

ORDINANCE NO. 703, 2001

An ordinance adding a new chapter 33.49 to the Clallam County Zoning Code, Title 33 C.C.C., on Wireless Communications. Chapter 33.49 establishes the requirements and standards for the siting and development of wireless communications facilities in unincorporated Clallam County.

BE IT ORDAINED BY THE BOARD OF CLALLAM COUNTY COMMISSIONERS

Section 1. Purpose. The purpose of this chapter is to:

1. Provide consistent and effective regulation for the siting and development of wireless communications facilities (WCFs).
2. Promote and protect visual and other aesthetic resources of Clallam County and private property interests from potential adverse impacts of WCF development.
3. Maintain the public health, safety and welfare.

Section 2. Findings of Fact and Conclusions of Law. The Board of Clallam County Commissioners finds the following facts create a need for adopting a new chapter, Wireless Communications, to the Clallam County Zoning Code, Title 33:

1. Clallam County, like most regions throughout Washington State, has recently experienced a significant increase in demand for the development of new wireless communications facilities and service. Conditional Use Permit applications submitted for new facilities in Clallam County in 1999 totaled five (5) applications, compared to a total of six (6) applications for the years 1993 through 1998. This emerging trend, coupled with increased numbers of preliminary inquiries regarding the siting of new wireless communications facilities, indicates a strong likelihood that Clallam County will experience increasing numbers of applications in the years to come.
2. New wireless communications facilities often include construction of tall (sometimes greater than 200 feet) support towers for sending and receiving antennas. Tall towers and flashing lights threaten the aesthetic values of scenic resources, night views, property values of residential districts, and scenic values important to residents and visitors alike. Scenic vistas from Highways 101 and 112 are adversely impacted by tall, unsightly towers sited in locations that obstruct views of the Olympic Mountains, the Strait of Juan de Fuca, and other cultural and historic viewsapes.
3. Promotion and protection of Clallam County's visual and aesthetic resources is a clearly stated goal of the Clallam County Comprehensive Plan, as amended.
4. State Route 101 is a State Designated Scenic Byway. State Route 112 is a National Designated Scenic Byway. Washington State has demonstrated the desire to protect visual and aesthetic resources along scenic byways in such legislation as the Scenic Vistas Act of 1971, which promotes "[attraction of] visitors to this state by

conserving the natural beauty of areas adjacent to... state highways..." (RCW 47.42.010, Declaration of purpose).

5. The Clallam County Comprehensive Plan is also clear in its desire to promote continued growth of wireless communications systems throughout the County.
6. The Board of Clallam County Commissioners recognize the important role wireless communication facilities play in the continued economic vitality of Clallam County, particularly with respect to high-tech industries. The Board also recognizes the vital role wireless communication facilities play by enhancing emergency response and assisting agencies specializing in public safety.
7. Current county land use regulations for the placement and conditions for approval of wireless communications facilities are not presently adequate to address many of the issues concerning citizens of Clallam County, including potential impacts to the environment, property values, safety, economic interests, and aesthetics.
8. A significant burden is placed on applicants for extensive, and in some instances, excessive proposal reviews due to a lack of clear, concise, overall standards in the current Code.
9. Unregulated siting of wireless communications facilities could result in the following adverse impacts:
  - a) An inability for the Planning Division to meet state and county-mandated permit process guidelines for Conditional Use Permits;
  - b) Placement of wireless communications facilities in areas that are classified as "Scenic System" byways, or that would obscure or otherwise interfere with views of unique or important visual and aesthetic resources;
  - c) Placement of wireless communications facilities in areas that would adversely impact moderate to high-density residential districts;
  - d) A decrease in property values resulting from inappropriate siting of wireless facilities;
  - e) Extensive time required for Hearing Examiners to evaluate Conditional Use permits for specific applications. Many situations may not be appropriate for quasi-judicial review, and could be processed in a more timely manner.
  - f) Inappropriate placement of poorly or unregulated facilities could adversely affect public health, safety and welfare.
10. On March 21, 2000, the Board of Clallam County Commissioners adopted Ordinance 689, an emergency temporary suspension of acceptance of applications for, and issuance of, any land use approval currently required for wireless communications towers, unless the applications were deemed complete, as provided in the Clallam County Code (CCC 26.10) prior to the effective date of Ordinance 689.

11. Prior to the expiration of the 60-day emergency temporary suspension, a draft document, Ordinance 688, was presented to the Board of Clallam County Commissioners for consideration. A public hearing on the proposed ordinance was held on May 2, 2000 in the Commissioners Meeting Room of the Clallam County Courthouse at 10:00 AM, at which time written and oral testimony was received from representatives of both the public and industry.
12. The Board of Clallam County Commissioners, on May 9, 2000, adopted Ordinance No. 688, an ordinance establishing interim land use controls which extended the provisions of Ordinance 689, the temporary suspension of the acceptance of applications for certain wireless communications towers. The primary purpose of this ordinance was to allow County staff sufficient time to examine the issues inherent to the development of new wireless communications facilities and to develop effective and efficient final land use controls for such development.
13. On October 17, 2000, the Board of Commissioners held a duly advertised public hearing to receive testimony regarding the extension of interim land use controls and new wireless communications facilities moratorium. In response to testimony received and recommendations by staff, the Board adopted Ordinance 698 on October 24, 2000, which extended the interim controls for four (4) months. Recognizing the safety communications needs of citizens in the more remote regions on the County, the Board voted to partially lift the moratorium under Ordinance 698, in order to accept applications for new wireless facilities in Commercial Forest (CF) zoning districts west of Range 9, W.W.M.
14. The Clallam County Planning Commission has reviewed the proposed ordinance. The review has included holding a public hearing on October 4, 2000, and the receipt of oral and written testimony. Following several worksessions with County Planning staff, the Planning Commission forwarded its recommended draft wireless communications facilities ordinance to the Board of Clallam County Commissioners on December 21, 2000.
15. On January 9, 2001, the Board of Clallam County Commissioners held a duly advertised public hearing to receive oral and written testimony, which was then reviewed and considered by the Board and the County Planning Staff.
16. The Telecommunications Act of 1996, Pub. LA. No. 104-104, 110 Stat. 56 (1996), Section 704 (7A), states "GENERAL AUTHORITY – Except as provided in this paragraph, nothing in this Act shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service towers."
17. The proposed ordinance has been reviewed with the requirements of the State Environmental Policy Act (SEPA), and has been determined to have no probable significant adverse environmental impacts. A determination of nonsignificance (DNS) was issued by the

Responsible Official for Clallam County on August 22, 2000, pursuant to WAC 197-11-340(2). No appeals pursuant to this determination have been received by the Clallam County Department of Community Development.

