximum height allowed by the
5 separation between communication and power conductors required by applicable national,
6 state and local electrical safety codes.

7 3. "Transmission Poles/Towers" means structures whose primary purpose is to support
8 electrical transmission conductors, distinguished from distribution conductors by exceeding
9 34.5 kV.

10 4. "Special Attachment, Class I" means attachments that can be accommodated on
11 existing poles without disruption to current users or use of a communication space and
12 without significant visual impact.

13 5. "Special Attachment, Class II" means attachments:

- 14 • that extend above the electrical facilities, above the top of an existing pole or require the
15 replacement of an existing pole with a taller pole to achieve adequate height for the
16 applicant's purposes; or
- 17 • that have significant visual impacts.

18 ~~((A-))~~ B. The City shall reserve one (1) communication space on City-owned poles for its
19 own use.

20 ~~((B))~~ C. If additional communication space is available on City-owned poles, after
21 reserving one (1) space for the City and after accounting for the space occupied by existing
22 services already on the poles, the City may permit additional attachments in communication
23 space under the following conditions:

- 24 1. The needs of the City are paramount. The City shall be the determinant regarding any
question of right to attach, construction compliance or contract interpretation regarding
attachment to poles. Permission to make attachments to the City's poles may be withdrawn
for violation of applicable codes, for breach of contract, for failure to supply proof of
required permits, by governmental directive or for any reason associated with the City's
requirements for the use of its poles or public right-of-way. The City may direct the

1 immediate removal of attachments at the owner's expense, if attachments fail to conform to
2 codes or the City's requirements, or if attachments interfere with City operations.

3 2. All attachments shall be made in accordance with all applicable codes as well as City
4 electrical standards, guidelines and practices.

5 3. All attachments, including co-lashing, shall be subject to prior approval of the
6 Executive Services Department, Seattle Transportation and the City Light Department in
7 accordance with the following principles, requirements and procedures:

8 a. Providing for the safety of the public, City employees, private contractors, and other
9 users of poles is a fundamental principle which must be observed.

10 b. The primary function of the City's poles is to support the City's electrical lines and
11 equipment.

12 c. The City shall neither replace existing poles with taller poles nor add crossarms to
13 existing poles to create more communication space on the poles, except as described in sub-
14 section C.4. below.

15 d. Any new attachments must accommodate any prior agreements between the City and
16 other entities regarding use of space on the poles.

17 e. The City shall not relinquish the one (1) communication space reserved for its own
18 use on every pole. At the request of the applicant, however, the City shall consider creating
19 additional space for communication uses on the poles by taking such actions as removing
20 secondary rack wiring and substituting triplex wire, moving streetlight fixtures, guy wires
21 and other attachments to the poles and by providing for co-lashing. Any actions undertaken
22 to create more communication space shall be considered make-ready work, and any such
23 costs shall be borne by the applicant.

24 f. Approval of attachments may include requirements for extra mitigation measures in
certain areas, such as residential, critical areas and shoreline zones, greenbelts, parks,
historic districts and viewsheds. All such extra measures, including any additional public
involvement and/or environmental review, shall be taken in accordance with directives from
the Superintendent of the City Light Department, and all costs associated with such extra
measures and review shall be paid by the applicant.

1 g. All make-ready costs, (~~including any permit review and environmental review~~
2 ~~costs~~) such as costs for any permits, environmental review, adjustment of other equipment
3 on the pole, tree replacement and tree trimming, shall be paid by the applicant prior to
4 making any attachments to the poles.

