

HOMER CITY COUNCIL  
491 E. PIONEER AVENUE  
HOMER, ALASKA  
[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)



**WORKSESSION**  
**6:00 P.M. THURSDAY**  
**OCTOBER 23, 2014**  
**COWLES COUNCIL CHAMBERS**

MAYOR BETH WYTHE  
COUNCIL MEMBER FRANCIE ROBERTS  
COUNCIL MEMBER BARBARA HOWARD  
COUNCIL MEMBER DAVID LEWIS  
COUNCIL MEMBER BRYAN ZAK  
COUNCIL MEMBER BEAUREGARD BURGESS  
COUNCIL MEMBER GUS VAN DYKE  
CITY ATTORNEY THOMAS KLINKNER  
CITY MANAGER WALT WREDE  
CITY CLERK JO JOHNSON

### **WORKSESSION AGENDA**

- 1. CALL TO ORDER, 6:00 P.M.**
- 2. AGENDA APPROVAL** (Only those matters on the noticed agenda may be considered, pursuant to City Council's Operating Manual, pg. 5)
- 3. Memorandum 14-161 from City Planner, Re:**
  - A. TOWERS** **Page 3**
  - B. COMPREHENSIVE PLANNING** **Page 7**
  - C. STORM WATER PLANNING**
  - D. BRIDGE CREEK WATERSHED REGULATIONS** **Page 41**
  - E. PUBLIC SAFETY BUILDING**
- 4. COMMENTS OF THE AUDIENCE**
- 5. ADJOURNMENT**

Next Regular Meeting is Monday, October 27, 2014 at 6:00 p.m., Committee of the Whole 5:00 p.m., and Worksession 4:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.





## City of Homer

[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

## Planning

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### MEMORANDUM 14-161

TO: MAYOR WYTHER AND HOMER CITY COUNCIL  
THROUGH WALT WREDE, CITY MANAGER  
FROM: RICK ABBODD, CITY PLANNER  
DATE: October 16, 2014  
SUBJECT: JOINT WORK SESSION BETWEEN CITY COUNCIL AND HOMER ADVISORY PLANNING COMMISSION.

Several complex issues have presented themselves to the Planning Department. Due to the nature of the items and the amount of resources that may be used in preparing amendments to Title 21 of the Homer City Zoning Code, the City Manager and myself thought that it would be prudent to get an impression from the City Council of just how receptive they may be to discuss the proposed issues and possible solutions. The five topics of discussion are:

1. Towers
2. Comprehensive Planning
3. Storm Water Planning
4. Bridge Creek Watershed Regulations
5. Public Safety Building

#### 1. Tower Regulations

Over the past year a proposed tower CUP and appeal of the decision to allow a 140 ft. tower brought thought of revising tower regulations to the Planning Commission. City Council forwarded an ordinance but staff and the Planning Commission has learned that tower regulations are quite complicated. Currently the only reference we have to towers in code is;

*“Public utility facility or structure,” for the purpose of requiring a conditional use permit, means (1) any facility or structure owned and operated by a public or private utility, or (2) **a telecommunications tower or antenna**, but it excludes water distribution mains, pressure stations and hydrants, sewage collection lines, manholes and lift stations, underground and overhead electrical, cable and telephone lines and poles, street lights and small wind energy systems.*

We have no further definition of ‘telecommunication tower or antenna’. At the heart of it ‘telecommunications’ is communication at a distance by technological means, which is becoming more and more prevalent in everyone’s lives.

a. How much do we wish to regulate?

The concerns and regulation of towers is quite extensive, some are:

- View shed
- Structural safety
- Setbacks
- Federal laws
- Colocation
- Radio frequency (RF) issues
- Justification of siting
- Height

This leads to several concerns for the Planning Department

- Review time
- Expertise needed to review applications
- Added costs of time and experts
- Additional future review of structures?
- Time to monitor new tower developments

b. Options

1. Model regulation – 30 pages or so

- May want to contract an expert to review applications
- Many things regulated that require levels of expertise not currently provided in the city. One example is applicant and staff has to review adequacy requirements of current and proposed sites to the necessity of provision of services. This involves of RF transmission analysis.
- Cost will be significantly higher for city and applicant (several thousands of dollars per application).

2. Basic regulation

- Create district provisions for minimum and maximum height regulations and setback requirements.
- Basic structural safety regulation maybe engineer stamp on structure and installation and verification schedule

3. Do nothing or very little

- Define height for tower minimum for review as “utility site” and let CUP process continue pretty much as is

2. Comprehensive Plan review

The largest opportunity for updates lies in the Master Roads and Streets Plan. This is a very technical document from 1986 and has lots of room for updates. This would be a good opportunity to introduce some additional mitigation measures for storm water along with merging with the 2005 Homer Area Transportation Plan and Non-Motorized Transportation and Trail Plan of 2004. Since the Planning Commission has been tapped to take on duties of the disbanded Transportation Advisory Committee, perhaps the Council would like to task this to them. The end result would be an update to the Transportation Plan. If yes, staff will submit budget request. Planning does have some reserves to contribute.

3. Storm Water

We now have storm water planning on the CIP list. The CIP project is meant to address city-wide issues; the Planning Commission is still planning on working on some additional measures in code for site development.

Staff has interest in investigating some measures that might be introduced into road construction standards to minimize the impacts of associated impacts. What can we do to get the ball rolling?

4. Bridge Creek Water Protection District – possible future ordinance

We are currently considering some small incremental changes to relax some of the current regulations for development of small lots less than 3 acres that have been rendered nonconforming when the district was created. A first public hearing was held 10.15.14, Staff Report 14-90 represents some thoughts on the subject for your information. So far we have received about equal pro-con-neutral comments.

5. Public Safety Building

The Planning Commission is interested in this project and wishes to know if input from them is desired. This will eventually come before the Commission as a CUP application. I am working to schedule a presentation to the Commission from the Public Work Director.

Attachments:

1. Bridge Creek Draft Ordinance
2. Staff report 14-90
3. Appendix A from Juneau *Wireless Telecommunications Master Plan*



**C i t y   a n d   B o r o u g h   o f   J u n e a u ,   A K**  
*DRAFT Wireless Telecommunications Master Plan*



**May 15, 2014**

**Prepared for:**  
The City and Borough of Juneau  
155 South Seward Street  
Juneau, AK 99081

**Prepared by:**  
CityScape Consultants, Inc.  
7050 W Palmetto Park Rd #15-652  
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## Appendix A

### SEC. 704. FACILITIES SITING; RADIO FREQUENCY EMISSION STANDARDS.

(a) NATIONAL WIRELESS TELECOMMUNICATIONS SITING POLICY- Section 332(c) (47 U.S.C. 332(c)) is amended by adding at the end the following new paragraph:

“(7) PRESERVATION OF LOCAL ZONING AUTHORITY-

“(A) 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 facilities.

“(B) LIMITATIONS-

“(i) The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof--

“(I) shall not unreasonably discriminate among providers of functionally equivalent services; and

“(II) shall not prohibit or have the effect of prohibiting the provision of personal wireless services.

“(ii) A State or local government or instrumentality thereof shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such request.

“(iii) Any decision by a State or local government or place,

construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record.

“(iv) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions.

“(v) Any person adversely affected by any final action or failure to act by a State or local government or any instrumentality thereof that is inconsistent with this subparagraph may, within 30 days after such action or failure to act, commence an action in any court of competent jurisdiction. The court shall hear and decide such action on an expedited basis. Any

person adversely affected by an act or failure to act by a State or local government or any instrumentality thereof that is inconsistent with clause (iv) may petition the Commission for relief.

