

CITY OF SEATTLE
ORDINANCE _____

COUNCIL BILL 118208

AN ORDINANCE relating to communication cabinets in public places; amending Sections 15.02.042, 15.32.010, 15.32.020, 15.32.130, 15.32.140, 15.91.002, and 15.91.016; and adding new Sections 15.32.200, 15.32.250, and 15.32.260 of the Seattle Municipal Code.

WHEREAS, the Seattle Department of Transportation (SDOT) supports the expanded availability of high-quality and diverse communication services to residents and businesses in order to improve delivery of broadband service in Seattle's communities, especially in underserved areas; and

WHEREAS, new technology and competition may foster more intensive use of public places including use by multiple users. This increased use of the public place requires coordination and management to: promote the orderly planning, construction, and maintenance of the uses, and the reliable delivery of essential City services; and protect the public health, safety, and welfare; and

WHEREAS, the public place is a unique public resource that SDOT manages as a trustee for the public and balances the needs of multiple users by: ensuring mobility for the public, minimizing visual blight and clutter, and coordinating other priorities and viability of other uses in the public places; and

WHEREAS, this legislation will supersede the existing SDOT Director's Rule 2-2009 regarding the placement of telecommunication facilities in the public place; and

WHEREAS, the Seattle Municipal Code Chapter 15.32 addresses regulations for franchise and public utility permits in public places but has not addressed standards for communication cabinets; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 15.02.042 of the Seattle Municipal Code, last amended by Ordinance 123830, is amended as follows:

15.02.042 Definitions A through C

1 I. "Communication cabinet" means all structures, cabinets, electric meters, and any other
2 appurtenances installed in the public place, except utility poles and attachments to poles; by any
3 publicly- or privately-owned entity for the purposes of providing any communications
4 transmission, emission, or reception of signals, writings, pictures, images, and sounds or
5 intelligence of any nature; by wire, cable, radio, optical, or other electromagnetic systems.

6 J. "Corner-curb-radius area" means the area that includes the intersection of two
7 sidewalks bounded by the adjoining corner or curb bulb and curb ramps (Exhibit B for
8 15.02.042: Corner-curb-radius area). If the start of the point of curvature for the curb bulb or
9 curb radius occurs beyond the sidewalk intersections, the area shall be extended to the point of
10 curvature for the curb bulb or curb radius.

11 Section 2. Section 15.32.010 of the Seattle Municipal Code, last amended by Ordinance
12 118409, is amended as follows:
13

14 **15.32.010 Permit—Required((;))**

15 It is unlawful for anyone to: (1) construct, maintain ((and)), or operate on, under, or over;
16 the streets, alleys, or public places of the City((;)); any railroad or streetcar tracks, pipes, ducts,
17 utility tunnels, vaults, maintenance holes, poles, fixtures, wires, communication cabinets, or any
18 other ((appurtenants)) appurtenances necessary for the purpose of conducting any lawful
19 business, either public or private((, or to)); (2) go upon any ((such)) public place to perform any
20 work ((therein which)) that will disturb the surface of the street, planting strip ((or)), sidewalk, or
21 public place; or ((to)) (3) occupy any area upon the surface or beneath the surface of the street,
22 planting strip ((or)), sidewalk, or public place; without complying with all ((the provisions of any
23 ordinance in relation thereto and obtaining)) applicable ordinances and Director's Rules and
24

1 ((having)) obtaining a permit from the Director of Transportation ((for such purpose)), or as to
2 park drives and boulevards, obtaining a permit from the Superintendent of Parks and Recreation.
3 This prohibition includes everyone, whether an individual or a corporation or association;
4 whether acting as an individual or as employee or agent of another; and whether or not the
5 person has a right under the Charter, any ordinance or franchise, or any other authority of law to
6 conduct business within a public place.
7

8 Section 3. Section 15.32.020 of the Seattle Municipal Code, last amended by Ordinance
9 117569, is amended as follows:

10 **15.32.020 Terms of use and occupancy((;))**

11 The terms and conditions of the use and occupancy of public ((streets and alleys in the
12 City)) places by anyone constructing or operating under authority of ((this chapter and
13 ordinances amendatory thereto)) Chapter 15.32 as amended shall be provided in Sections
14 15.32.020 through ((15.32.130)) 15.32.300.
15