5 h. As a condition of securing the City's permission to use its poles for attachment of
6 cable, all applicants shall be required to permit co-lashing to their own cable of up to two
7 (2) other cables, which may be owned and operated by other entities. All cable attachments
8 that initially occupy a space on a City-owned pole shall be required to provide an external or
9 internal support ("messenger") wire that is capable of supporting two (2) other cables in
10 addition to the initial cable installed by the applicant. Owners of cable subsequently co-
11 lashed to the initial cable shall pay the owner of the initial cable a proportionate share of the
12 cost of the messenger wire. All entities co-lashing together shall be required to provide one
13 another with reciprocal indemnity provisions equivalent to those which must be granted to
14 the City by each of them pursuant to Section 15.32.150. Co-lashing shall not be required of
15 any applicant until all other spaces on the pole, other than the City's reserved space, have
16 been utilized. The City Light Department shall issue a Department Policy and Procedure
17 for providing co-lashing space based on costs, operational convenience, cable size, and other
18 criteria which are developed in the course of producing such Department Policy and
19 Procedure.

20 i. In addition to the indemnification required by Section 15.32.150, the City may require
21 that the applicant provide the City and entities permitted to co-lash with additional
22 indemnification, such as indemnification from a parent company, and/or require that the
23 applicant provide proof of specific insurance provisions acceptable to the City which cover
24 potential exposure of both the applicant and the City.

25 j. As a further condition of securing the City's permission to use its poles for attachment
26 of cable, all applicants upon request shall be required to provide the City with capacity on
27 the applicant's cable over and above the capacity specifications submitted by the applicant.
28 Such additional capacity may be in the form of dedicated fiber or dedicated space on the
29 same cable being installed by the applicant or in the form of separate cable, as specified by

1 the Executive Services Department, and shall be dedicated to the City for as long as the
2 cable is attached to the City's poles. The City shall have the right to use that capacity for
3 any governmental purpose and the right to lease that capacity to any public or nonprofit
4 entities. The incremental costs of adding the specified amount of capacity for the City shall
be borne by the City.

5 k. Applications for attachment to City-owned poles shall be submitted to the City Light
6 Department. The City Light Department shall then coordinate that request with Seattle
7 Transportation and the Executive Services Department. Approval of all three (3)
8 departments shall be required prior to the issuance of a permit to attach to the poles.

9 l. All applications for pole attachment shall be considered on a first-come, first-serve
10 basis, provided that where space is limited, attachment permits shall be given first to public
11 entities, second to entities which (~~act as large scale~~) are common carriers, third to entities
12 which request attachment to six (6) poles or less for their own private communication needs,
13 and fourth to others.

14 m. If no space can be created on the poles requested, the applicant may seek an
15 exception to any of the requirements set forth in this section by submitting a written request
16 to a three (3) person review committee comprised of one (1) representative each from the
17 Executive Services Department, Seattle Transportation and the City Light Department. The
18 committee shall review the request with reference to considerations which may warrant
19 making an exception including, but not limited to reduced environmental effects, the lack of
20 alternatives for achieving equivalent service available to the applicant, the lack of alternative
21 routing which can be made available and the feasibility of undergrounding all or part of the
22 cable. After engaging in a review of the application, the committee shall forward a
23 recommendation to the Mayor and City Council. Exceptions will not be recommended
24 where the City Light Department believes that safety will be compromised by the granting
of an exception. Any exceptions to the requirements of this section must be approved by
ordinance.

n. All entities that are provided attachments to City-owned poles, other than Class II
attachments, including attachments by means of co-lashing, shall pay a (~~use~~) rental fee for

1 each such attachment at a rate established by ordinance. All income from such pole rental rates
2 shall be paid into the Light Fund.

3 4. Provisions for Special Attachments:

4 a. Class II attachments shall be limited to situations where: 1) make-ready costs are paid
5 by the provider; 2) pole/equipment, installation, operation, and maintenance costs are paid
6 by the provider; and 3) visual impacts of antennas and other attachments are reduced to a
7 degree acceptable to the Superintendent.

