

CODE

**CITY OF REDMOND
ORDINANCE NO. 2842**

AN ORDINANCE OF THE CITY OF REDMOND, WASHINGTON ADOPTING INTERIM LAND USE REGULATIONS AND OFFICIAL CONTROLS PURSUANT TO RCW 35A.63.220 AND RCW 36.70A.390 BY: (1) AMENDING RZC 21.56.020 APPLICABILITY PERMITS AND EXEMPTIONS, SUBSECTION B, TO ADD A NEW SUBPARAGRAPH (3) EXEMPTING ELIGIBLE FACILITIES; (2) AMENDING RZC 21.76.040 TIMEFRAMES FOR REVIEW TO ADD A NEW SUBSECTION F, WIRELESS COMMUNICATIONS FACILITIES; (3) AMENDING TABLE 21.76.070 RELATING TO WIRELESS COMMUNICATIONS ELIGIBLE FACILITIES, TO PROVIDE FOR THE MODIFICATION OF EXISTING WIRELESS COMMUNICATIONS FACILITIES; (4) AMENDING RZC 21.78 DEFINITIONS, TO ADD A NEW DEFINITIONS FOR "ELIGIBLE FACILITIES", (5) ESTABLISHING A DATE FOR PUBLIC HEARING; AND (6) DECLARING AN EMERGENCY AND ESTABLISHING AN IMMEDIATE EFFECTIVE DATE

WHEREAS, RZC 21.56.020 Applicable Permits and Exemptions and Table 21.76.070 Wireless Communications Facilities, provide for bulk and review procedures applicable to the installation of wireless communications facilities in the various zones of the City; and

WHEREAS, Federal laws (such as 47 U.S.C. §1455(a)), and FCC Rulings (such as FCC 14-153) establish time limits known as "shot clocks" on the processing of applications for the expansion of eligible facilities which do not substantially change the height or profile of the structure, as well as time

limits on the processing of applications to collocate wireless facilities on existing antennae structures and the establishment of time limits on the processing of applications for new antenna support structures; and

WHEREAS, requests to modify existing towers and base stations which would not substantially change the height or profile cannot be denied and are deemed approved if not acted upon within 60 days of receipt of a complete application; and

WHEREAS, Federal law imposes a 90-day time limit or "shot clock" on the consideration of applications for collocations of wireless facilities on existing towers and base stations and a 150-day shot clock for the consideration of all other requests such as new antenna support structures; and

WHEREAS, the City Council acknowledges that the growing use of smart phones and other personal devices has created a substantial need for wireless data transmission and the City Council deems it to be in the public interest to incorporate the federal guidelines and provide for the speedy review of applications; and

WHEREAS, the potential conflict between City land use review timelines and the preemptive federal "shot clocks" creates a time-sensitive emergency requiring the use of an interim zoning ordinance.

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

Section 1. Amendment of Subsection. RZC 21.56.020, Applicability Permits and Exemptions, is hereby amended to add a new subparagraph B(3) relating to Eligible Facility modifications to read as follows:

21.56.020 Applicability Permits and Exemptions

- A. Permits Required.** Any person desiring to locate or install any Wireless Communication Facility (WCF) within the City of Redmond shall first obtain a permit to do so. The table set forth in RZC 21.76.070.AD, *Wireless Communication Facilities*, sets forth the type of permit required based upon the nature of the facility and its location.
- B. Exemptions.** The following WCFs shall be exempt from the requirement to obtain permits:
1. VHF and UHF Receive-Only Television Antenna(s). VHF and UHF receive-only antenna(s) shall not be required to obtain land use permit approval nor shall they be required to obtain building permit approval. VHF/UHF antenna(s) shall be restricted to a height limit of no more than 15 feet above the existing or proposed roof.
 2. Small Satellite Dish Antenna(s). Small dish antenna(s) in all zones shall be exempt from obtaining land use permit approval in accordance with the Federal Telecommunications Act. Such antennas shall not be required to obtain building permit approval, but installation must

comply with any applicable provisions of the City Building Code.

3. Antenna Support Structures, Antenna Arrays and Base Stations that qualify as Eligible Facilities and are modified in accordance with 47 U.S.C. § 1455(a) and FCC Order and Ruling FCC 14-153 shall be exempt from having to obtain a land use approval. An application for Eligible Facility Request shall be submitted in addition to building permit applications and/or any other applicable applications. Concealment requirements under the Design Standards as specified in RZC 21.56.050 shall apply.

- C. Facilities on Public Property. WCFs located in public rights-of-way and on other City property shall comply with RMC Chapter 12.14, *Telecommunications*.
- D. Permits may be conditioned to allow review of the continued use of the antenna support structure at five-year intervals in order to recognize that rapid technological advancements, changing markets, and legal interpretations by the FCC and by the courts may require periodic design review.
- E. In addition to complying with the requirements of this chapter and the International Building Code, all wireless communication facilities located within the shorelines of the City shall comply with RZC 21.68.160, *Utilities Within Shorelines*.
- F. All permits for antenna support structures and base stations shall be expressly conditioned upon compliance with the removal requirements of RZC

21.56.080, *Cessation of Use*, below upon cessation of use of any such facility.

Section 2. Amendment of Section. RZC 21.76.040,
Timeframes for Review, is hereby amended by adding a new subsection F to read as follows:

21.76.040 TIMEFRAMES FOR REVIEW.

. . . .

F. Wireless Communications Facilities. In order to comply with Federal law and FCC guidelines, applications for the following wireless communications facilities and systems shall be finally approved, denied or conditionally approved within the following timeframes.

