

**CITY OF KENMORE
WASHINGTON
ORDINANCE NO. 17-0446**

AN ORDINANCE OF THE CITY OF KENMORE, WASHINGTON, ADDRESSING KENMORE MUNICIPAL CODE REGULATIONS FOR SMALL CELL WIRELESS COMMUNICATION FACILITIES WITHIN THE CITY; AMENDING SECTION 18.20.2765, TECHNICAL TERMS AND LAND USE DEFINITIONS; AMENDING SECTION 18.60.050, WIRELESS COMMUNICATION FACILITIES; ADOPTING SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, between September 2017 and November 2017, the City Council reviewed and recommended amendments to the Kenmore Municipal Code to address small cell wireless communication facilities; and

WHEREAS, on November 13, 2017, the City Council held a public hearing on the proposed amendments to obtain public input before making their final recommendations; and

WHEREAS, the City's Responsible Official under the State Environmental Policy Act (SEPA) has issued an addendum to the Determination of Non-significance (SEP2016-0052), issued for the previously adopted Wireless Communications Regulations (Chapter 18.60 KMC), for the proposed amendments; and

WHEREAS, the Washington State Department of Commerce was notified of the proposed amendments pursuant to RCW 36.70A.106; and

WHEREAS, Section 19.20.090 of the Kenmore Municipal Code sets forth the decision criteria for the amendment of development regulations; and

WHEREAS, the proposed amendments are consistent with the Growth Management Act and the countywide planning policies through planning for infrastructure growth while protecting a high quality of life; and

WHEREAS, the proposed amendments are beneficial to the City as a whole and will not adversely affect public health, safety, and welfare through balancing the desire to provide wireless communication services with protection of the community; and

WHEREAS, the proposed amendments are consistent with the policies, objectives, and goals of the Comprehensive Plan, including the 20-Year Vision Statement, Policy LU-1.2.3, Policy U-3.1.1, Policy U-3.1.7, Policy U-3.4.5, Policy U-3.4.6, Policy U-3.4.7, and the Comprehensive Plan Implementation Strategy that states, "New programs, rules, or regulations may be needed to address updated communication facility regulations addressing co-location, alternate siting, and view corridors," and do not create an inconsistency within the Plan; and

WHEREAS, amendments to two chapters of the municipal code are proposed to eliminate inconsistencies and ensure that the proposed amendments do not duplicate or conflict with other portions of the Kenmore Municipal Code; and

WHEREAS, the proposed amendments also address changed circumstances by adopting regulations that specifically address small cell technology; and

WHEREAS, the City Council desires to adopt revised regulations to address small cell wireless communication facilities in ways that balance the needs of the wireless carriers with the community's goals, objectives and policies as set forth in the City's Comprehensive Plan and other adopted City policies;

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

Section 1. Findings. The recitals set forth above are hereby adopted as the City Council's findings in support of this Ordinance. The City Council hereby finds that decision criteria set forth in KMC 19.20.090, for the amendment of development regulations, have been met. This finding is based on the incorporated recitals and the record created before the City Council.

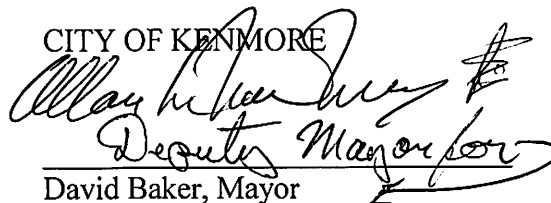
Section 2. Amendments to Chapter 18.20 of the Kenmore Municipal Code. The City Council amends Section 18.20.2765, Technical Terms and Land Use Definitions, of the Kenmore Municipal Code to read as set forth in Attachment A, attached hereto and incorporated herein by reference.

Section 3. Amendments to 18.60.050 of the Kenmore Municipal Code. The City Council amends Section 18.60.050, Wireless Communication Facilities, of the Kenmore Municipal Code to read as set forth in Attachment B, attached hereto and incorporated herein by reference.

Section 4. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid or unconstitutional by a court of competent jurisdiction, the remainder of the Ordinance, or the application of the provision to other persons or circumstances, is not affected.

Section 5. Effective Date. This Ordinance shall be published in the official newspaper of the City and shall take effect and be in force five (5) days after the date of publication.

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 13th DAY OF NOVEMBER, 2017.

CITY OF KENMORE

Deputy Mayor for
David Baker, Mayor

ATTEST/AUTHENTICATED:



Kelly Chelin, City Clerk

Approved as to form:



Rod P. Kaseguma, City Attorney

Filed with the City Clerk: 11/13/17
Passed by the City Council: 11/13/17
Ordinance No.: 17-0446
Date of Publication: 11/16/17
Effective Date: 11/21/17

Amendments to Chapter 18.20, Technical Terms and Land Use Definitions

18.20.2765 Small Cell.

"Small cell" means a wireless communication facility that meets both of the following qualifications:

A. ~~Each A~~ ~~antennas are~~ ~~is~~ located inside an antenna enclosure of no more than three cubic feet in volume or, in the case of an ~~facility~~ ~~antenna~~ that has exposed elements, the antennas and all ~~of its~~ exposed elements could fit within an imaginary enclosure of no more than three cubic feet; and

(b) Primary equipment enclosures are no larger than seventeen cubic feet in volume. The following associated equipment may be located outside the primary equipment enclosure and if so located, is not included in the calculation of equipment volume: Electric meter, concealment, telecomm demarcation box, ground-based enclosures, battery back-up power systems, grounding equipment, power transfer switch, and cut-off switch.