8 b. Class II attachment requests are subject to public notice and comment. Approval of
9 attachments may include requirements for extra mitigation measures in certain areas, such as
10 residential, critical areas and shoreline zones, greenbelts, parks, historic districts and
11 viewsheds. All such extra measures, including any additional public involvement and/or
12 environmental review, shall be taken in accordance with directives from the Superintendent
13 of the City Light Department, and all costs associated with such extra measures and review
14 shall be paid by the applicant. Where a request meets the following criteria in Seattle, the
15 applicant shall apply to DCLU and pay for an attachment siting review and recommendation
16 consistent with the application, fee, notice, timeline and criteria for an administrative
17 conditional use permit. The DCLU recommendation shall be advisory to the
18 Superintendent:

Zone	Street Type	Zoning Height Limit	Pole Height Requested
SF, L-1,NC-1	Non-arterial	< 40	< 60
SF, L-1,NC-1	arterial	< 40	> 60
L-2,L-3,L-4, NC-2	either	< 40	> 60
NC-3, C, I, MI	either	< 40	> 60

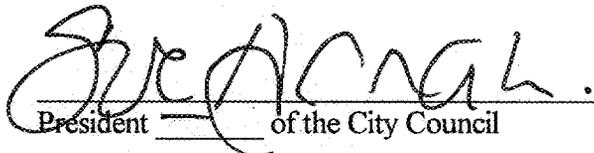
19
20
21 c. Where the request is for a location outside Seattle, the applicant shall comply with all
22 applicable requirements of the local jurisdiction where the property is located.
23
24

1 d. Class II attachments shall be permitted substantially in the form of the Site
2 Agreements authorized by Ordinance 118737, together with Special Terms and Conditions
3 within the Site Agreement.

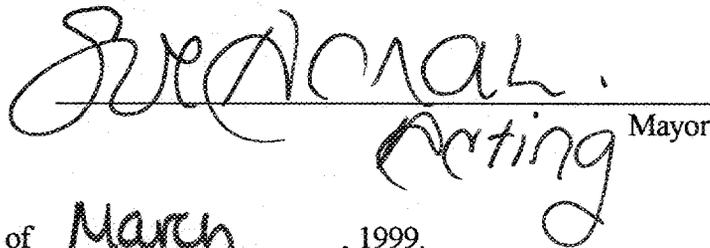
4 e. Class II rental rates shall be established at fair market value as determined by the
5 City Light Department and set forth in the Special Terms and Conditions within the Site
6 Agreement. All income from such Class II rental rates shall be paid into the Light Fund.

7 Section 2. This ordinance shall take effect and be in force thirty (30) days from and after its
8 approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after
9 presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

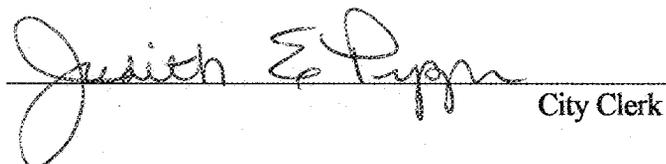
10 Passed by the City Council the 8th day of March, 1999, and signed by me in open
11 session in authentication of its passage this 8th day of March, 1999.

12 
13 President _____ of the City Council

14 Approved by me this 9th day of March, 1999.

15 
16 Acting Mayor

17 Filed by me this 10th day of March, 1999.

18 
19 City Clerk

20 (Seal)



City of Seattle

Paul Schell, Mayor

Seattle City Light

Gary Zarker, Superintendent

January 8, 1999

The Honorable Sue Donaldson, President
Seattle City Council
600 Fourth Avenue
11th Floor, Municipal Building
Seattle, WA 98104-1873

via: Anne Fiske-Zuniga, Budget Director
Office of Management and Planning

Dear Councilmember Donaldson:

Wireless Communication and Similar Attachments to Poles in the Right of Way

Issue:

Wireless and Internet Service providers, government entities such as King County and other cities, and others are continuing to approach the City to site wireless and similar devices on City Light poles or by replacing existing poles with taller poles in street right of way.

This letter, a joint product of the City Light, Law and Executive Services Departments, discusses the issues associated with such siting and includes a proposed ordinance to allow such siting under certain circumstances.