(C) DEFINITIONS- For purposes of this paragraph--

(i) the term 'personal wireless services' means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services;

(ii) the term 'personal wireless service facilities' means facilities for the provision of personal wireless services; and

(iii) the term 'unlicensed wireless service' means the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services (as defined in section 303(v)).'

(b) RADIO FREQUENCY EMISSIONS- Within 180 days after the enactment of this Act, the Commission shall complete action in ET Docket 93-62 to prescribe and make effective rules regarding the environmental effects of radio frequency emissions.

(c) AVAILABILITY OF PROPERTY- Within 180 days of the enactment of this Act, the President or his designee shall prescribe procedures by which Federal departments and agencies may make available on a fair, nondiscriminatory basis, property, rights-of-way, and easements under their control for the placement of new telecommunications services that are dependent, in whole or in part, upon the utilization of Federal spectrum rights for the transmission or reception of such services. These procedures may establish a presumption that requests for the use of property, rights-of-way, and easements by duly authorized providers should be granted absent unavoidable direct conflict with the department or agency's mission, or the current or planned use of the property, rights-of-way, and easements in question. Reasonable fees may be charged to providers of such telecommunications services for use of property, rights-of-way, and easements. The Commission shall provide technical support to States to encourage them to make property, rights-of-way, and easements under their jurisdiction available for such purposes.

Presented by: The Manager  
Introduced:  
Drafted by: A. G. Mead

**ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA**

Serial No. 2014-\_\_\_\_

**An Ordinance Amending the Land Use Code of the City and Borough to Provide for the Regulation of Wireless Communication Facilities and Providing for a Penalty**

NOW, THEREFORE, BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

**Section 1. Classification.** This ordinance is of a general and permanent nature and shall become a part of the City and Borough of Juneau Municipal Code.

**Section 2. New Article.** Article IX. – Wireless Communication Facilities, is created to read:

**ARTICLE IX. – WIRELESS COMMUNICATION FACILITIES**

**49.65.900 Purpose.**

It is the purpose of this article to establish reasonable regulations for the placement, construction and modification of wireless communication facilities (WCF) consistent with the Telecommunications Act of 1996 and applicable law and:

- (a) Promote the health, safety, and general welfare of the public and the City and Borough;

1  
2 (b) Minimize the impacts of WCFs by establishing standards for siting, design  
3 and screening and by requiring consistency with the City and Borough's Wireless  
4 Telecommunications Master Plan;

5 (c) Encourage the collocation of antennas on existing structures thereby  
6 minimizing new visual impacts and reducing the need for new towers;

7 (d) Maintain the natural surroundings and character of the City and Borough;

8 (e) Preserve neighborhood harmony and scenic viewsheds and corridors as  
9 indicated in the Comprehensive Plan of the City and Borough of Juneau;

10 (f) Accommodate the growing need and demand for wireless communications  
11 services;

12 (g) Respond to the policies embodied in the Telecommunications Act of 1996 in  
13 such a manner as not to unreasonably discriminate between providers of functionally  
14 equivalent personal wireless services or to prohibit or have the effect of prohibiting personal  
15 wireless services; and  
16

17 (h) Respond to the policies embodied in Section 6409(a) of the Middle Class Tax  
18 Relief and Job Creation Act of 2012.

19 **49.65.910 Applicability.**

20  
21 (a) This article shall apply to the development activities including installation,  
22 construction, or modification of all WCFs including, but not limited to, existing towers,  
23 proposed towers and collocated facilities on existing structures.

24 (b) All applications for WCF are subject to the standards in this article to the  
25 extent that they do not violate Federal limitations on local siting standards and are not  
otherwise inconsistent with Federal law. The provisions of this article are not intended to  
and shall not be interpreted to prohibit or to have the effect of prohibiting personal wireless

1  
2 services. This article shall not be applied in such a manner as to unreasonably discriminate  
3 between providers of functionally equivalent personal wireless services.

4 (c) Exempt Facilities. The following are exempt from this article:

5 (1) Noncommercial, FCC licensed amateur (ham) radio antennas;

6 (2) Satellite earth stations and/or antennas used for private television  
7 reception;

8 (3) A government-owned or temporary, commercial WCF installed upon  
9 the declaration of a state of emergency by federal, state, or local government, or a written  
10 determination of public necessity by the director, except that such facility must comply with  
11 all federal and state requirements. The WCF shall be exempt from the provisions of this  
12 article for up to one week after the duration of the state of emergency; and

13 (4) A temporary, commercial WCF installed for providing coverage of a  
14 special event such as news coverage or sporting event, subject to approval by the director.  
15 The WCF shall be exempt from the provisions of this article for up to one week after the  
16 duration of the special event.

17 (d) All WCFs existing on or before the effective date of this article shall be  
18 allowed to continue as they presently exist, provided, however, that any proposed  
19 modification to an existing WCF, including collocation, must comply with this article.

20 **49.65.920 Location Preference for new WCFs.**

21 (a) Locating a new antenna array or new tower shall be in accordance with the  
22 following location preferences, one being the highest priority and six being the lowest  
23 priority:  
24

25 (1) Collocated antenna on existing WCF;

(2) Attached concealed antenna;

- (3) Attached non-concealed antenna;
- (4) Concealed freestanding new WCFs;
- (5) Nonconcealed freestanding new WCFs;
- (6) Any WCF requiring air navigation lighting.

(b) If the proposed location is not the highest priority listed above, then a detailed explanation justifying why a site of a higher priority was not selected must be submitted with the WCF application, as required by section 49.65.960. Any application seeking approval to locate a WCF in a lower-ranked location may be denied unless the applicant demonstrates to the satisfaction of the director or planning commission the following:

- (1) That despite diligent efforts to adhere to the established hierarchy, doing so is not technically feasible or is commercially impractical;
- (2) The reason or reasons why the application should be approved for the proposed location; and
- (3) The hardship that would be incurred by the applicant if the application is not approved for the proposed location.

**49.65.930 General Requirements.**

(a) *Concealed and non-concealed antenna.*

(1) Antennas shall be mounted on WCFs so as to present the smallest possible silhouette, profile, or cross-section, unless applicant provides sufficient evidence that doing so would prohibit the applicant from properly deploying the network. New antenna mounts shall be flush-mounted onto existing WCFs, unless it is demonstrated through RF propagation analysis that flush-mounted antennas will not meet the network objectives of the desired coverage area.

1  
2 (2) Attached, concealed feed lines and antennas shall be designed to  
3 architecturally match the facade, roof, wall, or structure on which they are affixed so that  
4 they blend with the existing design, color, and texture of the structure.

5 (b) *Security of WCFs.* All WCFs shall be located, fenced or otherwise secured in a  
6 manner that prevents unauthorized access.

7 (1) All antennas, towers and other supporting structures, including guy  
8 wires, shall be made inaccessible to individuals and constructed or shielded in such a  
9 manner that they cannot be climbed or accessed.