16 Section 4. Section 15.32.130 of the Seattle Municipal Code, last amended by Ordinance
17 117569, is amended as follows:

18 **15.32.130 Undergrounding overhead wiring((;))**

19 Anyone maintaining ((over any street, alley or other public place,)) any overhead
20 construction, ((either)) including poles ((or)), wires, or other appurtenances over any public place
21 shall place the ((same)) overhead construction underground ((upon being)) if directed to do so
22 ((by the City)) by ordinance; provided((;)) that all other private or public utility ((companies))
23 providers maintaining overhead construction in the public place that is the subject of the
24 ordinance shall be ((subject)) required to ((such)) comply with the ordinance.
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Section 5. Section 15.32.140 of the Seattle Municipal Code, last amended by Ordinance 117569, is amended as follows:

15.32.140 Removal((r))

Anyone accepting permits under the terms of ~~((this chapter))~~ Chapter 15.32 for the installation of any pipe, duct, utility tunnel, vault, maintenance hole, pole, wire, communication cabinet, or any other appurtenance shall remove ~~((such))~~ the installation when it is no longer required or used, and the authorizing official orders its removal. The permittee may voluntarily remove the installation when it is no longer required or used without the authorizing official ordering its removal, provided applicable permits authorizing the removal have been obtained before removing the installation.

Section 6. A new Section 15.32.200 of the Seattle Municipal Code is added as follows:

15.32.200 At-grade communication cabinets

A. The standards in Chapter 15.32 are imposed to minimize the health, safety, and visual impact of communication cabinets and accessory equipment in the public place. Developing and installing communication cabinets and accessory equipment in the public place may also be subject to other regulations, including but not limited to: Chapter 25.05, SEPA Policies and Procedures; Title 23, Land Use Code; and Title 15, Street and Sidewalk Use Code.

B. Existing communication cabinets and accessory equipment may remain in use, or be upgraded or repaired, subject to the provisions of Chapter 15.32 and any other applicable code and rule.

C. Communication cabinets shall, when possible; be sited using the fewest and smallest cabinets and equipment available that satisfy the service objectives of the site or project, and in

locations that reduce the visual impact of the cabinets and the overall project. Examples include siting the cabinet behind the sidewalk edge that is furthest from the street or in unimproved public places as opposed to locating a cabinet in a planting strip. Cabinets shall, when possible, be painted a color that blends the cabinet into its surroundings.

D. Communication cabinets mounted to street light or utility poles are subject to the applicable provisions in Section 15.32.300 and Seattle City Light Standards for pole attachments.

E. Applicants for new at-grade communication cabinet installations that are proposed to be located in the public place abutting any zone and that are more than 36 inches in height including footings or bases as measured from the grade of the surrounding public place, or that have a maximum volume of more than 18 cubic feet, shall demonstrate the following in writing before a Street Use permit to occupy the public place may be issued:

1. A private property easement could not be obtained for the communication cabinet installation or verification that this type of use is not authorized within the zoning of the private property; and

2. It is not technically feasible to install the communication cabinet underground; and

3. The communication cabinet could not be attached to a street light or utility pole, according to the applicable requirements of Section 15.32.300 and Seattle City Light standards.

4. The Director of Transportation may waive the requirements of this subsection 15.32.200.E if the proposed project deploys enhanced communication service that provides a new service or upgrades a similar service currently provided in the proposed project area and the

proposed at-grade project design, in the Director's judgment, minimizes the visual impacts to the public place and results in significantly fewer cabinet installations in the project area.

F. The applicant for a new at-grade communication cabinet proposal that is more than 36 inches in height including footings or bases as measured from the grade of the surrounding public place, or has a maximum volume of more than 18 cubic feet, shall: (1) send notice of an SDOT application by first-class mail to all business entities, property owners, and residents located within a 100-foot radius from where the communication cabinet is proposed to be located; and (2) post notice of the new application at the proposed site. The notice shall be displayed towards the nearest public place that abuts the site and is viewable by the public, and shall be maintained on the site for the duration of the public notice period.