18. The proposed ordinance has been reviewed with the mandates of the Clallam County Comprehensive Plan, as amended, and has been found to be in compliance with the spirit and intent of the Plan. The provisions contained within the proposed ordinance establishes wireless communications controls, standards, and procedures consistent with the protection of the public health, safety, general welfare and interests of the citizens of Clallam County.
19. In response to public testimony and concerns regarding public health and safety from radio frequency emissions, the Board recognizes the need to ensure wireless communication facilities are monitored to meet minimum safety standards as currently established by the Federal Communications Commission (FCC).

Based on the above Findings of Fact in relation to the laws of Clallam County and the State of Washington, the Board of Clallam County Commissioners concludes as follows:

1. Adoption of this Ordinance will provide a predictable and uniform mechanism for orderly development and placement of wireless communication facilities in Clallam County (Findings of Fact # 1, 7, and 8).
2. Adoption of this Ordinance will be consistent with, and will further the spirit and intent of the Clallam County Comprehensive Plan, and the laws of Washington State and the United States of America (Findings of Fact # 2, 3, 5, 6, 7, 9, 14, 16, 17, and 18).
3. Adoption of this Ordinance will protect private property and the public interest, while promoting the economic vitality of the County (Findings of Fact # 2, 6, 7, 8, 9, and 18).
4. Adoption of this Ordinance is in the interest of the public health, safety and welfare of the citizens of Clallam County (Findings of Fact # 2, 4, 6, 7, 9, 17, and 18).

Section 3.

**CHAPTER 33.49**

Wireless Communications Facilities

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**C.C.C. 33.49.100 PURPOSE AND GOALS**

**Purpose.** In recognizing the value of the visual and aesthetic resources of Clallam County to its residents and visitors as well as the importance of preserving private property values, the purpose of this chapter is to provide guidance for siting and development of wireless communications facilities (WCFs). Provisions contained herein are intended to minimize adverse impacts to visual corridors, including views of the Olympic Mountains, forested foothills, agricultural resource lands, rural vistas, the Strait of Juan de Fuca, and other aesthetic features important or unique to Clallam County. Additionally, this chapter recognizes the need for the advancement of wireless communications and therefore provides guidance for continued telecommunications opportunities.

**Goals.** While remaining consistent with the provisions set forth in the Federal Telecommunications Act of 1996, the overall goal of this chapter is to protect visual and aesthetic features of Clallam County. These features are vitally important to the welfare and interests of County residents, and to the health of the County's tourism industry. While providing continuing opportunities for effective wireless communication services throughout the County, the chapter seeks to improve the efficiency of the permitting process, thus allowing for greater consistency and timely processing of applications. The following specific goals are intended to protect the health, safety, and welfare of the citizens of Clallam County, and to provide for planned development consistent with the Clallam County Comprehensive Plan:

1. Manage wireless telecommunications facilities siting consistent with the Clallam County Comprehensive Plan while protecting the scenic resources, property rights, and rural characteristics of Clallam County;
2. Accommodate an increased need for effective, efficient wireless communication services.
3. Facilitate the development of dependable, redundant "in-vehicle" wireless communications services for Clallam County citizens and visitors;
4. Strongly promote and encourage co-location of new and existing wireless communications antenna array sites to minimize the total number of towers throughout the County;
5. Encourage new support towers and antenna arrays to be located in areas of mature timber stands where adverse and potential impacts on the community are minimized;
6. Encourage careful consideration of topography and location to ensure sites have minimal impact on important views of the Olympic Mountains, foothills, the Strait of Juan de Fuca, and rural vistas.
7. Encourage the location of support towers and antenna arrays in non-residential areas;
8. Encourage careful design, siting, landscape screening, and innovative camouflaging techniques in development of new wireless communication facilities;
7. Ensure timely and predictable processing of state and county-mandated permit processing guidelines; and
8. Maintain the public health, safety, and welfare.

#### **C.C.C. 33.49.200 APPLICABILITY AND EXEMPTIONS**

**Applicability.** The standards and process requirements of this chapter shall supersede all conflicting requirements of all other codes and ordinances, **except** when conflicting requirements regarding protection of the environment arise, the more restrictive regulation shall apply. All telecommunications facilities which are not exempt pursuant to this section shall conform to the standards specified in this chapter.

**Exemptions.** The following are exempt from the provisions of this chapter and shall be allowed in all zones:

1. Wireless communication facilities which were legally established prior to the effective date of this ordinance shall not be subject to the requirements of this chapter **except**:
  - a. such facilities shall provide reasonable opportunities for co-location of other carriers pursuant to C.C.C. 33.49.510(1);
  - b. such facilities shall comply with provisions requiring RF emissions reporting pursuant to section 33.49.510(5), Health, Safety and Welfare Hazards.-
2. Temporary governmental wireless communication facilities used for temporary emergency communications in the event of a disaster, emergency preparedness, and public health or safety purposes;
3. Two-way communication transmitters used for temporary or emergency services including, but not limited to fire, police, and ambulance services;
4. Licensed amateur (Ham) radio stations and citizen band stations;
5. Any maintenance, reconstruction, or repair of previously approved wireless communication facilities **provided** that such activity does not increase height, width, or mass of the facility.;

6. Roof-mounted dish antennas used for residential purposes, and VHF and UHF receive-only television antennas, provided they are fifteen (15) feet or less above the existing or proposed roof of the associated residential structures.