10 (2) Transmitters and telecommunications control points must be installed  
11 in a manner to be readily accessible only to persons authorized to operate or service them.  
12

13 (c) *Signage.* WCFs shall contain a sign no larger than four square feet with text  
14 in a sufficient font size to provide adequate notification to persons in the immediate area of  
15 the presence of an antenna that has transmission capabilities. The sign shall contain the  
16 name(s) of the owner(s) and operator(s) of the facility, an emergency phone number(s), and  
17 FCC registration number, if applicable. The sign shall be on the equipment shelter or shed  
18 of the applicant and be visible from the access point of the site. The sign shall not be lighted  
19 unless authorized by the City and Borough or unless applicable provisions of law require  
20 such lighting. No other signage, including advertising, shall be permitted on any WCF,  
21 unless required by law.  
22

23 (d) *Lighting.* Notice is required to be provided to the FAA, on a form prescribed  
24 by the FAA, if the facility falls under notification requirements mentioned in 14 CFR Part  
25 77. The applicant is responsible for determining whether notification is required. Any  
lighting required by the FAA must be of the minimum intensity and number of flashes per

1  
2 minute (i.e., the longest duration between flashes) allowable by the FAA. Dual lighting  
3 standards. Strobe lights at night are prohibited unless required by the FAA. The lights  
4 shall be oriented so as not to project directly onto surrounding property, consistent with  
5 FAA requirements.

6 (e) *Design criteria.*

7 (1) All freestanding WCFs up to 120 feet in height shall be engineered and  
8 constructed to accommodate no fewer than four antenna arrays. All WCFs between 121 feet  
9 and 150 feet shall be engineered and constructed to accommodate no fewer than five  
10 antenna arrays. All WCFs between 151 feet and taller shall be engineered and constructed  
11 to accommodate no fewer than six antenna arrays.

12  
13 (2) All utilities at a WCF site shall be installed underground and in  
14 compliance with all ordinances, rules and regulations of the City and Borough, including,  
15 but not limited to, the National Electrical Code where appropriate. The director may waive  
16 or vary the requirements of underground installation of utilities whenever, in the opinion of  
17 the director, such variance or waiver shall not be detrimental to the health, safety, or  
18 general welfare of the community or the environment, or the visual and scenic  
19 characteristics of the area.

20 (3) All appurtenant or associated facilities of a WCF shall maximize use of  
21 building materials, colors and textures designed to blend with the structure to which it may  
22 be affixed, or to harmonize with the natural surroundings, which shall include the  
23 utilization of concealed or concealment technology. If located in or abutting a Residential,  
24 Commercial or Mixed-Use district, the appurtenant or associated facility shall either be  
25

1  
2 placed inside an enclosed structure, fenced, or screened with sight-obscuring foliage as tall  
3 as the structure.

4 (4) Use of ground or guy-wires shall only be permitted in the Rural  
5 Reserve (RR) and Industrial (I) zoning districts, and only on roof-tops in the Light  
6 Commercial (LC), General Commercial (GC), Waterfront Commercial (WC), and Waterfront  
7 Industrial (WI) districts.

8 (f) *Setbacks.*

9 (1) Unless otherwise provided, a WCF tower shall be setback from the  
10 nearest property line a distance equal to the height of the tower except that this setback  
11 may be reduced to one-half of the height of the tower if the applicant submits a report  
12 stamped by a professional engineer registered in the State of Alaska that certifies that the  
13 tower is designed and engineered to collapse upon failure within the distance from the tower  
14 to the property line. Other setback reductions, to the minimum required by the applicable  
15 zoning district, may be had by obtaining written agreement from the adjacent property  
16 owner(s).

17  
18 (2) Setbacks may be modified by the director to no less than 20 feet from a  
19 property line only if there is significant existing vegetation, topography, or some other land  
20 feature that will provide a higher level of screening of the WCF.

21  
22 (3) Any appurtenant structure shall be located so as to comply with the  
23 applicable minimum setback requirements for the property on which it is situated.

24 (4) With respect to collocation on an existing nonconforming building or  
25 structure, the existing permitted nonconforming setback shall prevail.

1  
2 (g) WCF shall not significantly affect the Natural Areas identified in the  
3 Comprehensive Plan of the City & Borough of Juneau.

4 (h) WCFs shall be consistent with the City and Borough's Wireless  
5 Telecommunications Master Plan.

6 (i) *Visibility.*

7 (A) WCF shall be configured and located in a manner that shall minimize  
8 adverse effects including visual impacts on the landscape and adjacent properties and shall  
9 be maintained in accordance with the requirements of this article.

10 (B) WCFs shall be designed to either resemble the surrounding landscape  
11 and other natural features where located in proximity to natural surroundings, or blend in  
12 with the urban environment, through matching or complementing existing structures and  
13 specific design considerations such as architectural designs, height, scale, color, and texture.

14 (j) *Structural assessment.* The owner of a freestanding WCF tower shall have a  
15 structural assessment of the tower by a professional engineer, licensed in the State of  
16 Alaska, if the tower is adjacent to a dwelling, parking lot, playground, or right-of way, and  
17 shall submit the structural assessment report, signed by the engineer who conducted the  
18 assessment, to the director by July 1 every fifth year from the date of issuance of the  
19 building permit.  
20

21 **49.65.940 Permit application process for all WCFs.**

22 (a) Applications, on a form specified by the director, and site plans for all WCFs  
23 shall be submitted to the director.  
24

25 (b) At the time that a person submits an application for a permit for any type of  
WCF, such person shall pay a nonrefundable application fee to the CBJ, as set forth in

1  
2 Chapter 49.85.100. In addition to the application fee, the director may require a technical  
3 review by a third party expert, the actual costs of which shall be borne by the applicant. The  
4 technical expert review may address some or all of the following, at the discretion of the  
5 director:

6 (1) The accuracy and completeness of the items submitted with the  
7 application;

8 (2) The applicability of analysis and techniques and methodologies  
9 proposed by the applicant;

10 (3) The validity of conclusions reached by the applicant;

11 (4) Whether the proposed WCF complies with applicable approval criteria  
12 set forth in this article; and

13 (5) Other matters deemed to be relevant to determining whether a  
14 proposed WCF complies with the provisions of this article.

15 (6) Based on the results of the technical review, the director may require  
16 changes or additional documentation before the application will be considered complete.

17  
18 (c) *Permit types.*

19 (1) A special use permit; in addition to any applicable building permits,  
20 are required of all WCFs, unless otherwise provided. When a special use permit is  
21 required, an applicant must obtain the special use permit approval prior to issuance of a  
22 building permit.

23  
24 (2) Unless lighting of the completed WCF will be required by the FAA or  
25 FCC, applications for those WCF listed in Table 1, which meet the performance criteria  
identified in section 49.65.930, shall be approved or denied by the director.

**TABLE 1**

<u>WCF Type</u>	<u>Zoning Districts</u>	<u>Maximum Height</u>	<u>Min. Distance to D-1 – D-18 Districts</u>
Eligible Collocation, Removal or Replacement of Transmission Equipment as provided in CBJ 49.65.950	All	Not more than 10% of existing structure or 20 feet (unless the increased height requires an existing unlit WCF to become lit)	N/A
Concealed Attached	All	≤ 20 Feet <sup>1</sup>	N/A
Non-concealed Attached	D-1 – D-18	≤ 5 Feet <sup>1</sup>	N/A
Non-concealed Attached	Non-Residential and Mixed Use	≤ 20 Feet <sup>1</sup>	N/A
New Concealed Tower	WI, WC, GC, LC, and RR	≤ 10 Feet above Max. Height of Zoning District	N/A
New Concealed Tower	I	≤ 90 Feet	> 500 Feet
New Concealed Tower	D-1 – D-18	Compliant with Max Height of Zoning District	N/A
New Non-Concealed Tower	RR & I	≤ 60 Feet	> 500 Feet

Note: (fn. 1) Rooftop and attachment heights are identified as above the highest point of the existing structure.

(d) *Director's decision.* Except for applications eligible for the streamlined process in section 49.65.950 or those applications requiring a special use permit, applications shall be approved or denied, in writing, by the director.