Background:

The City has taken four key steps related to the use of the right of way and other City assets for telecommunication providers. First, the City established a pole attachment ordinance which specified that poles would be available for attachment by telecommunication providers under certain circumstances. Second, the City has worked with providers to install conduit in City right of way without imposing telecommunications specific franchise requirements. Third, the City approved the attachment of very small wireless devices for a carrier (Metricom) on an exception basis as pole attachments. Fourth, the City has through resolution and ordinance made City real property and facilities available as siting locations for wireless providers.

The Honorable Sue Donaldson, President
January 8, 1999
Page 2

Siting on existing poles or on taller replacement poles is consistent with the purpose of City Council Resolution No. 29344, which encourages siting wireless antennas on existing facilities. Using power poles for co-location with wireless antennas and other similar devices will eliminate the need for construction of separate monopoles in some locations.

Goals:

1. Facilitate deployment of advanced and competitive technologies in the manner least disruptive to citizens.
2. Achieve revenue return for taxpayers and rate-payers.
3. Facilitate increased technologies to citizens to improve the quality of life.

Constraints:

- Ordinance - Pole Attachment provisions:
 - Poles cannot be replaced with taller poles to create more communication space. Generally, the discussion of communication space relates to wireline/cable connections, which need continuous pole to pole space reservation. Neither "pole" nor "attachment" is currently defined in the ordinance.
 - Pole attachment fees are established by ordinance. Pole attachment fees are governed by statute to be "reasonable, just and sufficient"; however, in the state statute, pole attachments are defined as "the affixation or installation of any wire, cable or other physical material capable of carrying electronic impulses or light waves for the carrying of intelligence for telecommunications..." The attachment of wireless transmitting/receiving or other unique devices is distinguishable from this definition and should allow "market rents" as contemplated by Ordinance 118737. Additional ordinance authority is needed to distinguish this class of attachments.

Fee Considerations:

- State Law limitations
 - Cities are currently precluded from levying any "franchise fee or any other fee or charge of whatever nature or description upon the light and power...or telephone business..." for use of street rights of way, except for a utility tax and actual cost recovery. Seattle wrote into last year's right of way bill a provision to allow market rents for use of right of way for structures such as wireless antennas; however the legislation did not pass. It will again attempt to have this legislation passed next year.

The Honorable Sue Donaldson, President
January 8, 1999
Page 3

- Despite the fact that the General Fund cannot now charge rent for utilities' use of the right of way, it does obtain revenue through the Utility Tax, which is paid by City Light and telecommunications providers and is associated with the use of the right of way. As additional services, such as wireless communication, are deployed and revenues rise, General Fund receipts through the Utility Tax also rise. Though City Light would receive the market rent, it also bears all costs associated with administering agreements, maintenance, coordination among pole users, and for pole relocation/removal/replacement.
- We believe that the benefits to the public of co-location of wireless facilities and other devices on existing/replacement poles should be aggressively pursued, and that should legislation authorizing cities to charge rent on rights of way pass, City Light, ESD and the City Budget Office will determine how rent may be shared between SCL and the General Fund, considering the increased revenues collected through the Utility Tax, City Light's costs to administer and coordinate these facilities, as well as other public services provided by City Light such as conservation programs, low-income assistance and streetlighting.

Policy Implementation Recommendations (embodied in the attached ordinance):

1. Clarify the Pole Attachment Ordinance to distinguish increases in pole height for wireless and similar attachments from the provision regarding increase in pole height for expansion of the communication space for wireline/cable attachments.
2. Clarify the Pole Attachment Ordinance that wireless and similar attachments that can be accommodated on existing poles without disruption to current users or use of a communication space and that do not have significant visual impacts will be considered, using the pole attachment process, and will be charged per the Rate Ordinance.

