

**CITY OF SAMMAMISH
WASHINGTON**

ORDINANCE NO. O2012-321

AN ORDINANCE OF THE CITY OF SAMMAMISH, WASHINGTON, RELATING TO SITING OF WIRELESS COMMUNICATION FACILITIES; UPDATING AND AMENDING CERTAIN PROVISIONS OF CHAPTER 21A.55 SMC TO CONFORM TO AND CLARIFY AMENDMENTS MADE PURSUANT TO ORDINANCE NO. O2011-298; CLARIFYING HEIGHT LIMITS ON NEW AND REPLACEMENT ANTENNA SUPPORT STRUCTURES AND ANTENNAS; REPEALING SMC 21A.15.245 (CONSOLIDATION); AMENDING SMC SECTIONS 21A.55.040, 21A.55.050, 21A.55.080 & 21A.55.090; PROVIDING FOR SEVERABILITY; AND, ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City has previously adopted Chapter 21A.55 of the Sammamish Municipal Code (“SMC”), entitled Wireless Communication Facilities (“WCF”), the purpose of which is to provide general requirements, siting hierarchy, design standards, and evaluations in exchange for public benefits to help achieve reasonable location of wireless communication facilities; and

WHEREAS, on March 1, 2011 the City Council adopted Ordinance O2011-298 amending certain WCF provisions of the SMC to, among other things, reformat the WCF siting hierarchy, allow for limited use of monopole style WCF, establish maximum height limits for all zones of the City and the public rights of way, provide for attached base station equipment, and provide for color matched conduit; and

WHEREAS, certain provisions of the WCF must be amended to conform to and be made consistent with and clarify the amendments made to the WCF code pursuant to the above referenced ordinance; and

WHEREAS, the proposed clarifying and conforming amendments as set forth herein are consistent with, and serve to implement, the City’s adopted Comprehensive Plan; and

WHEREAS, the proposed clarifying and conforming amendments are consistent with the recommendations of the wireless telecommunications master plan and with the amendments adopted pursuant to Ordinance O2011-298; and

WHEREAS, an Environmental Checklist for a non-project action was prepared under the State Environmental Policy Act (RCW Chapter 43.21.C), pursuant to Washington Administrative Code Chapter 197-11, and an addendum to the December 3, 2009 Determination of Non-Significance (“DNS”) was issued on July 11, 2011; and

WHEREAS, the Planning Commission held public meetings related to the amendments adopted pursuant to Ordinance O2011-298 on May 6, 2010, May 20, 2010, June 3, 2010 and June 17, 2010; and

WHEREAS, the City Council held public hearings, readings, and study sessions regarding the same amendments on September 14, 2010, October 5, 2010, October 19, 2010, November 2, 2010, December 14, 2010, February 15, 2011, and March 1, 2011; and

WHEREAS, a first reading of the ordinance proposing adoption of the amendments set forth in Ordinance O2011-298 and a public hearing on the proposed amendments was held on July 6, 2010, July 13, 2010, November 14, 2010, a first reading and public hearing on the companion amendments was held on January 17, 2012 and a second reading on the companion amendments was held on February 7, 2012; and

WHEREAS, the City Council finds that the clarifying and conforming amendments set forth below will allow for the appropriate development of wireless facilities within the City and are in the public interest;

NOW, THEREFORE, the City Council of the City of Sammamish, Washington, do ordain as follows:

Section 1. Repeal of SMC 21A.15.245 (Consolidation). Section 21A.15.245 of the Sammamish Municipal Code is hereby repealed in its entirety.

Section 2. SMC CH. 21A.55 Amended. Sections 21A.55.040, 050, 080 and 090 of the Sammamish Municipal Code are hereby amended (amendments shown in legislative revision marks) to read as shown on attachment A, incorporated by this reference as though fully set forth herein.

Section 3. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 4. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

**ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF
ON THE 7th DAY OF FEBRUARY, 2012.**

CITY OF SAMMAMISH


Mayor Thomas T. Odell

ATTEST/AUTHENTICATED:



Melonie Anderson, City Clerk

Approved as to form:



Bruce Disend
Kenyon Disend, PLLC
City Attorney

Filed with the City Clerk:	January 10, 2012
Public Hearing:	January 17, 2012
First Reading:	January 17, 2012
Public Hearing:	February 7, 2012
Passed by the City Council:	February 7, 2012
Date of Publication:	February 10, 2012
Effective Date:	February 15, 2012

ATTACHMENT A

Section 1. Amendment to SMC 21A.55.040 (Permit Required). Section 21A.55.040 of the Sammamish Municipal Code is hereby amended (amendments shown in legislative revisions marks) as follows:

21A.55.040 Permit required.