(1) The director shall review the submitted application for completeness and shall notify the applicant within 30 days of receipt of the initial submission whether the

1 application is deemed complete. If rejected as incomplete, the director shall identify the  
2 deficiencies in the application, which if cured, would make the application complete.

3  
4 (2) The director shall review all completed applications for compliance  
5 with the requirements of section 49.65.930. The director may notify an applicant of a failure  
6 to comply with section 49.65.930 and may allow the applicant to resubmit a revised  
7 application. Any period of time from when the director notifies the applicant to the date the  
8 revised application is received shall not count for the purposes of calculating the 120 day  
9 deadline in subsection (3).

10  
11 (3) Applications not meeting the requirements of this article shall be  
12 rejected. The director's decision to approve or deny an application shall be in writing and  
13 supported by substantial evidence. The director's decision shall be postmarked to the  
14 applicant by the 120<sup>th</sup> calendar day from the date of receipt of the final application.

15 (4) If the director denies an application, the applicant may, within 20 days  
16 from the postmarked date of the notice of denial, appeal the director's denial in accordance  
17 with section 49.20.110.

18 **49.65.950 Collocations and other modifications to existing facilities pursuant to**  
19 **Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012.**

20  
21 (a) Modifications to facilities that involve the collocation, removal or replacement  
22 of transmission equipment on an existing wireless tower or base station that do no  
23 substantially change the physical dimensions of the existing tower or base station, shall be  
24 eligible for a streamlined application process.

25 (b) For the purposes of this section, "substantial change" means:

1  
2 (1) The mounting of the proposed antenna would increase the existing  
3 height of the WCF by more than 10%, or by the height of one additional antenna array with  
4 separation from the nearest existing antenna not to exceed twenty feet, whichever is  
5 greater, except that the mounting of the proposed antenna may exceed the size limits set  
6 forth in this subsection if necessary to avoid interference with existing antenna or unless the  
7 increased height requires an existing unlit WCF to become lit;

8 (2) The mounting of the proposed antenna would involve the installation  
9 of more than the standard number of new equipment cabinets for the technology involved,  
10 not to exceed four, or more than one new equipment shelter;

11 (3) The mounting of the proposed antenna would involve adding an  
12 appurtenance to the body of an existing WCF that would protrude from the edge of the  
13 existing WCF more than twenty feet, or more than the width of the WCF at the level of the  
14 appurtenance, whichever is greater, except that the mounting of the proposed antenna may  
15 exceed the size limits set forth in this subsection if necessary to shelter the antenna from  
16 inclement weather or to connect the antenna to the structure via a cable; or

17 (4) The mounting of the proposed antenna would involve excavation  
18 outside the existing WCF site, defined as the current boundaries of the leased or owned  
19 property surrounding the WCF and any access or utility easements currently related to the  
20 site.  
21

22 (c) The following streamlined process shall be used for eligible applications:

23 (1) The director shall review the submitted application for completeness  
24 and shall notify the applicant within 30 days of receipt of the initial submission whether the  
25

1  
2 application is deemed complete. If rejected as incomplete, the director's shall identify the  
3 deficiencies in the application, which, if cured, would make the application complete.

4 (2) The director shall review all completed applications for compliance  
5 with the requirements of section 49.65.930. The director may notify an applicant of a failure  
6 to comply with section 49.65.930 and may allow the applicant to resubmit a revised  
7 application. Any period of time from when the director notifies the applicant to the date the  
8 revised application is received shall not count for the purposes of calculating the 90 day  
9 deadline in subsection (3).

10 (3) Applications not meeting the requirements of this article shall be  
11 rejected. The director's decision to approve or deny an application shall be in writing and  
12 supported by substantial evidence. The director's decision shall be postmarked to the  
13 applicant by the 90<sup>th</sup> calendar day from the date of receipt of the final application.

14 (4) If the director does not respond in writing to the applicant within the  
15 specified timeframe, then the application shall be deemed approved.

16 (5) If the director denies an application, the applicant may, within 20 days  
17 from the postmarked date of the notice of denial, appeal the director's denial in accordance  
18 with section 49.20.110.

19 (d) Applications that are not eligible for the streamlined process shall be  
20 processed in accordance with 49.65.940(d).

21 **49.65.960 General application submittal requirements for all WCFs.**

22 An application for a special use permit for a WCF shall be signed on behalf of the  
23 applicant by the person preparing the same and with knowledge of the contents and  
24 representations made therein and attesting to the truth and completeness of the  
25

1  
2 information. The landowner, if different than the applicant, shall also sign the application.  
3 All information submitted in an application shall be provided by a person qualified to  
4 provide the information. All applications for the construction or installation of a new WCF  
5 shall be accompanied by the following documentation, except applications for collocation or  
6 modification under section 49.65.950 are exempt from providing the documentation required  
7 by subsections (o), (p), or (q):

8 (a) In addition to the information required by 49.65.920(b), an affidavit  
9 demonstrating compliance with 49.65.920. If a lower ranking alternative is proposed the  
10 affidavit must address why higher ranked options are not technically feasible or  
11 commercially impracticable given the location of the proposed wireless communications  
12 facility;

13  
14 (b) A signed statement from a qualified person, together with a statement of that  
15 person's professional qualifications, certifying that radio frequency emissions from the  
16 antenna array(s), both individually and cumulatively considering any other facilities located  
17 on or immediately adjacent to the proposed facility, complies with FCC standards;

18 (c) Name, address, email address, and phone number of all persons preparing the  
19 application and any required submittals;

20 (d) Name, address and phone number of the property owner, operator, and  
21 applicant;

22 (e) Postal address and tax map parcel number of the property;

23 (f) Zoning designation of the property on which the proposed WCF will be  
24 situated;  
25

1  
2 (g) Size of the property stated both in square feet and lot line dimensions, and a  
3 diagram showing the location of all lot lines;

4 (h) Locations of any dwellings within a radius equal to the height of the proposed  
5 tower from its base;

6 (i) Location, size and height of all structures on the property which is the subject  
7 of the application;

8 (j) Location, size and height of all proposed and existing antennae and all  
9 appurtenant structures;

10 (k) Type, locations and dimensions of all proposed and existing landscaping and  
11 fencing;

12 (l) The number, type and design of the WCFs proposed and the basis for the  
13 calculations of the WCFs capacity to accommodate multiple collocations;

14 (m) A detailed description of the proposed WCF and all related fixtures,  
15 structures, appurtenances and apparatus, including height above preexisting grade,  
16 materials, color and lighting;

17 (n) Certification that the applicant is in compliance with all applicable laws  
18 pertaining to the type of service offered;

19 (o) Certification that a geotechnical study has been conducted, and a statement  
20 that, taking into account the subsurface and substrata and the proposed drainage plan, the  
21 site is adequate to assure the stability of the proposed WCF on the proposed site;

22 (p) Propagation studies of the proposed site and all adjoining in-service or  
23 existing sites;

1  
2 (q) Applicant shall disclose in writing any agreement in existence prior to  
3 submission of the application that would limit or preclude the ability of the applicant to  
4 share any new WCF that it constructs;

5 (r) Applicant shall furnish written certification by a professional engineer,  
6 licensed in the State of Alaska, that the WCF, foundation and appurtenant attachments are  
7 designed and will be constructed to meet EIA/TIA 222 G (as amended) and local building  
8 code structural requirements for loads, including wind, snow and ice loads for the specified  
9 number of collocations required in section 49.65.930(c)(1).