3. Add a provision to the Pole Attachment Ordinance that other wireless and similar attachments may be permitted, including attachments to an existing pole in the right of way or expansion of a pole to accommodate wireless and similar attachments as follows:

- Public Notice and Decision process as shown in the table below

Zone	Street Type	Zoning Height Limit	Pole Height	Revised Process
SF, L-1,NC-1	Non-arterial	<40	<60	CCU ¹
SF, L-1,NC-1	arterial	<40	<60	SCL brief ²
SF, L-1,NC-1	arterial	<40	>60	CCU
L-2,L-3,L-4,NC-2	either	<40	<60	SCL brief
L-2,L-3,L-4,NC-2	either	<40	>60	CCU
NC-3, C, I, MI	either	<40	<60	SCL brief
NC-3, C, I, MI	either	<40	>60	CCU
NC-3, C, I, MI	either	>40	<85	SCL Brief, SEPA

- All make ready costs are paid by the applicant.
- Pole, installation, and wireless/other equipment maintenance and operational costs are paid by the applicant.
- Wireless/other equipment design impacts are reduced to an acceptable degree where not allowed outright on adjoining property.
- As authorized in the Wireless Attachment Ordinance, rental rates for this category of attachment are established by City Light consistent with market rates.

¹ Process similar to Administrative Conditional Use. Applicant would pay for permit review with DCLU, who would carry out steps similar to ACU, with notice and recommendation to SCL of approval, approval with conditions or denial. Timeline similar to ACU required timeline. No appeal process.

² Abbreviated public notice process such as posting near pole and on corners in one-block radius. 2 week comment period to SCL. No appeal process.

The Honorable Sue Donaldson, President
January 8, 1999
Page 5

Process for Review:

The process for determining and administering the different types of attachments is described in further detail in the proposed ordinance. An Issues Brief with key contacts is also enclosed.

Sincerely,



Gary Zarker
Superintendent

*for
Gary Zarker*

GZ:JJ:jj

cc: with enclosure
Mayor Paul Schell
Tom Echert, OMP
Kwan Wong, OMP
Will Patton, Law
Marlene Yamashita, Law
Matt Lampe, ESD
Bill Schrier, ESD

ISSUES BRIEF

Wireless and Similar Attachments to Poles in the Right of Way



Seattle City Light

Date: December 30, 1998

Wireless and Internet Service providers, government entities such as King County and other cities, and others are continuing to approach the City to site wireless and similar devices on existing City Light poles or to replace poles with taller poles in street right of way.

Background

The City has taken four key steps related to the use of the right of way and other City assets for telecommunication providers:

- established a pole attachment ordinance which specified that electrical distribution poles would be available for attachment by telecommunication providers under certain circumstances
- has worked with providers to install conduit in City right of way without imposing telecommunications specific franchise requirements
- approved the attachment of very small wireless devices for a carrier (Metricom) on an exception basis as pole attachments
- has through resolution and ordinance made City real property and facilities available as siting locations for wireless providers.

Key Issues

- The Pole Attachment Ordinance associates "communication space" with wireline connections which need continuous pole to pole space reservation
- State statute defines pole attachments as "the affixation or installation of any wire, cable or other physical material capable of carrying electronic impulses or light waves for the carrying of intelligence for telecommunications..."
- The attachment of wireless transmitting/receiving antennas or other similar devices on a single pole is distinguishable from the intent of the ordinance and the state definition
- The Pole Attachment Ordinance prohibits replacement of poles with taller poles to create more communication space
- Pole attachment fees are established by ordinance and based on a lineal model with a "per pole" charge
- Using distribution power poles for co-location with wireless antennas and other similar devices will eliminate the need for construction of separate monopoles in some locations
- Using distribution power poles for co-location with wireless antennas and other similar devices will provide market rents and increased Utility Taxes.

Recent Developments

- City Council Resolution No. 29344 encourages siting wireless antennas on existing facilities to avoid proliferation of monopoles and similar structures
- Ordinance 118737 authorizes the licensing of City Light transmission poles/towers and other City property and facilities for wireless communication facilities at market rental rates

Implications for City Light

- Siting wireless and similar devices on existing distribution poles or on taller replacement poles is consistent with City Council Resolution No. 29344
- The attachment of wireless transmitting/receiving or other similar devices is distinguishable from pole to pole, wireline connections and should allow "market rents" as contemplated by Ordinance 118737
- The Pole Attachment Ordinance must be amended to clarify the attachment of wireless and similar devices as a different class of attachments from wireline attachments, to allow these types of attachments under specified circumstances, to replace existing poles with taller poles, and to charge market rents.