1. If the new at-grade communication cabinet proposal; is more than 36 inches in height including footings or bases as measured from the grade of the surrounding public place, or has a maximum volume of more than 18 cubic feet, and is abutting a lot zoned RSL, SF 5000, SF 7200, SF 9600, LR1, LR2, or LR3 as these zoning designations are defined under subsection 23.30.010.A and the abutting zoning does not have an RC designation as shown on the Official Land Use Map, Chapter 23.32 ("residentially-zoned parcels"); the communication cabinet shall be fully screened from the public place and abutting private property. If it is not feasible to install mitigation screening due to physical site constraints, the applicant shall provide an alternative mitigation proposal within 200 feet of the project. If the alternative mitigation cannot be located within 200 feet of the project, the applicant shall propose an alternative location that the Director shall review and may approve. All mitigation screening shall comply with setback standards in Section 15.32.225, and remain the permittee's sole responsibility to maintain so long as the

1 communication cabinet or accessory equipment occupy the public place. As determined by the
2 Director, mitigation screening may include landscaping, fencing, or visual treatment to the
3 cabinet surface. Visual treatment to the cabinet may include paint, decals, vinyl wraps, photos, or
4 other surface treatments. A cabinet shall be considered fully screened for visual treatment
5 purposes when the treatment is applied to all communication cabinet vertical surfaces.
6

7 2. The applicant shall send and post all required notices at least three-calendar
8 days before the start of the public notice period. The mailing and on-site notice shall be on a
9 form provided by the Department of Transportation and shall include: a description of the
10 proposed location and installations, comment period dates, information on how the public can
11 submit comments to SDOT, and how to request a reconsideration of a Street Use permit
12 decision. If the proposal is abutting a residentially-zoned parcel, the mailing and on-site notice
13 shall include a visual and narrative description of the proposed mitigation screening required in
14 subsection 15.32.200.F.1.
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16 3. Written comments concerning the application shall be postmarked or emailed
17 to the Director of Transportation within 10 business days after the first day of the public notice
18 period.
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20 4. The applicant shall provide the Director of Transportation with a mailing list
21 containing the individuals the notice was mailed to, the recipient's mailing address, and date the
22 notice was mailed to each recipient.

23 G. The applicant shall obtain a Certificate of Approval for the communication cabinet
24 from the appropriate Board or Commission when located in a Landmark or Historic District
25 subject to the provisions of Title 23 or 25.
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1 H. A communication cabinet Street Use permit shall not be issued until: the Certificate of
2 Approval from the applicable Landmark or Historic District Board has been obtained; the
3 complete public notice mailing list has been received by the Director of Transportation; and if
4 required, the notice of application comment period has ended.

5 I. After the close of the comment period, the Director will review all comments and
6 documents and make a final decision to approve, approve with additional site-specific
7 conditions, or deny the permit based on the following:
8

9 1. The proposal meets standards established in Chapter 15.32; and

10 2. Conditions arising from public comments that are consistent with Chapter
11 15.32 or the Director's authority to regulate street uses under Title 15 or other applicable law.
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13 Section 7. A new Section 15.32.225 of the Seattle Municipal Code is added as follows:

14 **15.32.250 Communication cabinet standards and setbacks**

15 A. Communication cabinets shall not exceed 66 inches in height as measured from the
16 grade of the surrounding public place or have a maximum volume greater than 36 cubic feet. The
17 Director of Transportation may determine that a cabinet exceeding 66 inches in height or 36
18 cubic feet in volume may be sited in unimproved public places in locations that reduce the visual
19 impact of the cabinet and do not impair public safety or access, and will not conflict with other
20 setback requirements established by code or rule. Cabinets exceeding 66 inches in height or 36
21 cubic feet in volume shall not be allowed in planting strips or adjacent to an improved public
22 places.
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1 B. At-grade communication cabinets shall not be installed in the planting strip if a viable
2 option exists to site the cabinet behind the sidewalk edge that is furthest from the street, or in an
3 unimproved public place.