10  
11 (s) Certification by a professional engineer licensed in the State of Alaska that  
12 the WCF was constructed, repaired, modified or restored in strict compliance with all  
13 current applicable technical, safety and safety-related laws adopted by the City and  
14 Borough, state, or federal government, and in compliance with accepted and responsible  
15 workmanlike industry practices and recommended practices of the National Association of  
16 Tower Erectors; and

17 (t) Proof of FAA compliance with 14 CFR Part 77, if applicable.

18 **49.65.970 Special use permit applications.**

19 No person shall be permitted to site, place, build, construct, modify, or prepare any site  
20 for the placement or use of WCF, except for those WCF identified in section 49.65.940, Table  
21 1, as of the effective date of this article without having first obtained a special use permit.  
22 All applicants for a special use permit and any modification of such facility shall comply  
23 with the requirements set forth in this section.  
24

25 (a) *Pre-application meeting.* Prior to submission of an application, the applicant  
shall meet with the director for the purpose of discussing the site and development proposal,

1  
2 and to address any issues that will help to expedite the review and permitting process,  
3 including the scope of the visual assessment the applicant will be required to provide as part  
4 of the special use permit process. A pre-application meeting may also include a site visit, as  
5 determined by the director. No statement by either the applicant or director shall be  
6 regarding as binding or authoritative for purposes of this section.

7 (b) *Additional required application submittals.*

8 (1) In addition to the fee required in 49.65.940(b), the applicant shall pay  
9 an additional special use permit application fee as set forth in 49.85.100.

10 (2) In addition to the documentation required by section 49.65.960, the  
11 following additional documentation must be submitted with any special use permit  
12 application:  
13

14 (A) Certification of compliance with the design criteria listed in  
15 section 49.65.930;

16 (B) *A visual impact assessment.* The scope of the required  
17 assessment will be reviewed at the pre-application meeting, but the planning commission  
18 may require submission of a more detailed visual analysis after submittal of the following  
19 required information. The visual impact assessment must include:

20 (i) A "zone of visibility map" which shall be provided in  
21 order to determine locations where the tower may be seen;

22 (ii) An analysis demonstrating that the WCF will be sited so  
23 as to have the least adverse visual impact on the environment and its character, on existing  
24 vegetation, and on the properties in the area; and  
25

1  
2 (iii) Pictorial representations of "before and after" views from  
3 key viewpoints as may be appropriate, including but not limited to roadways, parks, public  
4 lands, historic districts, and any other location where the site is visible to a large number of  
5 visitors, travelers or residents. Guidance will be provided concerning the appropriate key  
6 sites at the pre-application meeting;

7 (iv) Description of the visual impact of the tower base, guy  
8 wires (if applicable) and accessory buildings from abutting properties and streets;

9 (v) The applicant shall demonstrate in writing and/or by  
10 drawing how it shall effectively screen from view the base of its proposed WCF tower and all  
11 related facilities and structures; and

12 (C) The applicant shall provide evidence that the proposed facility  
13 is designed to meet the minimum height requirement necessary for effective functioning of  
14 the provider's network.

15 (c) *Director's Review.*

16 (1) The director shall review the application for completeness.

17 (2) Incomplete applications shall be rejected and the applicant notified in  
18 writing within 30 days of receipt of the initial submission. If rejected, the director's decision  
19 shall identify the deficiencies in the application, which, if cured, would make the application  
20 complete.  
21

22 (3) Once an application is deemed complete, the director shall schedule it  
23 for a hearing before the planning commission, and shall give notice to the applicant and the  
24 public in accordance with subsection (d).  
25

1  
2 (d) *Public notice.* Public notice of planning commission consideration of a special  
3 use permit shall be provided as follows:

4 (1) Permit consideration shall be included as an item in the posted  
5 agenda.

6 (2) Notice of the hearing and the agenda item shall be published in a  
7 newspaper of general circulation in the City and Borough a minimum of ten days prior to  
8 the date of the meeting.

9 (3) The applicant shall post a sign on the site at least 14 days prior to the  
10 hearing at a location determined by the director. The sign shall be between four square feet  
11 and 32 square feet in area, shall have a red background, and shall indicate in white  
12 lettering, 216-point or larger, that a special use permit for a WCF has been sought for the  
13 site, the date of the hearing thereon, and that further information is available from the  
14 director. The applicant shall maintain the sign and shall remove it within 14 days after final  
15 action on the application.  
16

17 (4) The director shall mail notice of the application and the public hearing  
18 to the owners of record of all property located within 500 feet of the site.

19 (e) *Planning Commission determination.* The planning commission is authorized  
20 to review, analyze, evaluate and make decisions with respect to reviewing special use  
21 permits for WCFs.  
22

23 (1) The planning commission may impose any conditions on a special use  
24 permit:

25 (A) Required to ensure compliance with the design criteria specified  
in section 49.65.930; and

1  
2 (B) That are consistent with the purposes of this article, which may  
3 include conditions related to the aesthetic effect of the WCF and compatibility with other  
4 WCFs. Factors relevant to aesthetic effects are: the protection of the view in sensitive or  
5 particularly scenic areas, scenic corridors/viewsheds identified in the Comprehensive Plan of  
6 the City and Borough of Juneau, and in historic sites; the concentration of WCFs in the  
7 proposed area; and whether the height, design, placement or other characteristics of the  
8 proposed facility could be modified to have a less intrusive visual impact.

9 (2) The planning commission may deny an application for any of the  
10 following reasons.

11 (A) Conflict with safety and safety-related codes and requirements;

12 (B) Conflict with traffic needs or traffic laws, or definitive plans for  
13 changes in traffic flow or traffic laws;

14 (C) Conflict with the historic nature of a neighborhood;

15 (D) The use or construction of a WCF that is contrary to an already  
16 stated purpose of a specific zoning or land use designation;

17 (E) Presence of another approved WCF application within the  
18 geographic search area;

19 (F) The proposed site is on, or eligible to be on, the National  
20 Register of Historic Places;

21 (G) With respect a new concealed or non-concealed tower, the  
22 applicant fails to demonstrate that no existing structure or tower can accommodate the  
23 applicant's proposed use without increasing the height of the existing tower or structure or  
24 otherwise creating a greater visual impact; or that use of such existing facilities would  
25

1  
2 prohibit or have the effect of prohibiting personal wireless services in the search area to be  
3 served by the proposed tower; and

4 (H) Conflicts with the provisions of this article.

5 (3) The planning commission shall deny any application for WCF in the  
6 following locations:

7 (A) State or local wildlife refuges;

8 (B) In any area designated as a public park, unless screened so as  
9 to minimize visual and noise impacts, and as long as public use will not be disrupted, as  
10 determined by the planning commission; and

11 (C) Any area designated as a Scenic Corridor/Viewshed identified in  
12 the Comprehensive Plan of the City and Borough of Juneau.

13 (4) The planning commission shall condition a permit on a requirement to  
14 construct WCF within a reasonable period of time, which may not exceed 18 months.

15 (f) Any and all representations made by the applicant to the planning  
16 commission on the record during the application process, whether written or verbal, shall be  
17 deemed a part of the application and may be relied upon in good faith by the commission.

18 (g) A holder of a special use permit granted under this article shall obtain, at its  
19 own expense, all permits and licenses required by applicable law, rule, regulation or code,  
20 and must maintain the same, in full force and effect, for as long as required by the City and  
21 Borough or other governmental entity or agency having jurisdiction over the applicant.

22 (h) The planning commission's decision shall be in writing and mailed to the  
23 applicant, postmarked by the 150<sup>th</sup> day of receipt of a completed application. A decision to  
24  
25

1  
2 deny a request to place, construct or modify a WCF shall be supported by substantial  
3 evidence.