Next Steps/Schedule

- The Pole Attachment Ordinance must be amended as described above
- The proposed ordinance amendment to allow such siting under certain circumstances is attached.

Key Messages

- City Council Resolution No. 29344 and Ordinance 118737 encourage use of City property and facilities to promote advanced and competitive communication technologies with minimal disruption to citizens and to provide revenue to the City. Using distribution power poles for co-location with wireless antennas and other similar devices will eliminate separate monopoles in some locations and provide market rents and increased Utility Taxes.
- The Pole Attachment Ordinance must be amended to clarify the attachment of wireless and similar devices as a different class of attachments from wireline attachments, to allow these types of attachments under specified circumstances, to replace existing poles with taller poles, and to charge market rents.

Key Contacts

- | | |
|----------------------|--------|
| • June Jacobson, SCL | 4-3324 |
| • Steve Hagen, SCL | 4-3327 |
| • Matt Lampe, ESD | 4-0504 |

ORDINANCE _____

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22 f. Approval of attachments may include requirements for extra mitigation measures in
23 certain areas, such as residential, critical areas and shoreline zones, greenbelts, parks,
24 historic districts and viewsheds. All such extra measures, including any additional public
involvement and/or environmental review, shall be taken in accordance with directives from
the Superintendent of the City Light Department, and all costs associated with such extra
measures and review shall be paid by the applicant.

 g. All make-ready costs, (~~including any permit review and environmental review costs~~)
such as costs for any permits, environmental review, adjustment of other equipment on the

1 pole, and tree trimming, shall be paid by the applicant prior to making any attachments to
2 the poles.

3 h. As a condition of securing the City's permission to use its poles for attachment of
4 cable, all applicants shall be required to permit co-lashing to their own cable of up to two (2)
5 other cables, which may be owned and operated by other entities. All cable attachments that
6 initially occupy a space on a City-owned pole shall be required to provide an external or
7 internal support ("messenger") wire that is capable of supporting two (2) other cables in
8 addition to the initial cable installed by the applicant. Owners of cable subsequently co-
9 lashed to the initial cable shall pay the owner of the initial cable a proportionate share of the
10 cost of the messenger wire. All entities co-lashing together shall be required to provide one
11 another with reciprocal indemnity provisions equivalent to those which must be granted to
12 the City by each of them pursuant to Section 15.32.150. Co-lashing shall not be required of
13 any applicant until all other spaces on the pole, other than the City's reserved space, have
14 been utilized. The City Light Department shall issue a Department Policy and Procedure for
15 providing co-lashing space based on costs, operational convenience, cable size, and other
16 criteria which are developed in the course of producing such Department Policy and
17 Procedure.

18 i. In addition to the indemnification required by Section 15.32.150, the City may require
19 that the applicant provide the City and entities permitted to co-lash with additional
20 indemnification, such as indemnification from a parent company, and/or require that the
21 applicant provide proof of specific insurance provisions acceptable to the City which cover
22 potential exposure of both the applicant and the City.

23 j. As a further condition of securing the City's permission to use its poles for attachment
24 of cable, all applicants upon request shall be required to provide the City with capacity on
25 the applicant's cable over and above the capacity specifications submitted by the applicant.
26 Such additional capacity may be in the form of dedicated fiber or dedicated space on the
27 same cable being installed by the applicant or in the form of separate cable, as specified by
28 the Executive Services Department, and shall be dedicated to the City for as long as the
29 cable is attached to the City's poles. The City shall have the right to use that capacity for any

1 governmental purpose and the right to lease that capacity to any public or nonprofit entities.
2 The incremental costs of adding the specified amount of capacity for the City shall be borne
3 by the City.

4 k. Applications for attachment to City-owned poles shall be submitted to the City Light
5 Department. The City Light Department shall then coordinate that request with Seattle
6 Transportation and the Executive Services Department. Approval of all three (3)
7 departments shall be required prior to the issuance of a permit to attach to the poles.