The following table summarizes the type of proposal and required land use approvals. All proposals are subject to the siting hierarchy requirements of this chapter.

Concealed Attached WCF	<u>Monopole-Style WCF Consolidation of WCFs</u>	Concealed Collocation	Flush- or Nonflush-Mounted Antenna on Existing Antenna Support Structure	<u>New</u> Concealed Antenna Support Structure	Combined on Existing WCF
P ¹	<u>P¹</u>	P ¹	P ¹	C	P ⁺
C	€	C	C		€

P – Permitted Use: The use is allowed subject to the requirements of the code.

C – Conditional Use Permit: The use is allowed subject to the conditional use review procedures and requirements of the code.

Notes:

1. If the proposal does not ~~extend~~ exceed the maximum height limits set forth at SMC 21A.55.090(3) ~~by more than 40 feet and it is demonstrated the proposal is consistent with any previous relevant approval conditions.~~

Section 2. Amendment to SMC 21A.55.050 (Application requirements). Section 21A.55.050 of the Sammamish Municipal Code is hereby amended (amendments shown in legislative revisions marks) as follows:

21A.55.050 Application requirements.

In addition to any information required for CUP and/or building permit review, an application for new WCFs or modifications to WCFs that require City approval shall provide the following information:

- (1) A site plan showing existing and proposed WCFs, access, base station, ancillary structures, warning signs, fencing, landscaping and any other items necessary to illustrate compliance with the development standards of this chapter;

(2) Except as provided below, a stamped statement by a state of Washington registered professional engineer that the support structure shall comply with EIA/TIA-222-Revision G, published by the American National Standards Institute (as amended), allowable wind speed for the applicable zone in which the facility is located, and describing the general structural capacity of any proposed WCF(s), including:

(a) The number and type of antennas that can be accommodated;

(b) The basis for the calculation of capacity; and

(c) A written statement that the proposal complies with all federal guidelines regarding interference and ANSI standards as adopted by the FCC, including but not limited to nonionizing electromagnetic radiation (NIER) standards.

The foregoing requirements are not applicable when the support structure is a utility pole or high voltage electrical transmission tower;

(3) A report by the applicant that includes a description of the proposed WCF, including height above grade, materials, color, lighting, and information demonstrating compliance with SMC 21A.55.060, Siting hierarchy;

(4) Where a permit for an attachment ~~or collocation~~ is required, the application shall also include the following information:

(a) The name and address of the operator(s) of proposed and existing antennas on the site;

(b) The height of any proposed antennas;

(c) Manufacture, type, and model of such antennas;

(d) Frequency, modulation, and class of service; and

(e) A description of the wireless communication service that the applicant intends to offer to provide, or is currently offering or providing within the City;

(5) A detailed visual simulation of the wireless communication facility shall be provided along with a written report from the applicant, including a map showing all locations where an unimpaired signal can be received for that facility;

(6) Approved WROWA (wireless right-of-way use agreement);

(7) Other information as the director of community development may reasonably require, including additional information specific to the City's wireless communication facilities master plan; and

(8) Fees for review as established by the City's most current fee resolution.

The director of community development may release an applicant from having to provide one or more of the pieces of information on this list upon a finding that in the specific case involved said information is not necessary to process or make a decision on the application being submitted.

Section 3. Amendment to SMC 21A.55.080 (General Requirements). Section 21A.55.080 of the Sammamish Municipal Code is hereby amended (amendments shown in legislative revisions marks) as follows:

21A.55.080 General requirements.

(1) Within public parks and public open spaces, the placement of antennas on existing structures, such as power poles, light standards for recreational fields and antenna support structures, is the preferred option subject to the approval of the property owner. If an existing structure cannot accommodate an antenna due to structural deficiency, or does not have the height required to provide adequate signal coverage, the structure may be replaced with a new structure, provided the new structure:

(a) Will serve the original purpose;

(b) Does not exceed ~~the original height by 40 feet or~~ the maximum height allowed by this chapter. Any height increase in excess of ~~40 feet~~ the maximum height allowed pursuant to SMC 21A.55.090(3) will require a conditional use permit; and

(c) Meets all the requirements of this chapter.