### C.C.C. 33.49.300 DEFINITIONS

1. Administrator: The director of the Department of Community Development of Clallam County or his/her designee.
2. Antenna: Any pole, panel, rod, reflection disc or similar device used for the transmission or reception of radio frequency signals, including, but not limited to omni-directional antenna (whip), directional antenna (panel), microcell, and parabolic antenna (dish). *The Antenna does not include the Support Structure or Tower defined herein.*
3. Array: The combination of antennas mounted upon a support structure.
4. Attached Antenna: Any antenna that is connected to or affixed to a support structure.
5. Attached WCF: An attached antenna
6. Attachment Device: Any object used to attach an Antenna to an existing building or structure.
7. Auxiliary Support Equipment: All equipment necessary and/or desirable to process wireless communication signals and data, including but not limited to, electronic processing devices, air conditioning, emergency generators, and cabling interface devices. For the purposes of this chapter, auxiliary equipment shall also include the shelter, cabinets, and other structural facilities used to house and shelter necessary equipment. *Auxiliary equipment does not include support towers or structures.*
8. Average Tree Height: Refers to the average height of the existing tree skyline within forested buffers as described by C.C.C. 33.49.520(3), Landscaping and Screening. Average tree height shall be determined by utilizing the U. S. Department of Agriculture Soil Conservation Service Soil Survey for Clallam County in conjunction with the Weyerhaeuser Forestry Paper #8, July, 1966, Site Index Curves.
9. Binding Site Plan: A drawing to a specified scale, which: (a) Identifies and shows the areas and locations of all streets, roads, improvements, utilities, open spaces, and any other matters specified by the appropriate regulation; (b) Contains inscriptions or attachments setting forth such appropriate limitations and conditions for the use of the land as are established by Clallam County; and (c) Contains provisions making any development conform with the site plan. A binding site plan creates lots for the purpose of lease or rent, not for sale or transfer.
10. Camouflage: The use of both existing and future technology through which a wireless communications facility (WCF) is designed and constructed to resemble an object that is not a WCF and which is typically present in the environment.
11. Co-location: Use of a common wireless communications support structure or tower by two or more wireless license holders for two or more antenna arrays.
12. Federal Aviation Administration (FAA): The federal regulatory agency responsible for the safety of the nation's air traffic control system, including airspace impacted by wireless communications support structures and towers.
13. Federal Communications Commission (FCC): The federal regulatory agency charged with regulating interstate and international communications by radio, television, wire, satellite, and cable.

14. Height: When referring to a wireless communications facility, height shall mean the distance measured from the original grade at the base of the tower to the highest point on the wireless communication facility support structure, including the antenna(s).
15. Infrastructure Provider. An applicant whose proposal includes only the construction of new support towers or auxiliary structures to be subsequently utilized by other service providers.
16. In-Vehicle Service: For the purposes of this ordinance, "in vehicle" service shall refer to the level of service which provides for the transmission of telecommunications signals to and from vehicles. This level of service shall extend to all urban areas, major and minor arterials and major collectors within the Clallam County roads system.
17. Microcell: A wireless communications facility consisting of an antenna that is either: (i) Four (4) feet in height and with an area of not more than five hundred eighty (580) square inches; or (ii) if a tubular antenna, no more than four (4) inches in diameter and no more than six (6) feet in length.
18. Monopole: A structure composed of a single spire used to support one or more antenna(s).
19. Power Pole Replacement: Placement of low-profile whip antennas or other microcell arrays on existing structures such as power poles, light standards, and light poles for street and parking lots. Power pole replacement proposals shall not be considered new support towers.
20. Radiofrequency (RF) Energy. The energy used by cellular telephones, telecommunications facilities, and other wireless communications devices to transmit and receive voice, video and other data information.
21. Residential-related: For the purpose of this chapter, residential-related shall refer to districts or zones in which single family residences **and** duplexes are listed as an allowed use pursuant to C.C.C. Title 33. The zoning districts that fall into this category are as follows:

<b>RURAL</b>	<b>URBAN</b>	<b>COMMERCIAL</b>
R5	URH	RC
RW5	URL	CC
R2	VLD	RV
RW2	LD	CEN
R1	VLD/LD	WRC
RW1	MD	TC
QR	CR	CV
		CN
		CC
		UC

22. Setback: The required distance from any structural part of a wireless communication facility (including support wires, support attachments, auxiliary support equipment and security fencing) to the property line of the site parcel on which the wireless communication facility is located.
23. Support Structure: An existing building or other structure to which an antenna is attached, including, but not limited to, utility poles, signs, water towers, any accompanying pole or device, attachment device, or transmission cables. Support



structures do not include support towers or any building or structure used for residential purposes.

24. Support Tower: A structure designed and constructed exclusively to support a wireless communication facility or an antenna array, including monopoles, self-supporting towers, guy-wire support tower, and other similar structures
25. Temporary Wireless Communication Facility (Temporary WCF): Any wireless communication facility which is to be placed in use for not more than 60 days, is not deployed in a permanent manner, and does not have a permanent foundation.
26. Wireless Communications: Wireless Communications shall mean any personal wireless services as defined by the Federal Telecommunications Act of 1996, including cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar FCC licensed commercial wireless telecommunications services that currently exist or that may in the future be developed.
27. Wireless Communications Facility (WCF). Any unstaffed facility for the transmission and/or reception of radio frequency (RF) signals, which includes, but is not limited to, all auxiliary support equipment, any support tower or structure used to achieve the necessary elevation for the antenna, transmission and reception cabling and devices, and all antenna arrays.