4 (i) If the planning commission denies a request to place, construct or modify a  
5 WCF, the applicant may, within 20 days from the postmarked date of the decision, appeal  
6 the planning commission's decision in accordance with section 49.20.110.

7 **49.65.980 Extent and parameters of special use permit for WCFs.**

8 (a) Special use permits may not be assigned or transferred without providing  
9 prior notice to the City and Borough, on a form acceptable to the director.

10 (b) Special use permits may, following a hearing upon prior notice to the  
11 applicant, be revoked, canceled, or terminated for a violation of the conditions and  
12 provisions of the special use permit for WCFs or for a material violation of this article after  
13 prior written notice to the applicant and the holder of the special use permit.

14 (c) The holder of a special use permit shall notify the City and Borough of any  
15 intended modification of a WCF and shall apply to the director to modify, relocate or rebuild  
16 any WCF.

17 (d) A special use permit shall become void 18 months after its effective date if no  
18 substantial construction progress has been made. A new application must be submitted for  
19 a voided permit, including the payment of any required fees, and a new permit obtained. No  
20 permit shall be renewed more than once.

21 **49.65.990 Interference with public safety equipment.**

22 In order to facilitate the regulation, placement, and construction of antenna, and to  
23 ensure that all parties are complying to the fullest extent possible with the rules,  
24  
25

1 regulations, and/or guidelines of the FCC, each owner of an antenna, antenna array or  
2 applicant for a collocation shall agree in a written statement to the following:

3  
4 (a) Compliance with "good engineering practices" as defined by the FCC in its  
5 rules and regulations;

6 (b) Compliance with FCC regulations regarding susceptibility to radio frequency  
7 interference, frequency coordination requirements, general technical standards for power,  
8 antenna, bandwidth limitations, frequency stability, transmitter measurements, operating  
9 requirements, and any and all other federal statutory and regulatory requirements relating  
10 to radio frequency interference (RFI);

11  
12 (c) In the case of an application for collocated telecommunications facilities, the  
13 applicant, together with the owner of the subject site, shall use their best efforts to provide a  
14 composite analysis of all users of the site to determine that the applicant's proposed  
15 facilities will not cause radio frequency interference with the City and Borough's public  
16 safety communications equipment and will implement appropriate technical measures, as  
17 described in antenna element replacements, to attempt to prevent such interference; and

18 (d) Whenever the City and Borough has encountered radio frequency interference  
19 with its public safety communications equipment, and it believes that such interference has  
20 been or is being caused by one or more antenna arrays, the following steps may be taken:

21 (1) The City and Borough shall provide notification to all wireless service  
22 providers operating in the City and Borough of possible interference with the public safety  
23 communications equipment, and upon such notifications, the owners shall use their best  
24 efforts to cooperate and coordinate with the City and Borough among themselves to  
25 investigate and mitigate the interference, if any, utilizing the procedures set forth in the

1  
2 joint wireless industry-public safety "Enhanced Best Practices Guide," released by the FCC  
3 in Appendix D of FCC 04-168 (released August 6, 2004), including the "Good Engineering  
4 Practices," as may be amended or revised by the FCC from time to time in any successor  
5 regulations.

6 (2) If any equipment owner fails to cooperate with the City and Borough in  
7 complying with the owner's obligations under this section or if the FCC makes a  
8 determination of radio frequency interference with the City and Borough public safety  
9 communications equipment, the owner who failed to cooperate and/or the owner of the  
10 equipment which caused the interference shall be responsible, upon FCC determination of  
11 radio frequency interference, for reimbursing the City and Borough for all costs associated  
12 with ascertaining and resolving the interference, including but not limited to any  
13 engineering studies obtained by the City and Borough to determine the source of the  
14 interference. For the purposes of this subsection, failure to cooperate shall include failure to  
15 initiate any response or action as described in the "Enhanced Best Practices Guide" within  
16 24 hours of the City and Borough's notification.  
17

18 **49.65.1000. Transfer of Ownership**

19 In the event a WCF provider or owner transfers ownership of a WCF to a different  
20 provider or owner, the previous and new service provider or owner shall notify the director  
21 no less than 10 days from the date of transfer. The new provider or owner shall include the  
22 name, address and phone number of the person to be responsible for the WCF.  
23  
24  
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2 **49.65.1010 Non-use and abandonment.**

3 (a) Notwithstanding section 49.10.600, the director may require removal of a  
4 WCF under the following circumstances, which are deemed detrimental to the health,  
5 safety, and welfare interests of the City and Borough:

6 (1) WCFs with a permit that have not been used as a WCF for a period  
7 exceeding 90 consecutive days or a total of 180 days in any 365-day-period, except for  
8 periods caused by force majeure or acts of God, in which case, repair or removal shall  
9 commence within 90 days.

10 (2) Permitted WCFs that have fallen into such a state of disrepair that  
11 create a public health or safety hazard, which shall be deemed a nuisance per se.

12 (3) WCFs that have been located, constructed, or modified without first  
13 obtaining all permits required by law, or that have been located, constructed or modified in  
14 a manner inconsistent with the applicable permit requirements, which shall be deemed a  
15 nuisance per se.

16 (b) If the director makes such a determination as noted in subsection (a) of this  
17 section, the director shall notify the permittee in writing that said WCF is to be removed.

18 (c) Within 90 days of the postmarked date of the director's notice, the permittee,  
19 or its successors or assigns, shall dismantle and remove such WCF, and all associated  
20 structures and facilities, from the site and restore the site as close to its original condition as  
21 is possible, such restoration being limited only by physical or commercial impracticability  
22 proven to the satisfaction of the director.

23 (d) If the WCF is not removed or substantial progress has not been made to  
24 remove the WCF within 90 days after the permit holder has received notice, the City and  
25

1  
2 Borough may remove or cause to be removed the WCF at the sole expense of the owner or  
3 permit holder.

4 (e) If, the City and Borough removes or causes to be removed a WCF and the  
5 owner of the WCF does not claim and remove it from the site to a lawful location within ten  
6 days, then the City and Borough may take steps to declare the WCF abandoned, and sell it  
7 and its components.

8 (f) Notwithstanding anything in this section to the contrary, the director may  
9 approve a temporary use permit/agreement for the WCF, for no more than 90 days, during  
10 which time a suitable plan for removal, conversion, or relocation of the affected WCF shall  
11 be developed by permit holder or owner, subject to the approval of the director. If such a  
12 plan is not developed, approved and executed within the 90-day time-period, then the City  
13 and Borough may take possession of and dispose of the affected WCF in the manner  
14 provided in this section.  
15

16  
17 **49.65.1020 Conflict with other ordinances.**

18 Where this article differs or conflicts with other ordinances, unless the right to do so is  
19 preempted or prohibited by the state or federal government, the more restrictive or  
20 protective of the City and Borough and the public shall apply.  
21  
22  
23  
24  
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1  
2 **49.65.1030 Violations**

3       Violations of this article or any special use permit obtained pursuant to this article  
4 shall be subject to the provisions of section 49.10.600 through 49.10.660.  
5

6       **Section 3. Amendment of Section.** CBJ 49.80.120 Definitions, is amended by  
7 the addition of the following definitions to be incorporated in alphabetical order:  
8

9       *Amateur Radio Antenna* means any tower used for amateur radio (ham) transmissions  
10 consistent with FCC regulations.

11       *Antenna* means communications equipment that transmits and receives electromagnetic  
12 radio signals used in the provision of all types of wireless communications services.

