

CLEARANCES	Initial	Date	Date Received in Council Office:	Agenda date	Assigned to:
Originator: <sup>KRALY OLASON</sup> Planning & Develop	KLO	8/31/99	<b>RECEIVED</b>  <b>SEP 08 1999</b>  <b>WHATCOM COUNTY COUNCIL</b>	9/14/99	Introduction
Division Head: Sylvia Goodwin	SG	9/3/99		9/28/99	PUBLIC HEARING
Dept. Head: Michael Knapp	AK	9/3/99			
Prosecutor: David Grant	DNG	9-8-99			
Purchasing/Budget:					
Executive: Pete Kremen	PK	9-8-99			

**SUBJECT:** Ordinance imposing a temporary moratorium on applications for Conditional Use Permits for wireless communications facilities and declaring an emergency.

**ATTACHMENTS:**

- 1. Draft Ordinance – continuing a moratorium on wireless communications facilities.**

**SUMMARY STATEMENT: Please complete sections of box as appropriate & explain the item below.**

This ordinance is a follow up to Ordinance No. 99-041, which was adopted August 10, 1999 as an emergency measure to restrict the placement of cell towers within residential zoning districts or within 1,000 feet of a residence in all other zoning districts.

Whatcom County Charter limits an emergency ordinance to a period not to exceed 61 days from the effective date of the adopted ordinance. RCW 36.70.795 requires the County Council to hold a public hearing within 60 days of adoption of a moratorium and requires the adoption of findings of fact which justify Council action. A public hearing needs to occur prior to the expiration of the initial emergency moratorium (Ord. No. 99-041) in order to maintain the current restrictions. Following the public hearing the Council can deliberate and must adopt findings of fact which support the original emergency moratorium. The Council can also consider the establishment of a continued moratorium to allow adequate time for the Planning Commission and the Planning Staff to develop a recommendation for permanent siting requirements for wireless communication and commercial broadcast facilities.

The attached ordinance contains suggested findings of fact and extends the existing moratorium for a period not to exceed 180 days.

Related County contract #: n/a	Should Clerk schedule a hearing? NO / / YES / X / Requested date: 9/28
Amount budgeted for this item/project: \$ n/a	Is it (or will it be) within budget? YES / / NO / / (Please explain below) n/a
Budget line item number(s): n/a	

**ORIGINATOR'S RECOMMENDED ACTION:**

The Director of Department of Planning and Development Services recommends adoption of Ord NO. 99 \_\_\_\_ adopting a temporary moratorium and authorizing the development of specific language to address the siting of wireless communication facilities.

**COMMITTEE ACTION TAKEN:**

SPONSORED BY: Connie Hoag/Barbara Brenner  
PROPOSED BY: Michael Knapp/Kraig Olason  
INTRODUCTION DATE: 9/21/99

**ORDINANCE #** 99-049

**IMPOSING A MORATORIUM ON APPLICATIONS FOR LAND USE PERMITS  
FOR WIRELESS COMMUNICATIONS FACILITIES**

**WHEREAS**, the County Council previously adopted Title 20-Zoning of Whatcom County Code which regulates land use within unincorporated areas of Whatcom County; and

**WHEREAS**, the County Council adopted the Whatcom County Comprehensive Plan on May 20, 1997, which contains goals, objectives and policies regarding land use compatibility and environmental considerations; and

**WHEREAS**, the increasing use of cellular telephones, new wireless communications and increased federal licensing of communication channels has created a significant increase in the number of applications for land use permits for the siting of cellular towers, cell sites and antennae, and other facilities necessary for wireless services communication facilities including facilities for the transmission and reception of radio or microwave signals used for said communication (hereafter, "wireless communications facilities") that is expected to continue indefinitely; and

**WHEREAS**, the land use regulations currently in effect in the County do not provide sufficient definitive criteria with which the County can address the concerns of County residents and properly evaluate and condition the siting of wireless communications facilities; and

**WHEREAS**, Whatcom County previously enacted an emergency moratorium (Ordinance # 99-041) on the filing and processing of applications of land use permits for wireless communications facilities within residential zoning districts and within 1,000 feet of any residence in all other zoning districts for all new applications received after the effective date of Ordinance #99-041 (August 11, 1999) pursuant to the requirements of Whatcom County Charter, Article 2.40; and

**WHEREAS**, the Whatcom County Charter limits an emergency ordinance to a period not to exceed 61 days from the effective date of the adopted ordinance; and

**WHEREAS**, RCW 36.70.795 requires the County Council to hold a public hearing within 60 days of adoption of a moratorium; and

**WHEREAS**, RCW 36.70.795 requires the adoption of findings of fact which justify Council action, the Council makes the following findings of fact:

1. Whatcom County Code currently provides no siting guidance with which to condition the placement of cellular towers.
2. Cellular towers are currently allowed in all zoning designations.
3. Cellular towers can include various support equipment which may be incompatible with surrounding uses.

4. Unregulated placement of cellular towers could impact significant viewsheds and view corridors.
5. Thirty-three Conditional Use Permits were issued for wireless communication facilities since 1986. Thirteen applications, or 40% of the total number processed since 1986 have been received within the first 7 months of 1999.
6. Wireless communication applications currently account for 25% of Conditional Use Applications for 1999.
7. Whatcom County is in the process of developing amendments to Title 20 which will include criteria to regulate these facilities, in response to increasing concern about the proliferation of wireless communication facilities.
8. Without the imposition of a moratorium additional project proposals could be submitted under current regulations thus precluding the added community safe guards included in the new wireless communication ordinance currently under development.
9. A determination of non-significance was issued by the Whatcom County SEPA Official on September 3, 1999.
10. Public noticed was published in the Bellingham Herald, on Sept. 18, 1999

**WHEREAS**, the County Council finds that the moratorium imposed by this ordinance is necessary for the protection of the public health, safety, property or peace;

**NOW THEREFORE, THE WHATCOM COUNTY COUNCIL, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**Section 1.**

A. A moratorium is imposed on filing and processing of applications for land use permits for wireless communication facilities in residential zoning and within 1,000 feet of any residence in all other zoning unless the applications were complete, as provided in Whatcom County Code, prior to August 11, 1999, the effective date of this ordinance.


B. As used in this ordinance "Land use permit" means any permit required from the County for the construction or siting of any facilities necessary for wireless communications facilities; provided that "land use permit" shall not include any permit for the construction or attachment of any such facilities on existing wireless communications facilities or on such facilities constructed pursuant to a completed application under subsection A above.

**BE IT FURTHER ORDAINED AS FOLLOWS:**


The Whatcom County Council finds as a fact and declares that this ordinance is necessary for the protection of the public health, public safety, public property, or the public peace and shall take effect immediately and shall continue for a period not to exceed 180 days and shall be superceded by amendments to Whatcom County Code which address the siting and placement of wireless communication facilities and commercial broadcast towers.

ADOPTED this 28 day of September, 1999


ATTEST:

  
Dana Brown-Davis, Council Clerk

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY,  
WASHINGTON

  
Marlene Dawson, Chairperson

APPROVED as to form:

  
Civil Deputy Prosecutor

Approved  Denied

  
Pete Kremen, Executive

Date: 10-1-99