#### **C.C.C. 33.49.400 SITE LOCATION OF WIRELESS COMMUNICATION FACILITIES**

In reviewing applications for new WCFs, Clallam County shall evaluate proposals in relation to the following site preferences A through C. Criteria for prioritizing preference areas and siting include:

1. Minimization of total number of towers throughout Clallam County;
2. Protection of visual resources (e.g. views of the Olympic Mountains and the Strait of Juan de Fuca, foothills, agricultural resource lands, rural vistas);
3. Protection of residential characteristics and property values;
4. Protection of visual resources as seen from Highway 101 and Highway 112; and
5. Protection of public health, safety, and welfare.

The following Preference area descriptions shall apply **only** to *new support tower* proposals: New wireless communications facilities locating in the following Preference areas shall be in conformance with all applicable standards as provided by this chapter.

- A. Preference 1: Preference 1 shall include the following Commercial Forest zones:
  1. Commercial Forest (CF); and
  2. Commercial Forest/Mixed Use 20 (CFM20).
- B. Preference 2. Preference 2 shall include the following zones:
  1. Commercial Forest/Mixed Use 5 (CFM5).
  2. Rural Very Low (R20);
  3. Rural Low (R5);
  4. Western Region Rural Low (RW5);
  5. Rural Character Conservation 5 Zone (RCC5);
  6. Rural Character Conservation 3 Zone (RCC3); and
  7. Rural Low Mixed (RLM).
- C. Preference 3. Underlying zones in Preference 3 areas shall include all other zones as defined by Clallam County Zoning Code, Title 33.

### **C.C.C. 33.49.410 Site Priorities**

The following is a listing of priorities Clallam County has identified as the uses and locations preferred for siting wireless communications facilities. The priority list is to be utilized in evaluating WCF proposals and is arranged in descending order with the highest preference first:

1. Co-location with legally existing WCFs on support structures or support towers in *non-residential related* districts;
2. Co-location with legally existing WCFs on support structures or support towers in *residential related* districts;
3. "Power Pole Replacement" proposals as provided by Section 33.49.510(2)
4. New attached WCFs on support structures not currently used for other WCFs, in non-residential related districts;
5. New support towers located in Preference 1 areas (33.49.400(A));
6. New attached WCFs on support structures not currently used for other WCFs, in residential related zones, **provided** that proposals shall make reasonable efforts to target property not used exclusively for residential purposes;
7. New support towers located in Preference 2 areas (33.49.400(B));
8. New support towers located in Preference 3 areas (33.49.400(C));
9. Locations other than those listed above.

### **C.C.C. 33.49.500 DEVELOPMENT STANDARDS**

The standards set forth in this Section are intended to address and minimize potential visual, aesthetic, and safety concerns in the development of WCFs. The siting standards as defined by this section do not exempt the siting of support towers from any additional requirements in this ordinance or any other applicable land use regulation. In the event of a conflict between any requirements within this ordinance, or any other land use regulation, the more restrictive requirement shall apply.

### **C.C.C. 33.49.510 General Standards**

1. Co-location. Wireless communication facilities shall co-locate to the greatest extent possible to minimize the total number of communication towers throughout the County. To this end, the following guidelines shall apply:
  - a) Existing WCFs shall provide for co-location unless the facility is structurally, technologically, or otherwise demonstrably unsuitable for co-location.
  - b) Applicants of new support tower proposals shall demonstrate a "good faith" effort to co-locate with other carriers by:
    - 1) Contacting all other licensed carriers for wireless communications within the intended service area;
    - 2) Sharing information necessary to determine if co-location is feasible. Feasibility shall be determined by factors including, but not limited to, availability of existing towers, structural capabilities of existing towers, and compatibility of existing and proposed facilities;
    - 3) In the event co-location is found to be feasible, the applicant shall utilize the existing facility;
    - 4) In the event co-location is found to be unattainable, the applicant shall demonstrate to the Review Authority the following:
      - i. No existing towers or structures are located within the geographic area required to accommodate efficient and effective operation of the facility at an "in-vehicle" level of service;

- ii. Existing towers or structures do not meet minimum structural specifications or cannot be reconfigured to achieve sufficient height for efficient and effective operations at an "in-vehicle" level of service;
  - iii. Co-location would cause a non-conformance situation (e.g., exceeding height restrictions);
  - iv. Co-location would result in electromagnetic interference with existing or proposed installations;
  - v. A financial agreement between the applicant and the owner(s) of existing facilities could not be reached;
  - vi. There exist other limiting factors that substantially preclude co-location.
- 5) The County shall deny a land use permit if the applicant does not demonstrate a "good faith" effort to co-locate on an existing facility.
- 6) Infrastructure providers shall be exempt from the "good faith" requirements of Section 33.49.510(b), PROVIDED that infrastructure providers shall express the need for a proposed support tower by demonstrating a lack of existing co-location opportunities within the intended service area, pursuant to C.C.C. 33.49.630(5), Application Submittal.
- c) Carriers who co-locate on existing towers or structures shall be allowed to construct or install accessory equipment and shelters as required for facility operation. Such development shall be subject to regulations under the Uniform Building Code (UBC), applicable development standards of the underlying zone, and applicable development standards pursuant to this chapter (e.g., lighting, security, signage).
- d) Communication towers allowed under this ordinance shall be designed to accommodate co-location. The following provisions shall apply:
- 1) All new communication towers shall accommodate co-location opportunities for a minimum total of three (3) carriers unless proven unfeasible and so demonstrated pursuant to C.C.C. 33.49.630(5);
  - 2) An owner of a WCF approved under this ordinance shall not deny a wireless provider the ability to co-locate on their facility at a fair market rate or at another cost basis agreed to by the affected parties.
  - 3) Applicants for new communications towers shall contact all law enforcement, fire, and other public safety and emergency services agencies within the County prior to application submittal. All new WCFs approved under this ordinance shall be designed for, and the owner shall not deny, co-location of emergency services and public safety agencies' radio and communication equipment at fair market value or other cost basis as agreed by the parties.
2. "Power Pole Replacement". Placement of low-profile whip antennas or other microcell arrays on existing structures such as power poles, light standards, and light poles for street and parking lots shall be encouraged. The existing structure may be replaced with a similar diameter pole not exceeding twenty (20) additional feet in height. The pole extension may not exceed the diameter of the pole at the mounting point. Power pole replacement proposals shall not be considered new support towers, and parcel size, setback, landscaping, and screening requirements of this chapter shall not apply.