13       *Antenna array* means A single or group of antenna elements and associated mounting  
14 hardware, transmission lines, or other appurtenances which share a common attachment  
15 device such as a mounting frame or mounting support structure for the sole purpose of  
16 transmitting or receiving electromagnetic waves.

17       *Antenna support structure* means a structure that is primarily constructed for the purpose of  
18 holding antenna but on which one or more antennas may be mounted, including buildings,  
19 water tanks, pole signs, church steeples, and electric power transmission towers.

20       *Appurtenant or associated facilities* means an accessory facility or structure serving or being  
21 used in conjunction with (WTF), and located on the same property or lot as the (WTF),  
22 including but not limited to, utility or transmission equipment storage sheds or cabinets.

23       *Base station* means a facility consisting of radio transceivers, antenna, coaxial cable, a  
24 regular and back-up power supply, and other electronics associated with the operation of a  
25 WCF.

26       *Collocation* means the placement of an antenna on an existing WCF for the purpose of  
27 transmitting and/or receiving radio frequency signals for communications purposes.

28       *Commercially impracticable* means the inability to perform an act on terms that are  
29 reasonable in commerce. The inability to achieve a satisfactory financial return on  
30 investment or profit, standing alone, shall not be considered "commercial impracticability"  
31 and shall not render an act or the terms of an agreement commercially impracticable.

32       *Concealed* means a tower, ancillary structure, or equipment compound that is not readily  
33 identifiable as such, and is designed to be aesthetically compatible with existing and  
34 proposed building(s) and uses on a site. There are two (2) types of concealed facilities: 1)

1  
2 Antenna Attachments, including painted antenna and feed lines to match the color of a  
3 building or structure, faux windows, dormers or other architectural features that blend with  
4 an existing or proposed building or structure and 2) Freestanding. Freestanding concealed  
towers usually have a secondary, obvious function, which may include church steeple,  
windmill, bell tower, clock tower, light stanchion, flagpole with or without a flag, or tree.

5 *Equipment cabinet or shelter* means a small structure shelter, cabinet or vault used to house  
6 and protect the electronic equipment necessary for processing wireless communication  
7 signals. Associated equipment may include air conditioning and emergency generators.

8 *FAA* means the Federal Aviation Administration or its duly designated and authorized  
9 successor agency.

10 *FCC* means the Federal Communications Commission or its duly designated and authorized  
11 successor agency.

12 *Feed lines* means cables used as the interconnecting media between the  
13 transmission/receiving base station and the antenna.

14 *Flush mounted* means any antenna or antenna array attached directly to the face of the  
15 support structure or building in a manner that permits mechanical beam tilting if necessary  
16 but such that no portion of the antenna extends above the height of the support structure or  
17 building.

18 *Guy wire* means any wire or cable that provides structural support between a tower and the  
19 ground.

20 *Monopole WCF* means a style of free-standing WTF consisting of a single shaft usually  
21 composed of two or more hollow sections that are in turn attached to a foundation. This type  
22 of WTF is designed to support itself without the use of guy wires or other stabilization  
23 devices. These facilities are mounted to a foundation that rests on or in the ground or on a  
24 building's roof.

25 *Non-concealed* means a WCF that has not been treated, camouflaged, or disguised to blend  
with its surroundings and is readily identifiable.

*Radio frequency emissions* means any electro-magnetic radiation or other communication  
signal emitted from an antenna that is regulated by the FCC.

*Satellite earth station* means a parabolic or dish antenna that is mounted to a structure,  
which may include associated equipment cabinets, necessary for the transmission or  
reception of wireless communication signals with satellites.

*Tower* means a structure that is built for the sole or primary purpose of supporting  
equipment for the transmission and/or reception of radio frequency signals or other wireless

1  
2 communications or meteorological purposes, and usually consisting of an antenna or  
3 antenna array, transmission cables, equipment cabinets, and their associated facilities.

4 *Tower base* means the foundation, usually concrete, on which the tower and other support  
5 equipment is situated. For measurement calculations, the tower base is that point on the  
6 foundation reached by dropping a perpendicular from the geometric center of the tower.

7 *Unipole* means a wireless communication structure in which antennas are mounted inside a  
8 RF transparent cylinder. This design may also be referred to as a concealed monopole,  
9 flagpole, light pole, free standing pole, or roof mounted pole on existing structures.

10 *Wireless Communication Facility (WCF)* means any manned or unmanned location for the  
11 transmission and/or reception of radio frequency signals or other wireless communications,  
12 and usually consisting of an antenna or group of antennas, transmission cables, and  
13 equipment cabinets, and may include an antenna support structure. The following  
14 developments shall be considered a WCF: developments containing new, mitigated, or  
15 existing antenna support structures, public antenna support structures, replacement  
16 antenna support structures, collocation on existing antenna support structures, attached  
17 wireless communications facilities, concealed wireless communication facilities, and non-  
18 concealed wireless communication facilities. Excluded from the definition are:  
19 noncommercial amateur radio, amateur ham radio and citizen band antennas, satellite  
20 earth stations and antenna support structures, and antennas and/or antenna arrays for  
21 AM/FM/TV/HDTV broadcasting transmission facilities.

22 Specific types of WCFs include:

23 *Attached WCF* means an antenna or antenna array that is secured to an existing  
24 building or structure with any accompanying pole or device which attaches it to the  
25 building or structure, together with transmission cables, and an equipment cabinet,  
which may be located either on the roof or inside/outside of the building or structure.  
An attached wireless communications facility is considered to be an accessory use to  
the existing principal use on a site.

*Concealed WCF*, sometimes referred to as a concealed or camouflaged facility, means  
a WCF, ancillary structure, or WCF equipment compound that is not readily  
identifiable as such, and is designed to be aesthetically compatible with existing and  
proposed building(s) and uses on a site. There are two types of concealed WCFs: 1)  
attached and 2) freestanding. 1) Examples of concealed attached facility include, but  
are not limited to the following: painted antenna and feed lines to match the color of  
a building or structure, faux windows, dormers or other architectural features that  
blend with an existing or proposed building or structure. 2) Freestanding concealed  
WCFs usually have a secondary, obvious function which may be, but is not limited to  
the following: church steeple, windmill, bell tower, clock tower, cupola, light  
standard, flagpole with or without a flag, or faux tree.

1  
2 *Freestanding WCF* means any manned or unmanned location for the transmission  
3 and/or reception of radio frequency signals, or other wireless communications, and  
4 usually consisting of an antenna or group of antennas, feed lines, and equipment  
5 cabinets, and may include an antenna support structure. A freestanding WCF  
6 includes, but is not limited to the following: guyed, lattice, or monopole support  
7 structures.

8 *Non-concealed WCF* means a wireless communication facility that is readily  
9 identifiable as such and can be either freestanding or attached.

10 **Section 4. Amendment of Section.** CBJ 49.85.100 is amended to add a  
11 subsection (1) to read:

12 (18) **Wireless Communication Facility Application Fees.**

- 13 (A) Application fees required by 49.65.940(b): \$350  
14 (B) Additional fee required for special use permit applications  
15 required by 49.65.970(b)(1): \$500  
16 (C) Technical expert review fee specified in 49.65.940(b): \$4000

17 **Section 5. Effective Date.** This ordinance shall be effective 30 days after its  
18 adoption.

19 Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

20  
21  
22 \_\_\_\_\_  
Merrill Sanford, Mayor

23 Attest:

24 \_\_\_\_\_  
Laurie J. Sica, Municipal Clerk  
25

CITY OF HOMER  
ORDINANCE 14-xx

City Manager

AN ORDINANCE OF THE HOMER CITY COUNCIL AMENDING  
HOMER CITY CODE 21.40.070, REQUIREMENTS, REGARDING  
STANDARDS FOR IMPERVIOUS COVERAGE IN THE BRIDGE  
CREEK WATERSHED PROTECTION DISTRICT.

THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code 21.40.070, Requirements, is amended to read as follows:

21.40.070 Requirements. The requirements of this section shall apply to all structures and uses in the BCWP district unless more stringent requirements are required pursuant to Chapter 21.71 HCC. The City of Homer water utility is exempt from this section.

a. Impervious Coverage.

1. Lots ~~three two and one half~~ acres and larger shall have a maximum total impervious coverage of 4.2 percent.

2. Lots smaller than ~~three two and one half~~ acres shall have a maximum total impervious coverage of 5,500 square feet ~~4.2 percent, except as provided in subsection (a)(3) of this section.~~

3. Lots smaller than ~~three two and one half~~ acres shall comply with the following performance standards: ~~may be allowed impervious coverage up to 6.4 percent if (a) the owner submits a lot specific mitigation plan for Planning Commission's approval, and (b) if approved, thereafter implements and continuously complies with the approved plan. The mitigation plan must be designed to mitigate the effect of impervious coverage on water flow and the effect of loss of vegetation created by the impervious coverage~~

a. Disturbed areas shall be reseeded by August 31<sup>st</sup>

b. Storm water retention of 40 gallons must be provided on site, in the form of one or a combination of dry wells, rain barrels, rain gardens, foot drain retention or other method approved by the City Planner. The storm water retention is intended to mitigate the effect of impervious coverage and the resulting loss of vegetation on water flow.

c. When the City Planner finds that special site considerations such as topography or drainage warrant such treatment, a ditch lined with filter fabric and rock shall be constructed to slow water runoff from the driveway and encourage infiltration of water into the ground.

b. Impervious Coverage Calculations.

1. For the purpose of calculating impervious coverage on lots smaller than ~~three two and one half~~ acres, up to 500 square feet of uncovered deck attached

[**Bold and underlined added.** Deleted language stricken through.]

44 to a residence, and one accessory structure with a footprint area up to 200 square  
45 feet are excluded from the calculation driveways and walkways may be partially or  
46 fully excluded from the calculation, if constructed and maintained in accordance with a  
47 mitigation plan, submitted and approved in accordance with subsection (a)(3) of this  
48 section.

49 2. Except as otherwise provided in this section, parcels of land subdivided after  
50 February 25, 2003, shall be allowed a total impervious coverage of 4.2 percent including  
51 right-of-way (ROW) dedication. ROW coverage area shall be calculated as 50 percent of  
52 the total area of the dedicated ROW. The impervious coverage allowed for the  
53 subdivided parcels shall be calculated after deducting the ROW coverage from the total  
54 parcel allowance according to the following formula:

55 Formula:

56 (Area of parcel being subdivided) x 0.042 = Total allowed impervious coverage  
57 (TAC)

58 (Area of ROW dedication) x 0.5 = ROW coverage (ROW C)

59 (TAC) – (ROW C) = Allowed impervious coverage for remainder of parcel being  
60 subdivided

61 (Area of parcel being subdivided) – (Area of ROW dedication) = New parcel area  
62 (Allowed impervious coverage for remainder) ÷ (New parcel area) x 100 =  
63 Percent impervious coverage allowed on subdivided lots.

64 c. Additional Requirements for Subdivisions and Lots.

65 1. Lots created by subdivision after February 25, 2003, shall be a minimum of  
66 four and one-half acres.

67 2. Applications for subdivisions, dedications, and vacations of easements and  
68 rights-of-way in the BCWP district must be approved by the Planning Commission prior  
69 to submission to the Kenai Peninsula Borough.

70 d. Building Setbacks. Buildings must be set back from the Bridge Creek Reservoir and  
71 from streams as provided in HCC 21.40.110 and 21.40.120.

72 e. Sewer Systems. Appropriate to the use of the lot, each lot shall be served by a septic  
73 or sewer system approved by the Alaska State Department of Environmental Conservation  
74 (ADEC). Stream setbacks equal to 100 feet for drain fields and subsurface discharge and 250  
75 feet for raised septic systems are required.

76 f. Ongoing Construction and Timber Harvesting. All activities including, but not limited  
77 to, timber harvesting, road building, subdivision and building activities involving loss of  
78 vegetation ground cover or soil disturbance and that are in process on February 25, 2003, shall  
79 be required to obtain permits under this chapter and shall fully conform to the terms of this  
80 chapter. Activities leaving disturbed or lost vegetative ground cover, disturbed soils without  
81 revegetation or leaving slash piles will be considered in process for the purposes of this  
82 subsection, regardless of when the activity occurred.

83 g. Pending Subdivisions. Subdivisions that have not received final plat approval by  
84 February 25, 2003, shall obtain approval from the Planning Commission and shall be required  
85 to conform to the requirements of this chapter.

[**Bold and underlined added.** Deleted language stricken through.]







# City of Homer

[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

## Planning

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### Staff Report PL 14-90

TO: Homer Advisory Planning Commission  
THROUGH: Rick Abboud, City Planner  
FROM: Julie Engebretsen, Deputy City Planner  
DATE: October 15, 2014  
SUBJECT: Draft Ordinance 14-xx Amendments to the Bridge Creek Watershed Protection District

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### Introduction

In April, Chris Story, President of the Kachemak Board of Realtors, made a presentation on to the HAPC on some potential changes to the Bridge Creek Watershed Protection District regulations. The Planning Commission subsequently had several work sessions and heard from guest speakers Bob Shavelson of Cook InletKeeper and Todd Cook, City of Homer Water/Wastewater Superintendent.

### Analysis

Staff review of the zoning code amendment per 21.95.040 is an attached memorandum.

The ordinance will make three main changes to 21.40.070. All changes apply only to lots under three acres in size.

1. Parcels less than three acres will be allowed to have up to 5,500 square feet of impervious surface.
2. Disturbed areas will be reseeded by August 31<sup>st</sup>, 40 gallons of storm water retention are required on every lot, and when determined by the City Planner, infiltration ditches next to driveways may be required. Mitigation plans will no longer be required.
3. Up to 500 square feet of uncovered deck, and one accessory structure under 200 square feet, may be constructed and not count toward the impervious surface maximum.

### Total Impact of these changes to the watershed

The watershed are consists of approximately 2,100 acres, subdivided into 255 lots. Staff estimates there are 93 developable lots affected by these changes. There are more lots less than three acres, but they are not readily developable due to limiting factors such as conservation easements, lack of infrastructure, or proximity to the reservoir.

The calculations below assume all 93 property owners develop to the maximum allowed.

- Total impervious coverage allowed under the existing rules: **9.24 acres**
- Total impervious coverage under the proposed changes = **13.24 acres**

This is an increase of 4 acres from the existing rules. Private parcels can currently create 88.2 acres of impervious coverage at 4.2% of the watershed area. The proposed changes raise that potential to 92.2 acres of impervious coverage, or 4.39% of the watershed area.

### **Public Notice**

A cover letter and public notice was mailed to all property owners within the Bridge Creek Watershed Protection District. Public notice was advertised in the local newspaper as required by code. As of the writing of this staff report, no comments had been received.

**Staff Recommendation:** Conduct a public hearing and forward a recommendation to the City Council

### **Attachments**

Memorandum – staff review of the code amendment per 21.95.040  
Draft Ordinance  
Map dated 8/28/14  
Letter to watershed land owners  
Board of Realtors materials from 4/16/14 HAPC work session