



Planning & Development Services

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Staff Report

From: Jenn Rogers, Assistant Long Range Planner

Re: Amendments to Wireless Facilities Code

Date: August 25, 2022

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Summary

Skagit County Code 14.04 and 14.16 include sections which pertain to the development and maintenance of wireless facilities. The current code is not compliant with federal standards and does not include regulations for new types of infrastructure wireless providers are installing for their networks. This proposed update would ensure Skagit County Planning & Development Services (PDS) is prepared to process applications for infrastructure such as small cell wireless facilities, which are often placed on existing poles or other infrastructure in the right-of-way, and that staff are adhering to new federal shot clock requirements for wireless application permits.

Background

Federal law requires Skagit County to process wireless facilities applications in a timely manner and to provide non-discriminatory access to its rights-of-way for telecommunications purposes. The industry is in the process of installing wireless equipment, including building out 5G networks, to keep up with technological advancement and widespread adoption of smart devices. Wireless providers are required to follow all federal and local regulations regarding installation of their facilities and equipment, including the County's development code requirements.

Since 2018, the Federal Communications Commission (FCC) has been actively involved in issuing rules and regulations regarding the deployment of 5G equipment and facilities. It was the FCC's belief that local governments were unreasonably slowing the roll-out of 5G by either taking too long to process applications or charging too much for use of the right-of-way which, in turn, acted as a barrier to entry for the wireless providers. As such, the FCC adopted five separate “shot clock” time limits within which local governments must decide on small cell or other applications. The FCC also prescribed what counties and cities may charge for use of their rights-of-way when it comes to small wireless facilities.

Additionally, the FCC issued its classification for small wireless facilities which generally includes up to a 50-foot pole along with corresponding antennas and related equipment. Given that development, along with other guidelines issued by the FCC, it became necessary to update and modernize Section 14.16.720 of the Skagit County Code. The proposed amendments now cover both towers and small wireless facilities (see figure 1 and figure 2 as examples). It should be noted that the County still has the right to promulgate reasonable aesthetic standards for small cells if those standards are published in advance and readily available to the providers. The changes to Section 14.16.720 reflect best practices. They were designed to strike a balance of competing interests between the County and the provider community.



Figure 1 Macro Cell Tower



Figure 2 Small Wireless Facility

Small wireless facilities are small antennas and radios commonly placed on existing infrastructure (such as utility poles, traffic lights, or buildings)

Analysis

The proposed changes relate to regulations in our unified development code, [SCC Title 14](#). An overview of the changes is provided here.

The proposed code sections to be amended:

- **SCC 14.04: Update definitions.** The existing code contains several definitions which need to be updated. Wireless facility infrastructure has changed as the technology has evolved and definitions in the code have either been added or updated to reflect the new technology anticipated to be used in Skagit County.
- **SCC 14.16.720 Tower and Small Wireless Facilities Regulations.** As the deployment of new infrastructure is anticipated in Skagit County, staff have updated zoning regulations to reflect new technology used for wireless facilities. Previously, providers relied primarily on macro cell towers to create a service network. Macro cell towers have a range between ten and twenty miles. Providers are now transitioning to small wireless facility infrastructure, which has a smaller range of approximately one quarter mile but can deliver a stronger signal for faster data speeds. These small wireless facilities will be installed on either new poles up to 50 feet, or on existing infrastructure such as, utility poles, buildings, or traffic signals. Small wireless facilities will boost the signal from macro cell towers to increase data processing capacity for consumers (see Figure 3).



Figure 3 Wireless Facility Example Map

Staff additionally updated regulations on the siting and design for wireless facilities. Federal law requires the County to only mandate design requirements which are reasonable compared to design regulations for similar structures. Wireless facilities must

be painted, designed, and installed in a manner similar to the characteristics of the surrounding environment and have minimal adverse visual impacts to adjacent properties.

- **SCC 14.16.720 (21) Timing of Decisions – Federal Shot Clocks.** By federal law, Skagit County must review select wireless facility applications within a certain timeline. If staff fail to act on these applications within the required time, the application is automatically deemed approved. The below applications are subject to the federal shot clocks:

Type of Application	Timeline
Eligible Facilities Request	60 days
Small Wireless – Collocation	60 days
Small Wireless – New	90 days
Other Wireless Facility – Collocation	90 days
Other Wireless Facility – New Macro Tower	150 days

The shot clock does not start until the County deems an application is complete. If the County determines an application is missing a required component, staff may pause the shot clock to return the application to the applicant with instructions for required documentation. The County is restricted on how many days after an application is submitted for staff to notify the applicant of an incomplete status. These time limits for tolling vary by type of application. For example, the County has thirty days from submittal to toll an application for collocation of a small wireless facility. Once the application has been re-submitted, staff can toll the application again within ten days of re-submittal if there are still missing items in the application.

Consistency

Consistency Review (Skagit County Code 14.08)

1. **Is the amendment consistent with the vision statements, goals, objectives, and policy directives of the Comprehensive Plan and the does the proposal preserve the integrity of the Comprehensive Plan and assure its systematic execution?**

This amendment is consistent with the Comprehensive Plan:

Goal 2E: Allow public uses as special uses in most comprehensive land use designations, to be reviewed on a site-specific basis.

Policy 2E-1.1: In most comprehensive plan land use designations, public uses are to be allowed as either administrative or hearing examiner special uses. They are reviewed as site-specific projects so that public benefits and land use impacts can be analyzed and, if necessary, mitigated.

Policy 9A: Ensure the provision of high quality, cost effective and environmentally sensitive utility services in cooperation with public and private providers.