(2) Concealed attached antennas shall comply with the following requirements:

(a) Concealed antennas shall reflect the visual characteristics of the structure to which they are attached and shall be designed to architecturally match the facade, roof, wall, or structure on which they are affixed so that they blend with the existing structural design, color, and texture. This shall include the use of colors and materials, as appropriate. When located on structures such as buildings or water towers, the placement of the antennas on the structure shall reflect the following order of priority in order to minimize visual impact:

(i) A location as close as possible to the center of the structure; and

(ii) Along the outer edges or side-mounted; provided, that in this instance, additional means such as screens should be considered and may be required by the department on a case-by-case basis; and

(iii) When located on the outer edge or side-mounted, be placed on the portion of the structure less likely to be seen from adjacent lands containing, in descending order of priority: existing residences, public parks and open spaces, and public roadways;

~~(b) Notwithstanding the height limit of the underlying zone, the top of the concealed attached WCF shall not be more than 20 feet above an existing or proposed nonresidential building or structure, or more than 15 feet above a residential building or structure;~~

~~(e) Feed lines shall be contained within a principal building or encased and the encasement painted to blend and match the design, color, and texture of the facade, roof, wall, or structure to which they are affixed.~~

(3) Concealed antenna support structures shall comply with the following requirements:

(a) Upon application for a conditional use permit or a building permit for a new concealed antenna support structure, whichever is required first, the applicant shall provide a map showing all existing antenna support structures or other suitable nonresidential structures located within one-quarter mile of the proposed structure with consideration given to engineering and structural requirements.

(b) No new antenna support structure shall be permitted if an existing structure suitable for attachment of an antenna or collocation is located within one-quarter mile, unless the applicant demonstrates that the existing structure is physically or technologically unfeasible, or is not made available for sale or lease by the owner, or is not made available at a market rate cost, or would result in greater visual impact. The burden of proof shall be on the applicant to show that a suitable structure for mounting of antenna or collocation cannot be reasonably or economically used in accordance with these criteria.

(c) In residential districts, new concealed antenna support structures shall only be permitted on lots whose principal use is not single-family residential including, but not limited to: schools, churches, synagogues, fire stations, parks, and other public property.

(d) To the extent that there is no conflict with the color and lighting requirements of the Federal Communications Commission and the Federal Aviation Administration for aircraft safety purposes, new antenna support structures shall be concealed as defined by this chapter and shall be configured and located in a manner to have the least visually obtrusive profile on the landscape and adjacent properties. New concealed antenna support structures shall be designed to complement or match adjacent structures and landscapes with specific design considerations such as architectural designs, height, scale, color, and texture and designed to blend with existing surroundings to the extent feasible. This shall be achieved through the use of compatible colors and materials, and alternative site placement to allow the use of topography, existing vegetation or other structures to screen the proposed concealed antenna support structure from adjacent lands containing, in descending order of priority: existing residences, public parks and open spaces, and public roadways.

(e) At time of application the applicant shall file a letter with the department, agreeing to allow collocation on the tower. The agreement shall commit the applicant to provide, either at a market rate cost or at another cost basis agreeable to the affected parties, the opportunity to collocate the antenna of other service providers on the applicant's proposed tower to the extent that such collocation is technically and structurally feasible for the affected parties.

(f) All new concealed antenna support structures up to 60 feet in height shall be engineered and constructed to accommodate no less than two antenna arrays. All concealed antenna support structures between 61 feet and 100 feet shall be engineered and constructed to accommodate no less than three antenna arrays. All concealed antenna support structures between 101 and 140 feet shall be engineered and constructed to accommodate no less than four antenna arrays.

(g) Grading shall be minimized and limited only to the area necessary for the new WCF.

~~(4) Consolidation of WCFs shall comply with the following requirements: Consolidation of two or more existing WCFs may be permitted pursuant to the provisions of this chapter including a CUP and consideration of the following:~~

~~(a) WCF consolidation shall reduce the number of WCFs;~~

~~(b) If a consolidation involves the removal of WCFs from two or more different sites and if a consolidated WCF is to be erected on one of those sites, it shall be erected on the site that provides for the greatest compliance with the standards of this chapter;~~

~~(c) Consolidated WCFs shall be concealed;~~

~~(d) All existing base station and ancillary equipment shall be brought into compliance with this chapter;~~

~~(e) A new WCF approved for consolidation with an existing WCF shall not be required to meet new setback standards so long as the new WCF and its base station and ancillary structures are no closer to any property lines or dwelling units than the WCF and its base station and ancillary structures being consolidated. For example, if a new WCF is replacing an old one, the new one is allowed to have the same setbacks as the WCF being removed, even if the old one had noneonforming setbacks;~~