4 C. If the at-grade communication cabinet is to be installed in a planting strip it shall be
5 placed in proximity to and in line with existing utility or street light poles, street signs, or other
6 existing structures within the planting strip in order to create a physical and visual alignment.
7 The communication cabinet shall not impair the line of sight for vehicles exiting adjacent alleys,
8 streets, or driveways as provided in subsection 23.54.030.G or other sight triangle requirements
9 adopted by City code or rule.
10

11 D. For the purposes of active monitoring and reporting of maintenance issues by City
12 personnel, residents, and other communication companies, the permittee shall place on the
13 exterior of every at-grade communication cabinet the owner's name and telephone number. This
14 contact information shall be prominently displayed and viewable by the public on the side of the
15 cabinet facing the nearest public sidewalk or street.
16

17 E. As depicted in Exhibit A for 15.02.046: Pedestrian Zone/Pedestrian Visual Corridor; a
18 proposed at-grade communication cabinet, and all accessory equipment, shall not impair
19 pedestrian passage and shall be sited to provide:
20

- 21 1. An unobstructed corner-curb-radius area; and
- 22 2. If located in the Downtown Urban Center as established in the Comprehensive
23 Plan, a pedestrian zone at least 6 feet wide with a 4-foot-wide pedestrian visual corridor; or
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3. If located outside of the Downtown Urban Center as established in the Comprehensive Plan, a pedestrian zone at least 5 feet wide with a 3-foot-wide pedestrian visual corridor; or

4. A wider pedestrian zone or pedestrian visual corridor may be required by the Director of Transportation to provide for pedestrian passage, traffic management, or any other public-use purpose.

F. In addition to any other required setbacks, the at-grade communication cabinet and accessory equipment shall be located at least:

1. 3 feet from the curb face; and
2. 5 feet from alleys, driveways, bus zone areas, disabled person parking zones, commercial loading zones, and fire hydrants; and
3. 5 feet from curb ramps, parking meters or pay stations, traffic signs, utility poles, bike racks, and other street fixtures; and
4. 10 feet along the curb line from the point where the radius of corner curb area intersects the curb line; and
5. 15 feet from any business entrance or exit; and
6. 1 foot from edge of sidewalk.
7. A smaller setback than that required by subsections 15.32.250.F.3, 15.32.250.F.4, 15.32.250.F.5, or 15.32.250.F.6 may be allowed by the Director of Transportation, provided the Director determines the cabinet can be installed with a reduced setback without impairing public safety or access, and will not conflict with other setback requirements established by code or rule.

1 G. The communication cabinet and accessory equipment shall not be located in a manner
2 that violates the Americans with Disabilities Act.

3 H. The permittee shall maintain in a timely manner the exterior of all communication
4 cabinets and any applicable mitigation screening from graffiti or damage.

5 I. All permittees shall submit to the Department of Transportation a quarterly report with
6 the first report due at the end of the third month of each year that describes each complaint
7 received in the prior quarter, how the complaint was resolved, and how long it took to resolve the
8 complaint.
9

10 Section 8. A new Section 15.32.260 of the Seattle Municipal Code is added as follows:

11 **15.32.260 Director's rules**

12 The Director of Transportation may promulgate rules to implement this Chapter 15.32.
13 The rules may address the subjects identified in this Chapter 15.32 and other subjects the
14 Director believes may aid in the implementation of this Chapter 15.32.
15

16 Section 9. Section 15.91.002 of the Seattle Municipal Code, last amended by Ordinance
17 124166, is amended as follows:

18 **15.91.002 Scope**

19 A. Violations of the following provisions of Seattle Municipal Code Title 15 shall be
20 enforced under the citation or criminal provisions set forth in this Chapter 15.91 by the Director
21 of Transportation:
22

- 23 1. Use and Occupation Permits—No permit obtained (Section 15.04.010);
- 24 2. Marquees, Awnings, Canopies, and Decorative Elements (Chapter 15.10);
- 25 3. Signs, Banners, and Street Clocks (Chapter 15.12);
- 26

4. Newsstands (Chapter 15.14);
5. Building Cleaning or Painting (Chapter 15.20);
6. Vending (Chapter 15.17);
7. Warning Lights and Barricades (Chapter 15.40);
8. Debris in Public Places (Chapter 15.46);
9. Snow and ice removal (Section 15.48.010);
10. Barbed wire or electric fence (Section 15.48.020);
11. Obstruction of utility or traffic facilities prohibited (Section 15.22.050);
12. Removal of earth and debris (Section 15.22.060);
13. Mixing of mortar or concrete (Section 15.22.070);
14. Permit to drive over sidewalk or curb (Section 15.22.100);
15. Barricades and warning devices (Section 15.44.010);
16. Dangerous Structures on Adjoining Property (Chapter 15.18);
17. Permit Required - failure to comply with conditions of permit (Section 15.04.010);
18. Sidewalk Cafes (Chapter 15.16);
19. Scaffolds (Chapter 15.24);
20. Backfilling (Chapter 15.26);
21. Building and Equipment Moving (Chapter 15.28);
22. Lifting Heavy Equipment (Chapter 15.36);
23. Crowd Control Event (Chapter 15.52);
24. Tree and Vegetation Management in Public Places (Chapter 15.43)(-);