AMENDMENTS TO CHAPTER 18.60, WIRELESS COMMUNICATION FACILITIES

18.60.050 Wireless communication facility review processes and maximum allowable heights.

P – Permitted Use

C – Conditional Use – reviewed through Type 2 process outlined in KMC 19.25.020.

X – Prohibited Use⁵

Type of wireless communication facility	Residential zones R-1 through R-6	Residential zones R-12 through R-24, and DR	Nonresidential zones RB, UC east, DC, and NB	Nonresidential zones UC west, WC, and CB (view zones)	Other non-residential zones PSP, P, and GC
Antenna collocation on an existing conforming tower	P Maximum height: same as existing tower	P Maximum height: same as existing tower	P Maximum height: same as existing tower	P Maximum height: same as existing tower	P Maximum height: same as existing tower
Rooftop antenna	X, C ^{1,2} , P ^{1,7} Maximum height: 15' above the roof height at the antenna location	P Maximum height: 15' above the roof height at the antenna location	P Maximum height: 15' above the roof height at the antenna location	X	P Maximum height: 15' above the roof height at the antenna location
Façade antenna	X, C ^{1,2} , P ^{1,7} Maximum height: 2' above the roofline or parapet wall	P Maximum height: 2' above the roofline or parapet wall	P Maximum height: 2' above the roofline or parapet wall	P Maximum height: May not extend above the roofline or parapet wall	P Maximum height: 2' above the roofline or parapet wall
Amateur (ham) radio facilities	P Maximum height ³ : Ground-mounted facility - 65'. Rooftop facility - 30' above the roof height at the antenna location	P Maximum height ³ : Ground-mounted facility - 65'. Rooftop facility - 30' above the roof height at the antenna location	P Maximum height ³ : Ground-mounted facility - 65'. Rooftop facility - 30' above the roof height at the antenna location	P Maximum height: 35'	P Maximum height ³ : Ground-mounted facility - 65'. Rooftop facility - 30' above the roof height at the antenna location
Antennas on utility or light poles. (Nearest abutting zone is	C ² , P ⁷ Maximum height: 55'	P Maximum height: 55'	P Maximum height: 55'	C ² , P ^{7,8} Maximum height: up to	P Maximum height: 55'

used to determine process if in the right-of-way.)				the building height limit as specified in the underlying zoning district	
Satellite dish	C ² if no more than 2 meters (6.6') in diameter; otherwise X Maximum height: Ground-mounted dishes - 15'. Rooftop dishes - 15' above the roof height at the dish location	P if no more than 2 meters (6.6') in diameter and limited to a maximum of 1 dish per site; otherwise C ² Maximum height: Ground-mounted dishes - 15'. Rooftop dishes - 15' above the roof height at the dish location	P if no more than 2 meters (6.6') in diameter and limited to a maximum of 3 dishes per site; otherwise C ² Maximum height: Ground-mounted dishes - 15'. Rooftop dishes - 15' above the roof height at the dish location	P if ground-mounted; otherwise X Maximum height: Ground-mounted dishes - 15'	C ² Maximum height: Ground-mounted dishes - 15'. Rooftop dishes - 15' above the roof height at the dish location
Tower ⁶	X	X	X in the DC zone; otherwise C ^{2,4} Maximum height: up to the building height limit as specified in the underlying zoning district	X	C ^{2,4} Maximum height: up to the building height limit as specified in the underlying zoning district

¹If on a nonresidential building such as a *religious institution*, school, or *utility facility*, or on a multifamily or mixed use building.

²In addition to satisfying the criteria listed in KMC 18.115.040, the *conditional use permit* shall be granted by the city only if the *applicant* also demonstrates that:

- A. Alternative sites, or facilities with less impact to the community have been considered and have been determined to be not feasible per KMC 18.60.080; and
- B. Visual impacts of the facility are minimized and the proposal does not significantly impact views to Lake Washington.

³*Amateur (ham) radio facilities* exceeding 65' in height may be permitted only through a conditional use permit. In addition to satisfying the criteria listed in KMC 18.115.040, the conditional use permit shall be granted by the city only if the applicant also demonstrates that:

- A. The proposal in the proposed location is necessary to support *emergency* radio operations in Kenmore; and
- B. Smaller facilities, with less impact to the community have been considered and have been determined to be infeasible per KMC 18.60.080; and
- C. Visual impacts of the facility are minimized and the proposal does not significantly impact views to Lake Washington.

⁴Prohibited on properties within the jurisdiction of the Shoreline Management Act as set forth in KMC Title 16, Division 1.

⁵Unless a major adjustment has been granted pursuant to KMC 18.60.200.

⁶*Lattice towers* shall not be permitted.

⁷*Small cells* only, limited to a maximum of 3 antennas per utility/light pole, façade or rooftop. A conditional use permit will be required to locate more than 3 small cell antennas on a utility/light pole, façade or rooftop, including any additional requirements in applicable footnotes.

⁸*Small cells* only, limited to a maximum of 3 antennas per utility/light pole. A conditional use permit will be required to locate more than 3 small cell antennas on a utility/light pole, including the additional requirements in the applicable footnote.