1. Requests to modify Eligible Facilities which do not substantially change the antennae support structure or base stations shall be approved within sixty (60) days of receipt of a complete application. Unless tolled by mutual agreement, Eligible Facility requests shall be deemed approved on the sixtieth day. The terms "eligible facilities requests" and "substantially changed" shall be given the definition and otherwise determined in accordance with the provisions of 47 U.S.C. §1455(a), and FCC Order and Ruling FCC 14-153. Nothing herein shall be interpreted to permit expansions which defeat concealment requirements imposed by the Design Standards, entail excavation or deployment outside of the current site nor which negatively impact historic districts in accordance with National Historic Preservation Act Section 106 Grant Requests.

2. Requests for the collocation of wireless communications facilities on existing towers or base stations which would result in a substantial change shall be finally approved, denied or conditionally approved within ninety (90) days of receipt of a complete application unless tolled by mutual agreement.

3. Applications for new antenna support structures shall be acted upon within one hundred and fifty (150) days of receipt of a complete application.

4. The director is hereby authorized to take appropriate administrative action, such as the hiring of a special hearing examiner, as well as expedited processing of applications, review and appeals, if any, in order to meet Federal time limits. In the event that the City fails to reach a final decision within the time periods established by Federal law, applicants may pursue a request for injunctive relief in accordance with 47 U.S.C. 332(c) (7).

Section 3. Amendment of Section. RZC Table 21.76.070 Wireless Communications Facilities, is hereby amended in the form shown on the attached Exhibit A, incorporated by this reference as fully as if herein set forth.

Section 4. Amendment of Section. RZC 21.78, Definitions, is hereby amended by adding of the following new definition, "Eligible Facilities," to read as follows:

E-DEFINITIONS.

. . . .
"Eligible facilities" means a wireless communications facility proposed for modifications or collocation on an existing tower or base station, used for wireless communications facilities which does not substantially change the height or dimensions of the antennae area or associated equipment. The determination of whether a facility would be substantially changed shall be determined in accordance with the provisions of 47 U.S.C. §1455(a) and FCC Order and Ruling FCC 14-153, as the same exists or hereafter amended.

Section 5. Setting of Public Hearing. A public hearing is hereby set on this interim zoning ordinance for October 18, 2016, such date being within at least sixty (60) days of the adoption of this ordinance. Following such public hearing, the City Council indicates its intent to adopt findings of fact and conclusions of law and to consider adoption of a work plan and effective date in the event that the City Council, in its discretion, determines to provide for the expiration of the interim zoning ordinance six (6) months from the date of adoption. The interim zoning ordinance is further directed to the Planning Commission for its consideration and recommendation regarding adoption of an appropriate change to the City's zoning codes.

Section 6. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 7. Effective Date. For the reasons set forth in the recitals above, the City Council hereby finds and declares that an emergency exists that makes this ordinance necessary for the immediate protection of the public health, public safety, public property, or public peace. Failure of the City to correct conflicts between its code and the preemptive federal "shot clocks" could deprive the City of its regulatory authority regarding certain facilities. This ordinance shall therefore become effective immediately upon passage as provided in RCW 35A.12.130.

ADOPTED by the Redmond City Council this 20th day of
September, 2016.

CITY OF REDMOND

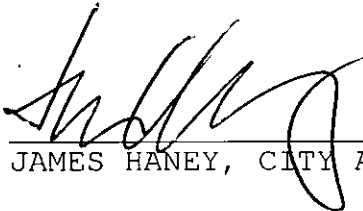

JOHN MARCHIONE, MAYOR

ATTEST:


MICHELLE M. HART, MMC, CITY CLERK

(SEAL)

APPROVED AS TO FORM:


JAMES HANEY, CITY ATTORNEY

FILED WITH THE CITY CLERK:	September 6, 2016
PASSED BY THE CITY COUNCIL:	September 20, 2016
SIGNED BY THE MAYOR:	September 23, 2016
PUBLISHED:	September 26, 2016
EFFECTIVE DATE:	September 20, 2016
ORDINANCE NO. 2842	

YES: BIRNEY, CARSON, MARGESON, MYERS, SHUTZ, STILIN
RECUSED: ALLEN

Exhibit A

**Table 21.76.070
Wireless Communication Facilities**

Facility Type	Zone	Structure Type	Land Use Permit Type
<u>Small satellite dish antenna</u>	All	All	None required
<u>Large satellite dish antenna</u>	All	All	WFP I
<u>Amateur radio towers</u>	All	All	WFP I
<u>Antenna Support Structures*</u>	MP and I	All	WFP II
	UR, RA-5, R-1	All	Conditional Use Permit
	All other zones than those above	All	Conditional Use Permit
*If exceeds height limits per <u>RZC 21.56</u> unless specifically exempted per <u>RZC 21.56.020(B)(3)</u>	All	All	Conditional Use Permit
<u>Antenna Array and Base Stations</u>	Replacement of existing antennas or colocation of new antennas on existing antenna support structure, and associated ground mounted equipment.	All	None required
	GC, NC-1, NC-2, BP, MP and I	Nonresidential	WFP I
	All zones except GC, NC-1, NC-2, BP, MP and I	Nonresidential	WFP II
	All zones	N/A (free standing/ground mounted facilities)	WFP I
	All zones	Residential	Conditional Use Permit
Wireless monopoles, lattice, and guy towers and existing pole structures extended in height unless specifically exempted per <u>RZC 21.56.020(B)(3)</u>	All zones except UR, RA-5 and R-1	All	Conditional Use Permit
	RA-5, UR and R-1	All	Conditional Use Permit
If facility exceeds height limits per <u>RZC 21.56</u> outside of the exemptions specified in <u>RZC 21.56.020(B)(3)</u>	NC-1, NC-2, GC, BP, MP and I	All	Conditional Use Permit