3. New Support Tower Installations. Except as provided by Section 33.49.510(3)(e) below, the following general standards shall apply to new support towers:
  - a. Between the eastern County boundary and the Elwha River, and north of Highway 101, applicants for new WCFs shall either:
    - i. utilize technology other than that which necessitates the construction of a support tower; or
    - ii. construct any new support tower using camouflage technology (i.e. camouflaging a tower to resemble a conifer). Such technology shall be in conjunction with the standards set forth by 33.49.520 (3), Landscape and Screening.
  - b. New support tower installations shall be a minimum of one thousand (1000) feet from either State Route 101 or State Route 112.
  - c. New support towers shall be a minimum of one thousand (1000) feet from all parcels containing public and private schools, public parks, and sites listed on either the Washington State or National Register of Historic Places;
  - d. Following the date of adoption of this chapter, one (1) additional new support tower may be installed at any given existing WCF site **provided** that **all** of the following criteria are met:
    - i. The existing site is within a Preference 1 area;
    - ii. The proposed support tower does not exceed the height of the tallest existing tower on site.
    - iii. The proposed tower does not require lighting pursuant to FAA regulations; and
    - iv. The proposal conforms to all other applicable provisions of this chapter.
  - e. For all new tower proposals where the installation site is to be divided for the purpose of lease or rent, approval of a Binding Site Plan shall be required in accordance with RCW 58.17, Plats-Subdivisions-Dedications, and Chapter 29.20, Final Plat Requirements and Process, of the Clallam County Code.
4. Compliance with Other Regulations. In addition to the provisions of this chapter, all WCF proposals shall also be subject to all other applicable standards and regulations. including, but not limited to, the Uniform Building Code (UBC), Clallam County Critical Areas Code (C.C.C. 27.12), FCC and FAA regulations, Clallam County Zoning Code (C.C.C. Title 33) and the National Electrical Code (NEC5).
5. Health, Safety and Welfare Hazards. If it is found that WCFs are or will be detrimental to the health, safety, or welfare of persons working or residing near such facilities, then the service provider(s) and property owner shall be jointly and solely responsible for the removal, adjustment, or replacement of the WCFs. In no case shall a WCF remain in operation if it is found to create a hazard to health, safety, and welfare. For the purposes of this chapter, a WCF shall not be found to create a hazard to health, safety, or welfare as a result of radio frequency radiation/electromagnetic frequency (RF/EMF) emissions from the WCF, so long as it meets all current standards established by the FCC, pursuant to FCC OET 65 and its successors.

The owner/operator of each WCF shall annually submit a written verification to the Administrator that the radio frequency radiation/electromagnetic frequency (RF/EMF) emitted by a WCF conforms to safety standards set forth in FCC OET 65. The reports shall conform to reporting requirements set by the FCC.

If the WCF's emissions are determined to exceed FCC standards, the applicant is required to pay for such other tests and other corrective measures as are

- necessary to establish compliance with FCC OET 65 and its successors, and such noncompliance shall constitute sufficient grounds to commence cease-and-desist actions pursuant to C.C.C. 33.59, Enforcement, Title 33, to the extent not precluded by federal law.
6. Level of Service. Wireless communication facilities subject to the provisions of this chapter shall provide a level of service throughout Clallam County described as In-Vehicle Service.
  7. Performance Bond. The proponent of a support tower shall obtain a performance bond for the purpose of ensuring adequate removal of the structure upon termination of its use, consistent with the following:
    - a. The performance bond shall be equal to or greater than one hundred, fifty (150) percent of the estimated cost of removal of the support tower, but not less than \$1,000;
    - b. For the purposes of this subsection, the estimated cost shall be based on the average of three (3) contractor's bids determined acceptable by the Review Authority, based on reasonable cost estimates by licensed, bonded contractors;
    - c. To adjust for inflationary increases, the performance bond shall be renewed every five (5) consecutive years, based on current contractor's bids at the time of renewal as set forth in Subsection 33.49.510(7)(b).
    - d. The proponent may be exempt from this requirement; PROVIDED, the proponent is contractually responsible to the landowner for removal of the structure at all times during the life of the structure. If at any time the proponent is removed from responsibility, the proponent shall notify the County within fourteen (14) days of the change, at which time the proponent shall secure a performance bond as provided in this subsection. Failure to comply with this requirement will be considered a violation of this Chapter and will be processed by the Department in accordance with procedures set forth under C.C.C. 26.10.700(4 through 7), as now or hereafter amended;
    - e. In the event a landowner obtains ownership of an abandoned support tower, the landowner shall secure a performance bond within 30-days of acquiring ownership, consistent with this subsection.
    - f. Proof of performance bonds shall be submitted prior to final permit approval, and shall be processed in accordance with C.C.C. 26.10.705, as applicable.
    - g. Removal of support towers and/or co-located equipment is the responsibility of the tower owner and co-locators. In the event a support tower is not removed consistent with this Chapter, Clallam County will have the authority to foreclose on the performance bond and utilize such funds as necessary to remove the support tower consistent with this Chapter.
  8. Other Uses. Facilities shall not be used for storage of materials or equipment other than those used in operation and maintenance of the associated facility, nor shall WCFs be used for any other purposes other than the intended use as approved.
  9. Hazardous or Toxic Materials. No hazardous or toxic substances shall be discharged on the site of any wireless communications facility. If any such substances are to be used on site, provisions must be made for containment in the event of a spill. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous or toxic materials stored on site. Any use of hazardous or toxic materials shall also be subject to Federal, State, and Local regulations, if applicable.
  10. Signage. Wireless communication towers and antenna(s) shall not be used for signage, symbols, flags, banners, or other devices or objects attached to or painted on any portion of a WCF **except:** emergency information, public safety warnings, and any additional signage required by a governmental agency shall be

displayed in an appropriate manner and, if applicable, in compliance with the Clallam County Sign Code, C.C.C. 33.57, Signs.