~~(f) If the consolidated WCF cannot meet the setback requirements, it shall be located on the portion of the parcel on which it is situated which provides the optimum practical setback from adjacent properties, giving consideration to the following:~~

~~(i) Topography and dimensions of the site; and~~

~~(ii) Location of any existing structures to be retained;~~

~~(54) Collocated or combined facilities shall comply with the following requirements:~~

~~(a) Collocation of antennas onto existing antenna support structures meeting the dimensional standards of this chapter are permitted outright. Antenna mounts shall be flush-mounted onto existing antenna support structures, unless it is demonstrated through RF propagation analysis that flush-mounted antennas will not meet the network objectives of the~~

~~desired coverage area. Furthermore, an antenna shall not extend vertically above the uppermost portion of the structure to which it is mounted or attached, as follows:~~

~~(i) Not more than 20 feet on a nonresidential structure; and~~

~~(ii) Not more than 15 feet on a residential structure;~~

~~(b) Collocation of antennas onto a new antenna support structure constructed after the effective date of the ordinance codified in this chapter shall be concealed;~~

~~(e) At the time of installation, the WCF base station and ancillary structures shall be brought into compliance with any applicable landscaping requirements; and~~

~~(d) A collocated or combined WCF, its new base station, and any new ancillary structures shall be subject to the setbacks of the underlying zoning district; and~~

~~(e) When a collocated or combined WCF is to be located on a nonconforming building or structure, then it will be subject to Chapter 21A.70 SMC.~~

Section 4. Amendment to SMC 21A.55.090 (Design Standards). Section 21A.55.090 of the Sammamish Municipal Code is hereby amended (amendments shown in legislative revisions marks) as follows:

21A.55.090 Design standards.

(1) All WCFs shall:

(a) Be designed and constructed or improved at the time of an upgrade to present the least visually obtrusive profile; and

(b) Use colors such as brown, grey, blue, or green and materials that match the existing antenna support structure and structures in the local area and reduce visual impacts unless otherwise required by the City of Sammamish, the FAA, or the FCC. For example, a utility pole that is brown should have conduits and antennas that are brown. The colors and materials shall be approved by the City community development director to ensure compliance with this section; and

(c) Flush-mount antennas when feasible. Four nonflush-mounted antennas are allowed only upon written demonstration by the applicant that flush-mounting is not feasible.

(2) Base Stations.

(a) Base stations and ancillary structures shall be subject to the setbacks of the underlying zoning district.

(b) Except as allowed pursuant to subsection (5)(c) of this section, base stations that are not located underground shall not be visible from public views.

(c) New concealed base stations and ancillary structures shall be designed to complement or match adjacent structures and landscapes. Specific design considerations such as architectural designs, height, scale, color, and texture should be designed to blend with existing surroundings to the extent feasible.

(d) Where feasible, one building with multiple compartments shall be constructed to serve the total number of anticipated collocation tenants. If the applicant can demonstrate that one building is not feasible or practical due to site design or other constraints, then a master site plan shall be provided to demonstrate how all potential base stations and ancillary structures will be accommodated within the vicinity of the WCF.

(3) Height Standards.

(a) Measurement of WCF. For purposes of this Section 21A.55.090(3) SMC, ~~the~~ height of the antenna support structure shall be measured from the natural undisturbed ground surface below the center of the base of the tower to the top of the tower or, if higher, to the top of the highest antenna or piece of equipment attached thereto.

(b) Maximum Height for New WCF. The height of any new WCF shall not exceed the height provided in the table below.

Locations	Maximum Height of New Antenna Support Structures
CB, O	80'
NB	40'
R-1 – R-8, <u>TC-C and TC-E</u>	40'
R-12 – R-18	60'
TC-A and TC-B <u>TC-D</u>	80'
Principal arterial rights-of-way	120'
Minor or collector arterial rights-of-way	80'

(c) Maximum Height for Replacement Antenna Support Structure. The height of an antenna support structure that replaces an existing antenna support structure shall not exceed the higher of, the height of the existing antenna support structure being replaced, or the maximum height provided in the table above for new antenna support structures.

(d) Maximum Height above top of Antenna Support Structure. The highest point of an attached antenna shall not be more than 20 feet above the highest point of the antenna support structure (not including any attached antenna) to which it is attached.