25. At-grade Communication Cabinets (Section 15.32.200 and 15.32.250).

B. Any enforcement action or proceeding pursuant to Chapter 15.91 shall not affect, limit, or preclude any previous, pending, or subsequent enforcement action or proceeding taken pursuant to Chapter 15.90

Section 10. Section 15.91.016 of the Seattle Municipal Code, last amended by Ordinance 123659, is amended as follows:

15.91.016 Penalties

A. First Violation.

1. No Street Use permit obtained. The first time a person or entity is found to have violated subsection 15.91.002.A.1, except Street Use vending permits identified in subsection 15.91.016.A.4.a, by not obtaining a Street Use permit before using the public place, the person or entity shall be subject to a penalty of \$500.

2. Violations of Title 15 or Street Use permit. The first time a person or entity is found to have violated subsections 15.91.002.A.2 through 15.91.002.A.~~((23))~~25, except Street Use vending permits identified in subsection 15.91.016.A.4.b; or violated a condition of their Street Use permit; the person or entity shall be subject to a penalty of \$250.

3. Violation warning. The Director may, in an exercise of discretion, issue a warning to the person or entity responsible for obtaining the Street Use permit if the person or individual has not been previously warned or cited for violating subsection 15.91.002.A.

4. Street Use vending first violation.

a. No Street Use vending permit. The first time a person or entity is found to have violated subsection 15.91.002.A.1 for not being in possession of a Street Use vending

1 permit, ((identified)) identified as subsection 15.91.002.A.6, while using the public place; the
2 person or entity shall be subject to a penalty of \$300.

3 b. Insecure or unsafe vending unit. As provided for in 15.04.070, if the
4 City determines that a permitted food vehicle, vending cart, vending trailer, or other vending-
5 related device (collectively a "vending unit" for Chapter 15.91) is insecure or unsafe, the vendor
6 shall immediately cease using the public space and shall be subject to a penalty of \$300.

7 c. Street Use vending permit condition violation. The first time the permittee is found to have
8 violated subsection 15.91.002.A.6 by not adhering to the conditions of their Street Use vending
9 permit, the permittee shall be subject to a penalty of \$150. The Director may, in an exercise of
10 discretion, issue a warning to the vendor if the person or entity has not been previously warned
11 or cited for violating subsection 15.91.002.A.6.
12

13 B. Second and Subsequent Violations.
14

15 1. No Street Use permit obtained. If a person or entity is cited for violating
16 subsection 15.91.002.A.1, except Street Use vending permits identified in subsection
17 15.91.016.B.3.a, for not obtaining a Street Use permit; within a five-year period after a first
18 violation has been determined to exist, the person or entity shall be subject to a penalty of \$1,000
19 for each subsequent violation.
20

21 2. Violations of Title 15 or Street Use permit. Any subsequent time that a person
22 or entity is found to have violated the provisions in subsections 15.91.002.A.2 through
23 15.91.002.A.((23))25, except Street Use vending permits identified in subsection
24 15.91.016.B.3.b; or violated a condition of their Street Use permit; within a five-year period after
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1 a first violation of subsections 15.91.002.A.2 through 15.91.002.A.23 has been determined to
2 exist, the person or entity shall be subject to a penalty of \$500 for each subsequent violation.

3 ***

4 Section 11. As provided for in subsection 15.32.250.D, all service providers shall install
5 contact information decals to every communication cabinet existing in the public place within
6 180 days of the effective date of this ordinance. The Director of Transportation may grant one
7 60-day extension to the 180-day time limit if the service provider demonstrates to the Director's
8 satisfaction that before the 180-day time limit the service provider will have installed the decals
9 on at least 70 percent of the cabinets owned by the service provider.
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1 Section 12. This ordinance shall take effect and be in force 30 days after its approval by
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the ____ day of _____, 2014, and
5 signed by me in open session in authentication of its passage this
6 ____ day of _____, 2014.