11. Anti-Climbing devices. All support structures and security fencing shall be equipped with appropriate anti-climbing devices.
12. Noise. Wireless communication facilities shall not generate noise levels in excess of maximum standards set forth in the Washington Administrative Code, WAC 173-60. Generators may be allowed only for emergency operation purposes. If air conditioning or other noise generating equipment is proposed, the applicant shall provide information detailing the expected noise level and any proposed abatement measures. This may require noise attenuation devices or other mitigation measures to minimize impacts.
13. Attachment to Trees Prohibited. It is prohibited to attach any WCF or portion thereof to any tree.

#### **C.C.C. 33.49.520 Performance Standards**

1. Height. Where siting of a WCF is allowed, the following height restrictions shall apply, **provided** that if a proposed site is also subject to other governmental height restrictions, the more stringent standards shall apply:
  - a) Attached WCFs. Attached WCFs shall not add more than fifteen (15) feet in height to the support structure to which it is attached, nor shall such additional height exceed maximum height restrictions pursuant to 33.49.520 (1)(b).
  - b) WCFs with Support Towers.
    - i. Resource Zones. Maximum height shall be two hundred (200) feet.
    - ii. Rural Zones. Where allowed in rural zones within Preference 2 areas, maximum height shall be one hundred fifty (150) feet. Within Preference 3 rural zones, maximum height shall be one hundred (100) feet.
    - iii. Urban, Commercial, and Industrial Zones. Maximum height shall be eighty-five (85) feet.
2. Setbacks. Setbacks shall be measured from the base of the WCF support tower to the property line of the parcel on which it is located. Setbacks for auxiliary structures shall be those of the underlying zoning district or a minimum of twenty-five (25) feet, whichever is greater. The following setback standards shall apply for new support tower installations:
  - a. Setbacks shall be equal to one hundred ten (110) percent of the height of the support tower or one hundred fifty (150) feet, whichever is greater.
  - b. In all areas, an attachment device or attached antenna may not encroach into a required setback as specified in the underlying zone. All equipment shelters, cabinets, or other on-the-ground auxiliary equipment shall also be subject to the setback requirements provided by this chapter.
3. Landscaping and Screening. The goal of an approved landscaping and screening plan is to establish and maintain healthy, long-lived, native vegetation in such a configuration as to effectively screen or conceal WCFs from view. To this end, a landscaping and screening plan shall be submitted with all proposal applications, subject to review.

To the extent possible, existing native vegetation shall be retained. If the Review Authority finds that existing vegetation is inadequate for screening of a WCF, supplemental plantings of fast-growing, drought-resistant native species outside

the facility security fencing shall be required as the responsibility of the facility operator. Additionally, the operator shall provide continued maintenance of required landscaping as necessary to maximize the survivability and effectiveness of the vegetative screening.

Except for those proposals pursuant to Section 33.49.510(3)(e), New Support Towers at Existing Sites, all new support towers shall be subject to the following screening standards:

- a. Preference 1 and 2 areas: New support tower facilities shall maintain a minimum one-hundred (100) foot radial screening buffer of mature, coniferous forests for the lifetime of the facility. A minimum area around the tower may be established as a clear safety zone;
- b. Preference 3 areas: New support tower facilities shall maintain a minimum one hundred, fifty (150) foot radial screening buffer of mature, coniferous forests for the lifetime of the facility. A minimum area around the tower may be established as a clear safety zone.
- c. Buffers shall be measured from the outside edge of the clear safety zone.
- d. Screening buffers may be reduced up to a maximum of fifty (50) percent if the proposed new support tower utilizes camouflage technology (camouflaging a tower to resemble a conifer, e.g.) to minimize visual impacts.
- e. Minimum 'average tree height' of the trees within the radial screening buffer shall equal or exceed two-thirds (2/3) of the height of the proposed support tower.
- f. Existing canopy cover of the radial screening buffer shall equal or exceed sixty (60) percent. The canopy cover standard may be reduced up to fifty (50) percent if camouflage technology is employed.
- g. An applicant may seek a variance from the screening provisions of this section by satisfying the requirements specified in Section 33.49.530, Variances, of this Chapter, and as required by the Clallam County Zoning Code, C.C.C. 33.30, Variances.

Average tree height shall be determined by referring to the estimated mean site index for a given site as provided by the US Department of Agriculture's Soil Survey of Clallam County. This index is then compared to the age class of the on-site stand of timber by reference to Weyerhaeuser Forestry Paper #8, July, 1966, Site Index Curves to determine the estimated average tree height of a given site.

Example:

In this example, a proposed site is dominated by Catla gravelly sandy loam, as described by the Soil Survey of Clallam County, and is forested by Douglas fir, estimated to be 40 years old. The Survey describes the estimated mean site index for Douglas fir for these soils, based on a 50-year site curve, as 82 feet.

Referring to the above referenced Weyerhaeuser paper, one finds the 50-year site index table for Douglas fir. Reading down the far left column labeled "Breast-height Age" one comes to the appropriate forest age (in this case, 40 years). Then, reading across this row until it comes to the column labeled "80" (the nearest figure to the site index of 82 provided by the soil

Survey) it is determined that the average tree height for this stand of timber is approximately 69.3 feet.