Policy 9A-1.1: Utility Agreements – Agreement between the county and utility system providers shall provide for cooperation between functional plans and capital facility plans; address the use of corridors, installations, and rights-of-way; ensure that development permit reviews address all affected utilities; and mitigate impacts of utility improvement projects.

Policy 9A-3: Site facilities consistent the policies of the Land Use Element

Policy 9A-3.2: Siting of Major Facilities – Outdoor installations of transfer and distribution stations providing electrical power, communications, and natural gas, should, where practicable, be located in industrial or commercially zoned areas. Stations should be reasonably compatible with surrounding uses. Where system design or economics necessitate location of such installations in residential or rural areas, installations shall be suitable screened or enclosed so as to eliminate or substantially reduce the visual impact. This may be achieved through appropriate setbacks and screening, such as, buildings, natural topography, landscaping, and vegetation.

Policy 9A-3.4: Wireless Communications – Siting of wireless facilities shall minimize visual and noise impacts, through the utilization of existing sites and structures where possible, adequate setbacks and appropriate landscape screening.

2. Is the proposal supported by the Capital Facilities Plan (CFP) and other functional Plans?

The subject amendment does not change any elements of the CFP or other functional Plans. The goals and policies of the Capital Facilities Plan are incorporated directly into Chapter 10 of the Comprehensive Plan.

3. Is the proposal consistent with the Growth Management Act (GMA), the Countywide Planning Policies (CPPs), and applicable provisions of the Comprehensive Plan?

The following GMA Planning Goals are applicable:

- Permits. Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.
 - Public facilities and services. Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time
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development is available for occupancy and use without decreasing current service levels below locally established minimum standards.

The following Countywide Planning Policies are applicable:

- CPP 7.2 – Upon receipt of a complete applications, land use proposals and permits shall be expeditiously reviewed and decisions made in a timely manner.
- CPP 7.4 - New implementing codes and amendments shall provide clear regulations to reduce the possibility of multiple interpretations by staff and applicants.
- CPP 10.2 - Land use decisions shall take into account the immediate and long-range cumulative effects of proposed uses on the environment, both on-and off-site.
- CPP10.6 – Rural character shall be preserved by regulatory mechanisms through which development can occur with minimal environmental impact.

4. Does the proposal bear a substantial relationship to the public general health, safety, morals, or welfare?

The proposal will protect the safety and welfare of the public by ensuring new wireless facility developments adhere to regulations regarding rural character, protecting the surrounding environment, and compliance with building and safety code standards.

Recommendation

The Department recommends adoption of the proposal. The update ensures the County is compliant with federal law and consistent with new wireless infrastructure and technology. These updates will amend the code to ensure the County permitting staff have regulations and policies enacted to protect the character and environment of Skagit County and allow for efficient processes to review wireless facility applications.

Public Notices

Notice of public meetings was provided via the Skagit County Planning & Development Services listserv and on the project website. The Planning Commission and public were provided the following materials for consideration. The documents can be found on the [project website here](#).

July 26, 2022, Planning Commission Workshop One:

- Memorandum summarizing the code updates and why they are needed
- Redline code language for SCC 14.04 Definitions and 14.16 Zoning

August 9, 2022, Planning Commission Workshop Two:

- PowerPoint presentation with site examples and follow up information to previous Planning Commissioner questions

The proposal will receive at least one public hearing and written comment period before the Planning Commission, consistent with the process for adoption of land use regulations in SCC

Chapter 14.08. The Board of County Commissioners must approve the final adoption. The anticipated schedule is as follows:

Meeting Date	Topic Area
July 26, 2022	Intro to Wireless Facilities Code Updates
August 9, 2022	Work Session #2 - Site Examples
September 13, 2022	Public Hearing to take citizen comments and testimony
September 27, 2022	Planning Commission Deliberations
October 2022	Board of County Commissioners adopts proposed amendments

See below for more information:

<https://www.skagitcounty.net/Departments/PlanningAndPermit/WirelessUpdate2022.htm>

SEPA Threshold Determination

The Skagit County SEPA Responsible Official has issued a Determination of Non-Significance for this non-project legislative proposal.

Public Comment

Option 1: Email comments are preferred and must be sent to pdscomments@co.skagit.wa.us with the proposal name (“Amendments to Wireless Facilities Code”) in the subject line. Include your comments in the body of your email message rather than as attachments.

Option 2: Paper comments must be printed on 8½x11 paper and mailed or delivered to:

Planning and Development Services
Comments on “Amendments to Wireless Facilities Code”
1800 Continental Place
Mount Vernon WA 98273

All comments must be received by Thursday, September 15, 2022, at 4:30 p.m. and include your full name and mailing address. Comments not meeting these requirements will not be considered.

Option 3: You may also comment in person. The Planning Commission is hosting the public hearing on Tuesday, September 13, 2022, at 6:00 p.m. in the Skagit County Commissioners Hearing Room at 1800 Continental Place, Mount Vernon, WA 98273.

If you wish to provide testimony via the online meeting option, please send an email to pdscomments@co.skagit.wa.us, with your name, phone number, and include a request to be added to the speakers list in the body of the email. All requests must be received 24 hours prior to the public hearing date. Public hearing testimony is usually limited to three minutes, so written comments are preferred.

Anyone who plans to attend the public hearing and has special needs or disabilities should contact Planning and Development Services at (360) 416-1320 at least 96 hours before the hearing to discuss and arrange any special accommodations.

Attachment 1 – Redline Code Amendments SCC 14.04 and 14.16