8 1. All applications for pole attachment shall be considered on a first-come, first-serve
9 basis, provided that where space is limited, attachment permits shall be given first to public
10 entities, second to entities which ~~((act as large scale))~~ are common carriers, third to entities
11 which request attachment to six (6) poles or less for their own private communication needs,
12 and fourth to others.

13 m. If no space can be created on the poles requested, the applicant may seek an exception
14 to any of the requirements set forth in this section by submitting a written request to a three
15 (3) person review committee comprised of one (1) representative each from the Executive
16 Services Department, Seattle Transportation and the City Light Department. The committee
17 shall review the request with reference to considerations which may warrant making an
18 exception including, but not limited to reduced environmental effects, the lack of alternatives
19 for achieving equivalent service available to the applicant, the lack of alternative routing
20 which can be made available and the feasibility of undergrounding all or part of the cable.
21 After engaging in a review of the application, the committee shall forward a
22 recommendation to the Mayor and City Council. Exceptions will not be recommended
23 where the City Light Department believes that safety will be compromised by the granting of
24 an exception. Any exceptions to the requirements of this section must be approved by
ordinance.

n. All entities that are provided attachments to City-owned poles, other than Class II
attachments, including attachments by means of co-lashing, shall pay a use fee for each such
attachment at a rate established by ordinance.

1 4. Provisions for Special Attachments:

2 a. Class II attachments shall be limited to situations where: 1) make-ready costs are paid by
3 the provider; 2) pole/equipment, installation, operation, and maintenance costs are paid by
4 the provider; and 3) visual impacts of antennas and other attachments are reduced to a
5 degree acceptable to the Superintendent.

6 b. Class II attachment requests are subject to public notice and comment. Approval of
7 attachments may include requirements for extra mitigation measures in certain areas, such as
8 residential, critical areas and shoreline zones, greenbelts, parks, historic districts and
9 viewsheds. All such extra measures, including any additional public involvement and/or
10 environmental review, shall be taken in accordance with directives from the Superintendent
11 of the City Light Department, and all costs associated with such extra measures and review
12 shall be paid by the applicant. Where a request meets the following criteria in Seattle, the
13 applicant shall apply to DCLU and pay for an attachment siting review and recommendation
14 consistent with the application, fee, notice, timeline and criteria for an administrative
15 conditional use permit. The DCLU recommendation shall be advisory to the
16 Superintendent:

Zone	Street Type	Zoning	Pole Height
		Height Limit	Requested
SF, L-1,NC-1	Non-arterial	< 40	< 60
SF, L-1,NC-1	arterial	< 40	> 60
L-2,L-3,L-4, NC-2	either	< 40	> 60
NC-3, C, I, MI	either	< 40	> 60

17 c. Where the request is for a location outside Seattle, the applicant shall comply with all
18 applicable requirements of the the local jurisdiction where the property is located.
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d. Class II attachments shall be permitted substantially in the form of the Site Agreements authorized by Ordinance 118737, together with Special Terms and Conditions within the Site Agreement.

e. Class II rental rates shall be established at fair market value as determined by the City Light Department and set forth in the Special Terms and Conditions within the Site Agreement.

Section 2. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 1999, and signed by me in open session in authentication of its passage this _____ day of _____, 1999.

President _____ of the City Council

Approved by me this _____ day of _____, 1999.

Mayor

Filed by me this _____ day of _____, 1999.

City Clerk

(Seal)



TIME AND DATE STAMP

SPONSORSHIP

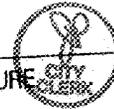
THE ATTACHED DOCUMENT IS SPONSORED FOR FILING WITH THE CITY COUNCIL BY THE MEMBER(S) OF THE CITY COUNCIL WHOSE SIGNATURE(S) ARE SHOWN BELOW:

Margaret Pfeiffer

FOR CITY COUNCIL PRESIDENT USE ONLY

COMMITTEE(S) REFERRED TO:

PRESIDENT'S SIGNATURE



STATE OF WASHINGTON - KING COUNTY

103400
City of Seattle, City Clerk

—ss.

