

**CITY OF SAMMAMISH  
WASHINGTON  
ORDINANCE NO. O2016-411**

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**AN ORDINANCE OF THE CITY OF SAMMAMISH,  
WASHINGTON, AMENDING SECTION 21A.55.030 OF THE  
SAMMAMISH MUNICIPAL CODE RELATING TO WIRELESS  
COMMUNICATION FACILITIES; 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, in 2012, Congress passed the "Middle Class Tax Relief and Job Creation Act of 2012" (the "Spectrum Act"); and

WHEREAS, Congress, through its enactment of Section 6409 of the Spectrum Act, has mandated that state and local governments approve, and cannot deny, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station; and

WHEREAS, on October 21, 2014, the FCC issued a report and order, WT Docket Nos. 13-238, 13-32; WC Docket No. 11-59; FCC 14-153, (the "Report and Order" or "Order") clarifying and implementing statutory requirements related to state and local government review of infrastructure siting, including Section 6409, with the intent of facilitating and expediting the deployment of equipment and infrastructure to meet the demand for wireless capacity; and

WHEREAS, that part of the Report and Order related to implementation of Section 6409, amends 47 C.F.R. Part 1 by adding new Subpart CC § 1.40001 and establishes both substantive and procedural limitations upon local government's ability to regulate an eligible facilities request; and

WHEREAS, the Order, among other things, defines key terms utilized in Section 6409, establishes application requirements limiting the information that can be required from an applicant, implements a 60-day shot clock and tolling provisions, establishes a deemed approved remedy for applications not timely responded to, requires cities to approve a project permit application requesting modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, and establishes development standards that govern such proposed modifications; and

WHEREAS, the Order was published in the Federal Register on Thursday, January 8, 2015, Federal Register; Vol. 80; No. 5, resulting in the regulations for eligible facilities requests becoming effective on April 8, 2015; and

WHEREAS, Section 21A.05.040 of the Sammamish Municipal Code requires all land uses and development to comply with applicable federal, state, and local laws; and

WHEREAS, in addition to the code amendments that the City has deemed necessary for compliance with federal law, additional amendments were identified for internal code consistency regarding wireless exemptions and the protection of environmentally critical areas (the "Proposed Amendments"); and

WHEREAS, in accordance with WAC 365-195-620, on May 26, 2016, the City submitted a Notice of Intent to Adopt Amendments to the Washington State Department of Commerce for expedited review; and

WHEREAS, an environmental review of the Proposed Amendments has been conducted in accordance with the requirements of the State Environmental Policy Act ("SEPA"), and a SEPA threshold determination of non-significance was issued on June 24, 2016, and sent to state agencies and interested parties; and

WHEREAS, on May 19, 2016, the Planning Commission held a work session on the Proposed Amendments; and

WHEREAS, on June 2, 2016, the Planning Commission held a public hearing on the Proposed Amendments and developed its recommendation for the City Council; and

WHEREAS, on July 5, 2016, the City Council received the Planning Commission recommendation and held a second public hearing on the Proposed Amendments; and

WHEREAS, the City Council finds that the Proposed Amendments are reasonable and necessary in order to bring the City's development regulations into compliance with the mandate imposed upon the City by Congress pursuant to Section 6409 and the regulations imposed upon the City by the FCC pursuant to its Report and Order, and are therefore in the public interest;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAMMAMISH, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**Section 1. SMC 21A.55.030, Exemptions, Amended.** Sammamish Municipal Code Section 21A.55.030, *Exemptions*, is hereby amended as set forth in **Attachment A**, which is incorporated herein by this reference.

**Section 2. 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 3. 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 19<sup>TH</sup> DAY OF JULY, 2016.**

CITY OF SAMMAMISH



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Mayor Donald J. Gerend

ATTEST/AUTHENTICATED:

  
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Melonie Anderson, City Clerk

Approved as to form:

  
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Michael R. Kenyon, City Attorney

Filed with the City Clerk:	June 28, 2016
Public Hearing:	July 5, 2016
First Reading:	July 5, 2016
Passed by the City Council:	July 19, 2016
Date of Publication:	July 22, 2016
Effective Date:	July 27, 2016

**ATTACHMENT A:  
Amended SMC 21A.55.030**

**21A.55.030 Exemptions.**

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Exemptions shall comply with generally applicable building, structural, electrical, and safety codes and other laws codifying objective standards reasonably related to health and safety. A project taking place within an environmentally critical area shall not be eligible for an exemption. The following are exempt from the provisions of this chapter:

- (1) Amateur radio antenna operated by a federally licensed amateur radio operator as part of the amateur or business radio service;
- (2) Citizen band or two-way radio antenna including any mast;
- (3) Satellite earth stations (satellite dish) that are one meter (39.37 inches) or less in diameter in all residential districts and two meters or less in all other zoning districts and which are not greater than 20 feet above grade in residential districts and 35 feet above grade in all other zoning districts;
- (4) Public agency communications systems of the City of Sammamish, without limitation, when the facility or facilities are on lands owned by the City and all other building and land development regulations are complied with. Any such facility constructed and operated under this section shall comply with all federal regulations including, but not limited to, site location, aircraft warning, station power level, and frequency allocation;
- (5) A temporary commercial wireless communications facility, for the purposes of providing coverage of a special event such as news coverage or sporting event, subject to approval by the City, except that such facility must comply with all federal and state requirements. Said wireless communications facility may be exempt from the provisions of this chapter up to one week after the duration of the special event;
- (6) In the event a building permit is required for any emergency repair, notification in writing to the director of community development shall occur within 24 hours of identification of the needed repair; filing of the building permit application shall be done in compliance with the City's adopted building code;
- (7) Antenna modifications, provided:
  - (a) There is no increase in the number of antennas; and

(b) There is no increase in the height of the antenna support structure;

(8) Temporary WCF; and

(9) An eligible facilities request pursuant to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 and 47 CFR 1.40001. All projects that meet the definition of an "eligible facilities request" as defined in 47 CFR 1.40001 shall be permitted upon the issuance of a wireless exemption letter. An application for an eligible facilities request shall provide information as required by the Director. For the purpose of reviewing an eligible facilities request, the definitions and procedures of 47 CFR 1.40001 shall control and supersede any contrary definitions or procedures of this Chapter.