(e) A new antenna support structure may be permitted to exceed the maximum height allowed per location, provided:

(i) The increase is consistent with all conditions of the CUP authorizing the use and subsequent approvals thereafter;

(ii) The existing conditions and the proposed changes are not in violation of the SMC;

(iii) The height increase is made necessary by foliage attenuation from foliage in the proposed location of the antenna support structure that exceeds the maximum height allowed for antenna support structure for that location;

(iv) The height increase is the minimum necessary for the effective functioning of the provider's network; and

(v) A nonconformance shall not be created or increased, except as otherwise provided by this chapter.

(4) Setback Requirements.

(a) Antenna support structures outside of the right-of-way shall have a setback from property lines of 10 feet from any property line and 50 feet or one foot setback for every one foot in height from any residentially zoned property, whichever provides the greatest setback.

(b) Base stations shall be subject to the setback requirements of the zone in which they are located.

(c) The department shall consider the following criteria and give substantial consideration to on-site location and setback flexibility. These are authorized when reviewing applications for new antenna support structures ~~and consolidations~~. The following shall be considered:

(i) Whether existing trees and vegetation can be preserved in such a manner that would most effectively screen the proposed tower from residences on adjacent properties;

(ii) Whether there are any natural landforms, such as hills or other topographic breaks, that can be utilized to screen the tower from adjacent residences; and

(iii) Whether the applicant has utilized a tower design that reduces the silhouette of the portion of the tower extending above the height of surrounding trees.

(5) Landscaping and Fencing Requirements.

(a) Except as allowed pursuant to subsection (5)(c) of this section, all ground mounted base stations ~~that are within base station hierarchy 2 and 3(b)~~ shall be enclosed with an opaque fence. In all residential zones, or a facility abutting a residential zone, or in any zone when the base station adjoins a public right-of-way, the fence shall be opaque and made of wood, brick, or masonry. ~~In the NB, CB, or O zone, if a chain link fence is installed, slats shall be woven into the security fence.~~ All fencing shall be subject to SMC 21A.30.190.

(b) Except as allowed pursuant to subsection (5)(c) of this section, all base stations that are within base station hierarchy 2(a) and 3(b) shall have perimeter landscaping as follows:

(i) In the NB, CB, O or TC zone and the abutting rights-of-way, the base stations shall be landscaped with eight feet of Type II landscaping pursuant to Chapter 21A.35 SMC along any lot line abutting a residential zone;

(ii) In residential zones and the abutting rights-of-way, the base station shall be landscaped with 10 feet of Type I landscaping pursuant to Chapter 21A.35 SMC;

(iii) ~~When a fence is used to prevent access to a WCF or base station, a~~Any landscaping required shall be placed outside of the fence; and

(iv) Landscaping provisions may be modified in accordance with Chapter 21A.35 SMC.

(c) If an applicant is able to demonstrate to the City engineer that compliance with the applicable fencing and landscaping requirements will pose an unreasonable risk to the public health or safety, the fencing and landscaping requirements may be altered to the extent reasonably necessary to address the demonstrated risk to public health or safety, or waived if no reasonable alternatives exist.

(6) Lighting Standards.

Except as specifically required by the FCC or FAA, WCFs shall not be illuminated, except lighting for security purposes that is compatible with the surrounding neighborhood.

Any lighting required by the FAA or FCC must be the minimum intensity and number of flashes per minute (i.e., the longest duration between flashes) allowable to minimize the potential attraction to migratory birds. Dual lighting standards (white blinking light in daylight and red blinking light at dusk and nighttime) are required and strobe light standards are prohibited unless required. The lights shall be oriented so as not to project directly onto surrounding residential property, and be consistent with FAA and FCC requirements.

(7) Signage.

Commercial messages shall not be displayed on any WCF. The only signage that is permitted upon an antenna support structure, base station, or fence shall be informational and for the purpose of identifying the antenna support structure (such as ASR registration number), as well as the party responsible for the operation and maintenance of the facility, its current address and telephone number, security or safety signs, and property manager signs (if applicable).

If more than 220 voltage is necessary for the operation of the facility and is present in a ground grid or in the antenna support structure, signs located every 20 feet and attached to the fence or wall shall display in large, bold, high-contrast letters (minimum letter height of four inches) the following: HIGH VOLTAGE – DANGER.

(8) Sounds.

Maximum permissible sound levels to intrude into the real property of another person from a WCF shall not exceed 45 dB(A). In the case of maintenance, construction, and emergencies, these sound levels may be exceeded for short durations as required by the specific circumstance.