This method requires the applicant to determine the age class of the forest stand on site, and to demonstrate to the Review Authority the means by which the age was estimated.

In the event that average tree height cannot be estimated by the above method, alternative means may be used. In these situations the applicant must provide adequate documentation of the methodology by which the height was determined.

Topping of screening trees shall be allowed to maintain operation of a facility; however, any topping activity shall be subject to all other applicable regulations (e.g., C.C.C. 27.12, Critical Areas Code). Such removal of vegetation shall be restricted to only that which is necessary for continued operation, and to the greatest extent possible shall not result in the deaths of trees. Topping shall be considered an amendment to the original landscaping and screening plan and shall require the proponent to present written documentation of this amendment to the Review Authority for approval.

4. Color and Camouflage. For all new wireless communications facilities, the following criteria shall apply:
  - a. Unless otherwise required by the FAA, all support towers and antennas shall have a non-glare finish of gray, blue, green or other color and/or combination of colors, that effectively blends with the natural background. Similarly, any auxiliary support equipment shall be finished in a manner that blends with background vegetation. Final determination of color or finish shall be subject to the approval of the Review Authority, based on sample finish chips submitted in accordance with C.C.C. 33.49.630(3), Application Submittal.
  - b. Antennas and associated equipment not located on a support tower shall be of a neutral color that matches the color of the supporting structure to the greatest extent to minimize visual impacts.
  - c. The use of camouflage techniques shall be encouraged. Such camouflage shall be appropriate to the environment in which the facility is proposed. Proposals employing such technology shall include provisions for adequate maintenance to ensure camouflage effectiveness for the useful life of the facility.
5. Security and Lighting. Communication towers and associated structures shall be surrounded by locked security fencing a minimum of six (6) feet in height. Fencing shall include privacy slats if deemed necessary by the Review Authority, and shall be of a color that blends with the surroundings as per C.C.C. 33.49.520(4) above. As stipulated in C.C.C. 33.49.510(12), anti-climbing device(s) shall be required for security fencing.

Except as required by the FAA, artificial lighting of wireless communications towers shall be prohibited. Security lighting for equipment shelters or cabinets and other on-the-ground auxiliary equipment is allowed, as long as lighting utilizes "cut-off" type fixtures and is down-shielded to keep direct light within the site boundaries. White strobe lighting shall be prohibited.



### **C.C.C. 33.49.530 Variances**

Any applicant may request a variance from the standards of this chapter. Requests for variance shall be made in accordance with the procedures and criteria specified in the Clallam County Zoning Code Title 33, C.C.C. 33.30, Variances. In the granting of a variance, the Hearing Examiner shall also find, in addition to the above criteria, the following:

1. Strict adherence to the provisions of this chapter will result in an inability of the applicant to provide adequate in-vehicle services within Clallam County;
2. The granting of the variance will not adversely affect views from designated scenic highways or areas of historic or cultural significance;
3. As may be applicable, strict adherence to the screening provisions specified in C.C.C. 33.49.520 is not possible due to the lack of tree cover on the parcel and provided that other aesthetic provisions, including camouflage techniques, have been utilized.

### **C.C.C. 33.49.600 PERMIT PROCESS**

The following sections describe wireless communications uses in relation to the different types of review that are required for specific proposals. As specified within the Process Review Table below, given types of proposals are matched to either administrative (Types I and II) or quasi-judicial (Type III) review as required. Additionally, provisions for application submittal, permit fees, and third-party review are discussed in the subsections that follow.

### **C.C.C. 33.49.610 Temporary WCF**

In order to facilitate continuity of services during maintenance or repair of existing installations, or prior to completion of construction of a new WCF, temporary wireless communication facilities may be allowed subject to administrative review. Temporary WCFs shall not be in use in excess of sixty (60) days at any one location during any given six (6) month period. Temporary WCFs shall not have a permanent foundation, and shall be removed within thirty (30) days of suspension of services they provide.

**C.C.C. 33.49.620 Process Review Table**

The following table describes those site priority locations and uses in terms of required levels of review. Types I and II reviews are administrative; while Type III reviews are quasi-judicial, each type subject to procedures specified under Chapter 26.10 C.C.C., Clallam County Consolidated Development Permit Process Code. Proposals requiring Type III review will necessitate approval of a Conditional Use Permit.

**Table 33.49.620 Process Review**

<b>Site Priorities</b>	<b>Type I Review</b>	<b>Type II Review</b>	<b>Type III Review</b>
Co-located Attached WCF	YES	NO	NO
Power Pole Replacement	YES	NO	NO
Preference 1 Areas	YES	NO	NO
Attached WCF (Non-Residential zones)	NO	YES	NO
Preference 2 Areas	NO	NO	YES
Attached WCF (Residential Zones)	NO	NO	YES
Preference 3 Areas	NO	NO	YES
Temporary WCF	YES	NO	NO
All Others	NO	NO	YES

**C.C.C. 33.49.630 Application Submittal**

In addition to materials required pursuant to C.C.C. 26.10.310, Permit Processing, General Requirements, applications for the locating and development of wireless communications facilities and antennas shall also include the following:

1. A scaled site plan, which in addition to the site plan requirements of C.C.C. 26.10.310(3), clearly indicates the location of the proposed facility in relation to significant features within 2500 feet including, but not limited to, existing and/or proposed site structures, public rights-of way, residential developments, adjacent land uses, and properties used for public purposes. The site plan shall also include any governmental jurisdictional boundaries within five hundred (500) feet of the proposal boundaries;
2. Proposals for new support towers shall include a detailed landscaping and screening plan, including existing and proposed vegetation, installation procedures, and landscaping/screening maintenance plans. Included in the plan shall be height, species, and age class determinations of the existing, dominant forest buffer, if applicable;
3. If camouflage technology is proposed, the applicant shall provide a complete description of the suggested camouflage, including style and materials to be used, a photographic depiction of the proposed facility, and a maintenance plan