No. FULL ORD.

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:ORD 119395

was published on

03/19/99

The amount of the fee charged for the foregoing publication is the sum of \$ _____, which amount has been paid in full.

R. Patterson

Subscribed and sworn to before me on

03/19/99

M. O'Leary

Notary Public for the State of Washington,
residing in Seattle

City of Seattle

ORDINANCE 118396

AN ORDINANCE relating to the Seattle City Light Department, defining and prescribing terms and conditions for different types of attachments to City-owned poles, and amending Seattle Municipal Code Chapter 15.32.300, Attachments to City-owned Poles.

WHEREAS, Seattle Municipal Code Chapter 15.32.300, Ordinance 116633 Section 2 (adopted 1991) established terms and conditions for attaching to City-owned poles and has been amended by Ordinances 117569 Sections 48 and 49, 118297 Section 102, and 118409 Section R1,

WHEREAS, the Mayor and the Seattle City Council are committed to facilitating increased technology to improve the quality of life for Seattle's citizens; and

WHEREAS, the City Council, upon recommendation of the Mayor, adopted Resolution 29344, encouraging the use of City real property and/or facilities in siting wireless facilities when appropriate and when disruptive impacts on neighborhoods will be minimal, and establishing guidelines for the siting of wireless facilities on City property; and

WHEREAS, the Mayor and the Seattle City Council approved Ordinance 118737, authorizing agreements for the use of City real and personal property for siting facilities and other equipment for wireless communication transmission facilities by commercial communications services providers; and

WHEREAS, various public and private entities have requested permission to attach to City-owned pole non-linear, non-wireline devices, related to advanced and competitive communication technologies, such as wireless communication antennas and remote-site cameras; and

WHEREAS, the Pole Attachment Ordinance does not address attachment of wireless telecommunications equipment and other non-linear attachments; NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Seattle Municipal Code 15.32.300 is amended as follows:
SMC 15.32.300 Attachments to City-owned poles.

The terms and conditions for attaching to City-owned poles by entities other than co-owners of the poles shall be as follows:

A. Definitions. The following words, as used in this ordinance, have the following meanings:

1. "Pole" means City-owned poles including electrical distribution poles and other poles owned or installed by the City, but excluding facilities for electrical transmission purposes.

2. "Communication Space" means that portion of a pole above the minimum ground clearance for communication conductors and below the maximum height allowed by the separation between communication and power conductors required by applicable national, state and local electrical safety codes.

3. "Transmission Poles/Towers" means structures whose primary purpose is to support electrical transmission conductors, distinguished from distribution conductors by exceeding 34.5 kV.

4. "Special Attachment, Class I" means attachments that can be accommodated on existing poles without disruption to current users or use of a communication space and without significant visual impacts.

5. "Special Attachment, Class II" means attachments:

- * that extend above the electrical facilities, above the top of an existing pole or require the replacement of an existing pole with a taller pole to achieve adequate height for the applicant's purposes; or
- * that have significant visual impacts.

((A)) B. The City shall reserve one (1) communication space on City-owned poles for its own use.

((B)) C. If additional communication space is available on City-owned poles, after reserving one (1) space for the City and after accounting for the space occupied by existing services already on the poles, the City may permit additional attachments in communication space under the following conditions:

1. The needs of the City are paramount. The City shall be the determinant regarding any question of right to attach, construction compliance or contract interpretation regarding attachment to poles. Permission to make attachments to the City's poles may be withdrawn for violation of applicable codes, for breach of contract, for failure to supply proof of required permits, by governmental directive or for any reason associated with the City's requirements for the use of its poles or public right-of-way. The City may direct the immediate removal of attachments at the owner's expense, if attachments fail to conform to codes or the City's requirements, or if attachments interfere with City operations.

2. All attachments shall be made in accordance with all applicable codes as well as City electrical standards, guidelines and practices.