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10 _____
11 President _____ of the City Council

12 Approved by me this ____ day of _____, 2014.

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14 _____
15 Edward B. Murray, Mayor

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17 Filed by me this ____ day of _____, 2014.

18
19 _____
20 Monica Martinez Simmons, City Clerk

21 (Seal)

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
The Seattle Department of Transportation	Angela Steel/4-5967	Doug Palmer / 684-5266

Legislation Title:

AN ORDINANCE relating to communication cabinets in public places; amending Sections 15.02.042, 15.32.010, 15.32.020, 15.32.130, 15.32.140, 15.91.002, and 15.91.016; and adding new Sections 15.32.200, 15.32.250, and 15.32.260 of the Seattle Municipal Code.

Summary of the Legislation:

This legislation would help expand broadband deployment in the City of Seattle while incentivizing deployments that have minimal visual impacts on Seattle's right of way (known as public place), by encouraging installation of underground or pole-mounted facilities or small devices in residential zones. This legislation would add new sections to the Seattle Municipal Code ("SMC") to address requirements for installing communication cabinets in the public place and apply consistent setback standards with other uses. Once adopted, this legislation would supersede the existing Seattle Department of Transportation ("SDOT") Director's Rule 2-2009 regarding the placement of telecommunication facilities in the public place.

The proposed legislation:

- Defines "communication cabinet" as all structures, cabinets, electric meters, and any other appurtenances installed in the public place, except utility poles and attachments to poles; by any publicly- or privately-owned entity for the purposes of providing any communications transmission, emission, or reception of signals, writings, pictures, images, and sounds or intelligence of any nature; by wire, cable, radio, optical, or other electromagnetic systems;
- States that the standards in Chapter 15.32 are imposed to minimize the health, safety, and visual impact of communication cabinets and accessory equipment in the public place;
- Requires that communication cabinets be sited, when possible, using the fewest and smallest cabinets and equipment available that satisfy the service objectives of the site or project and in locations that reduce the visual impact of the cabinets and the overall project;
- Requires for new at-grade communication cabinets that are more than 36 inches in height including footings or bases as measured from the grade of the surrounding public place, or that have a maximum volume of more than 18 cubic feet, that the applicant:
 - Provide public notice by mail to all residences, businesses, and property owners within a 100-foot radius of site and place an onsite notice of application;
 - Provide mitigation screening to cabinets proposed in residential zones; and

- Provide written proof that that the cabinet could not be installed: (1) underground, (2) on a pole, or (3) on private property. The Director, in the Director's judgment, may waive the pole attachment requirement if the proposed project deploys enhanced communication service that provides a new service or upgrades a similar service provided in the project area and the proposed at-grade project design minimizes the visual impacts to the public place and results in significantly fewer cabinet installations in the project area.
- Updates setback and clearance requirements to be consistent with the Right of Way Improvements Manual and other Public Space Management related codes (such as sidewalk cafes and street food vending);
- Adds communication cabinets in the scope of violations that may be enforceable by SDOT;
- Establishes a maximum cabinet size of 66 inches in height or have a maximum volume of 36 cubic feet. The Director may allow larger cabinet sizes in unimproved public places, but not in planting strips or adjacent to improved public places;
- Requires that for the purposes of active monitoring and reporting of maintenance issues with the communication cabinets, the service providers shall place contact information on the exterior of all existing at-grade cabinets within 180 days of the effective date of the ordinance. All new at-grade communication cabinets will be required to have contact information prominently displayed at the time of installation;
- Requires that all service providers shall submit quarterly reports to SDOT that describe each complaint received in the prior quarter, how the complaint was resolved, and how long it took to resolve the complaint; and
- Gives the SDOT Director authority to draft and implement rules related to new communication cabinet installations.

Background:

Various stakeholder groups have expressed a need for revisions to SDOT's current communication cabinet permitting and siting policy detailed in Director's Rule 2-2009. SDOT agrees that the current rule results in an unpredictable process for both residents and project proponents. Amendments to Title 15 are proposed, therefore, to supersede the existing rule and provide a complete basis in the Code for SDOT to regulate communication cabinets in the right of way.