- detailing provisions for the continued effectiveness of the suggested camouflage for the life of the facility. Color and finish plans shall be provided, including color finish sample chips indicating the proposed color scheme.;
4. Elevation drawings of the proposed facility, including any anticipated tower, equipment structures, antennas, mounts and, if applicable, any existing structures. Other applicable features, including but not limited to security fencing and screening shall be included;
  5. A comprehensive description of the existing or proposed facilities including the technical reasons for the design and configuration of the facility, design and dimensional information, coverage schemes, and the capability of future co-location opportunities, including documentation which demonstrates that the applicant has contacted safety and emergency services agencies pursuant to C.C.C. 33.49.510 (1)(d)(3), General Standards, Co-location. In the event the applicant cannot accommodate future co-location, a detailed written statement or report demonstrating such unfeasibility shall be prepared by the applicant. Infrastructure providers shall also present an analysis of existing WCFs within the intended service area, describing the status of co-location opportunities at these sites. The County may deny a new support tower proposal if future co-location is not provided or if the applicant is unable to demonstrate to the satisfaction of the Review Authority that co-location is not feasible within the intended service area;
  6. The application materials shall include a report by a licensed professional engineer demonstrating the following:
    - a) The facility complies with all requirements of the Uniform Building Code;
    - b) The structural capability of the facility will support co-located antennas (if applicable);
    - c) The facility complies with all applicable standards of the FAA and FCC, including RF energy standards; and
    - d) The basis for the calculation of capacities.
  7. Documentation that establishes the applicant's right to use the site shall be provided at the time of application.
  8. Applicants shall provide proof of FAA final air space determination (Form 7460-1) prior to issuance of any final Conditional Use Permit (CUP) approval.
  9. An analysis of the proposal area and discussion of factors influencing the decision to target the proposed location. Such analysis shall include the "good faith" efforts and measures taken to secure a higher priority location; how and why such efforts were unsuccessful; and how and why the proposed site is essential to meet service demands for the geographic service area (refer to C.C.C. 33.49.510(1), General Standards – Co-location);
  10. The application materials shall include a photographic analysis of the proposed site, including a representation of existing conditions and photographic simulations depicting views of any new support structures or towers from Highways 101 and/or 112;
  11. All applicable fees;
  12. Any additional applicable information the Review Authority deems necessary to adequately review the proposal.

#### **C.C.C. 33.49.640 Third Party Review**

The County may require technical review by a third party as part of the permit review process. The selection of the third party expert shall be by mutual agreement by the applicant and the County. If agreement between the County and the applicant cannot be

reached, the third party shall be selected at the discretion of the Hearing Examiner. Costs of the technical review shall be borne by the applicant. Based on the results of the expert review, the County may require changes to the applicant's submittal. A third party review may include, but is not limited to a review of the following:

1. The technical accuracy and completeness of submission;
2. The technical applicability of analysis techniques and methodologies;
3. The validity of conclusions reached by the applicant, including arguments against co-location; and
4. Other specific technical issues as identified by the County or Hearing Examiner.

#### **C.C.C. 33.49.650 Permit Fees**

Subsections 1 through 3 of this Section shall remain in effect until such time as the Clallam County Fee Schedule, Chapter 3.30, C.C.C., can be amended to include the following applicable wireless communication facility permit fees:

1. Wireless Communications Facility Permit fees for proposals requiring Type I review shall be \$650 **except** fees for temporary WCFs shall be \$400
2. Wireless Communications Facility Permit fees for proposals requiring Type II review shall be \$750.
3. Wireless Communications Facility Permit fees for proposals requiring Type III review shall be \$1500 (includes Conditional Use Permit review).
4. All other applicable fees (e.g., Environmental checklist review fee, Binding Site Plan review) shall also be assessed and shall be in the amounts specified by the Clallam County Department of Community Development Fee Schedule, Chapter 3.30, C.C.C., EXCEPT Variance permit fees concurrent with wireless communications permits shall be assessed in the amount of \$300.
5. Multiple installation proposals may be submitted under a single application, PROVIDED that no more than one (1) support tower may be proposed per submission. Each co-location proposal submitted concurrently with a new support tower application shall be assessed a Wireless Communications Facility Permit fee in the amount of \$200.

#### **C.C.C. 33.49.700 ABANDONMENT AND REMOVAL**

Any wireless communication facility that has been discontinued or not in operation for a period of one (1) year shall be considered abandoned. The owner shall then report in writing such discontinued use within fourteen (14) days to the Planning Director. Abandoned facilities shall be completely removed by the property owner and/or support tower owner within 180 days from the date of abandonment, and the site shall be re-vegetated. If such WCF is not removed within the 180 day removal period, the governing authority may remove the WCF at the owner's expense.

Section 4. The signed ordinance shall be recorded in the Auditor's Office and the Clallam County Zoning Code, Title 33, C.C.C. shall be amended consistent with this ordinance.

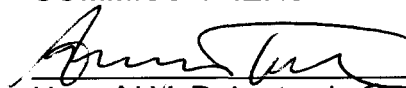
Section 5. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of this ordinance or the application to other persons or circumstances shall not be affected.

Section 6. This ordinance repeals and replaces Ordinance No. 698, 2000, which extended interim land controls and a temporary suspension on the acceptance of certain wireless communications applications.

Section 7. This ordinance shall become effective ten (10) days after adoption.

PASSED AND ADOPTED this 23<sup>rd</sup> day of January, 2001.

BOARD OF CLALLAM COUNTY  
COMMISSIONERS

  
\_\_\_\_\_  
Howard V. Doherty, Jr., Chair

  
\_\_\_\_\_  
Stephen P. Tharinger

  
\_\_\_\_\_  
Michael C. Chapman

ATTEST:  
  
\_\_\_\_\_  
Trish Perrott, Clerk of the Board