In early 2013, SDOT began doing outreach to stakeholder groups in preparation for developing legislation for siting new communication cabinets in the public place. In June 2013, SDOT hosted a meeting with: stakeholders from North Beacon Hill, Century Link, Seattle Pedestrian Advisory Board, Seattle Commission for People with Disabilities, Citizens Telecommunications and Technology Advisory Board; representatives from the Public Space Management Task Force; and City staff from SDOT, Department of Information Technology (DoIT), Department of Planning and Development (DPD), Office of Economic Development (OED), and Seattle City Light (SCL); to provide feedback on siting issues in the public place. This collective group concurred that the legislation should balance the following policy priorities:

1. Improve broadband deployment, especially in underserved areas;
2. Keep public spaces and rights-of-way free from visual clutter and in a state of good repair; and
3. Ensure other priorities for public spaces and rights-of-way are still viable including green stormwater infrastructure, public gathering and play areas, tree canopy coverage, gardening and other activation and community building goals.

In November 2013, SDOT prepared a draft of the legislation and engaged with a third-party facilitator to broaden and formalize the stakeholder involvement in order to create an amended and more informed legislative proposal. The stakeholder advisory group consisted of representatives from communication service providers including CenturyLink, AT&T, Comcast, Wave, and Verizon; community organizations including Upping Technology in Underserved Neighborhoods, and the Beacon Hill Community Council; City departments including SDOT, DoIT, SCL, and OED; and City advisory boards including Citizens Telecommunications and Technology Advisory Board and Seattle Pedestrian Advisory Board. SDOT held five meetings from January through March 2014 to discuss the policy proposal and refine the legislation for deploying new at-grade communication cabinets in the public place.

Please check one of the following:

 X This legislation has financial implications.

Appropriations: N/A

Appropriations Notes: N/A

Anticipated Revenue/Reimbursement Resulting from this Legislation:

Fund Name and Number	Department	Revenue Source	2014 Revenue	2015 Revenue
Transportation Operating Fund 10310	Seattle Department of Transportation	51H-installing or maintaining electrical or telecommunication lines-Base permit fee	\$25,404	\$34,164
		Reviews	\$59,856	\$80,496
		Inspections	\$29,928	\$40,248
TOTAL			\$115,188	\$154,908

Revenue/Reimbursement Notes:

See Attachment A: Proposed Communication Cabinet Permit Fee Examples for assumption on permit volumes and fees.

Service providers have estimated 349 new above-grade communications cabinets are being considered for installation in the public right-of-way over the following year after the legislation is adopted. It is anticipated that this will be an initial build-out for the first year of implementation to cover a back-log of planned work, and will not be the number of installations that could occur on an annual basis. Additionally, service providers have estimated that an additional 480 new above-grade cabinets will be installed over the course of five years after the legislation is adopted.

Other Implications:

- a) **Does the legislation have indirect financial implications, or long-term implications?**

No

- b) **What is the financial cost of not implementing the legislation?**

None

- c) **Does this legislation affect any departments besides the originating department?**

DPD, SCL, and DoIT.

- d) **What are the possible alternatives to the legislation that could achieve the same or similar objectives?**

None

- e) **Is a public hearing required for this legislation?**

No

- f) **Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**

Yes. SEPA Determination of Non Significance was posted 4/3/2014 - 4/24/2014. An appeal of the DNS was not filed with Hearing Examiner.

- g) **Does this legislation affect a piece of property?**

No

- h) **Other Issues:** None

List attachments to the fiscal note below:

Attachment A: Proposed Communication Cabinet Permit Fee Examples

Attachment A: Proposed Communication Cabinet Permit Fee Examples

Installing or maintaining electrical or telecommunication lines -- Use Code 51H

Service providers have estimated 349 new above-grade communications cabinets are being considered for installation in the public right-of-way over the following year after the legislation is adopted. It is anticipated that this will be an initial build-out for the first year of implementation to cover a back-log of planned work, and will not be the number of installations that could occur on an annual basis. Additionally, service providers have estimated that an additional 480 new above-grade cabinets will be installed over the course of five years after the adoption of the legislation.

The legislation incentivizes fewer and smaller communication cabinet installations be considered for a project area. For cabinets that are proposed to be installed at-grade and are over 36 inches in height or exceed 18 cubic feet in volume, the applicant shall also provide documentation that below-grade, pole-mounted, or private property locations are not feasible for the at-grade cabinet permit application. So, the estimates provided above may be not all be for at-grade cabinets and could include other locations that are not impacted by this legislation (i.e., private property, below-grade, or pole-mounted).

Based on the estimates provided by the service providers and assuming that all cabinets would be installed at-grade, we have made the following assumptions for permit volumes in the remainder of 2014 and 2015: 2014 Assumption—174 permits; and 2015 Assumption—234 permits.

At-grade cabinets would be subject to the following permit fees and review processes:

- **\$146 Issuance Fee**
 - Application review to verify site plan and application content;
 - Research existing and potential permitted activity conflicts;
 - Permit drafting, record keeping, and mapping.
- **Use Fee**
 - This is an escalating usage fee that is calculated based on: the street type the work is proposed to occur on arterial or non-arterial streets; the length of time to complete the work; and the square footage use area needed to accommodate the work.
 - It is estimated that installation and restoration work would not take more than 30 days to complete at a site and the use fee would be at the lowest rate for both non-arterial and arterial right of way locations.
 - Non-Arterial: month 1= no fee
 - Arterial: month 1= \$.10/square foot/10 day
 - Assume that work site use area is 1,000 square feet

- **Permit Reviews**

- For a Street Use Permit review, each application for an at-grade communication cabinet may require 2 hours of review on average that would cost \$344 in review charges at \$172/hour;
 - Cabinets below the size threshold of 36 inches in height or 18 cubic feet in volume would have one hour of review.
 - Cabinets above the size threshold would require at least 2 hours of review to coordinate the public notice comment period posting and verify application submittal requirements regarding the proposed at-grade location.
 - Additionally, if cabinets above the size threshold were in a residential zone, mitigation screening would be required and require an additional hour of review.
- A Traffic Control Plan (TCP) review is also required if the cabinet is proposed to be installed on an arterial. The TCP review would cost \$86 for ½ hour of review.

- **Inspections**

- An initial and final inspection is required per permit at a cost of \$86 per inspection;
- Inspect service providers for permit compliance during and after installation;
- Verify cabinet installed per approved site plan and Traffic Control Plan.

Total Permit Fees

- **\$662 permit fee estimate for non-arterial locations**
- **\$1,048 permit fee estimate for arterial locations**



City of Seattle
Edward B. Murray
Mayor

July 29, 2014

Honorable Tim Burgess
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Burgess:

I am pleased to transmit the attached proposed Council Bill that amends Title 15 of the Seattle Municipal Code ("SMC") regarding the placement standards for new communication cabinets in the public place. This legislation would help expand broadband deployment in the City of Seattle ("City"), address requirements for installing communication cabinets in the public place, and apply consistent setback standards with other uses. Once adopted, this legislation would supersede the existing Seattle Department of Transportation ("SDOT") Director's Rule 2-2009 regarding the placement of telecommunication facilities in the public place.

The legislation incentivizes deployments that have minimal visual impacts on Seattle's right of way through establishing the following: a new framework for approving new at-grade communication cabinet locations within the public place; a cabinet size threshold when public notice and screening mitigation would be required; a pro-active maintenance and complaint tracking process by service providers; and authority for the Director of Transportation to adopt rules regarding communication cabinets. This legislation also proposes minor amendments to other sections of Chapter 15.32 to establish consistent requirements for communication cabinets that are currently required for other utilities.

SDOT has worked closely with a communication cabinet stakeholder group consisting of service providers, City departments, City advisory and neighborhood groups over several meetings in early 2014. The public engagement process has refined the legislation so that it allows the expansion of broadband services in the City while balancing the needs of other public place users and minimizing visual impacts.

Thank you for consideration of this legislation. Should you have questions, please contact Angela Steel at 684-5967

Sincerely,

A handwritten signature in black ink, appearing to read "Edward B. Murray", with a long horizontal line extending to the right.

Edward B. Murray
Mayor of Seattle

cc: Honorable Members of the Seattle City Council