

43 “Wireless communications support structure” means a structure that is designed to
44 support, or is capable of supporting, wireless communications equipment, including a
45 communications tower, utility pole, or building.
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47 Section 2. Subsection (b) of HCC 21.05.030, Measuring heights, is amended to read as
48 follows:
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50 b. When measuring height of a building, the following are excluded from the
51 measurement:

52 1. Steeples, spires, belfries, cupolas and domes if not used for human
53 occupancy, chimneys, ventilators, weather vanes, skylights, water tanks, bulkheads,
54 monuments, flagpoles, wind energy systems, television and radio antennas, other
55 similar features, and necessary mechanical appurtenances usually carried above roof
56 level.

57 2. Wireless communications equipment that does not extend more than 10 feet
58 above the height of the building.
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60 Section 3. Subsection (d) of Homer City Code 21.05.030, Measuring heights, is
61 amended to read as follows:
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63 d. When determining the height of a nonbuilding structure, such as a sign, fence,
64 amateur radio tower, communications tower or wireless communications support structure,
65 the height shall be calculated as the distance from the base of the structure at normal grade
66 to the top of the highest part of the structure, excluding lightning rods. For this calculation,
67 normal grade shall be construed to be the lower of (1) existing grade prior to construction or
68 (2) the newly established grade after construction, exclusive of any fill, berm, mound, or
69 excavation made for the purpose of locating or supporting the structure. In cases in which the
70 normal grade cannot reasonably be determined, structure height shall be calculated on the
71 assumption that the elevation of the normal grade at the base of the structure is equal to the
72 elevation of the nearest point of the crown of a public street or the grade of the land at the
73 principal entrance to the main building on the lot, whichever is lower.
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75 Section 4. Homer City Code Chapter 21.58, Small Wind Energy Systems, is repealed.
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77 Section 5. Homer City Code Chapter 21.58, Towers and Related Structures, is enacted
78 to read as follows:
79

80 CHAPTER 21.58

81 TOWERS AND RELATED STRUCTURES

82
83
84 Article I. Communications Towers and Wireless Communications Equipment

85 21.58.010 Purpose.

86 The purpose of this article is to provide standards and procedures for communications
87 towers and for wireless communications equipment.

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89 21.58.020 Exemption from regulation.

90 a. Each of the following communications towers is a permitted principal or accessory
91 use or structure in each zoning district and is exempt from the provisions of this article:

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93 1. A communications tower that is placed temporarily to support wireless
94 communications equipment that is provided in response to a state of emergency
95 declared by a federal, state, or local government authority and is removed within 12
96 months after the termination of the state of emergency.

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98 2. A communications tower that is placed temporarily to support wireless
99 communications equipment that is provided for media coverage of a special event,
and that is placed no more than 30 days before the special event and removed no
more than 15 days after the end of the special event.

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3. A communications tower with a height not exceeding 35 feet.

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4. An amateur radio tower, to the extent that it is exempt from regulation under

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AS 29.35.141.

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b. The collocation, removal, replacement or installation of wireless communications
equipment is a permitted principal or accessory use or structure in each zoning district and is
not subject to approval under this title if it meets all of the following requirements:

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1. The collocation, removal or replacement is in an existing wireless
communications support structure or existing equipment compound that is in
compliance with the requirements of this title in effect at the time of its construction
and with the terms and conditions of any previous final approval under this title.

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2. The collocation, removal or replacement will not do any of the following:

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A. Increase the overall height of the wireless communications support
structure by more than 20 feet or 10% of its original height, whichever is
greater.

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B. Increase the width of the wireless communications support structure
by more than the minimum necessary to permit the collocation, removal or
replacement.

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3. The collocation, removal or replacement complies with the terms and
conditions of any previous final approval of the wireless communications support
structure or equipment compound under this title.

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4. The installation is on an existing building that is in compliance with the
requirements of this title and with the terms and conditions of any previous final
approval under this title, and the wireless communications equipment does not
extend more than 10 feet above the height of the building.

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127 21.58.030 Permission for communications towers.

128 a. Except as provided in subsection (b) of this section, a communications tower is
129 permitted as a principal or accessory use or structure in each zoning district.

130 b. A communications tower that exceeds the following maximum height for the zoning
131 district in which the communications tower is located is permitted only when authorized by
132 conditional use permit issued in accordance with Chapter 21.71.

133	<u>District</u>	<u>Maximum Height (feet)</u>
134	CBD	60
135	TC	60
136	GBD	60
137	GC1	120
138	RO	85
139	UR	60
140	RR	85
141	CONS	60
142	GC2	120
143	EEMU	120
144	MI	120
145	MC	120
146	OSR	60
147	BCWPD	120

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149 21.58.040 Application requirements.

150 a. An application for a zoning permit or conditional use permit for a communications
151 tower that is subject to regulation under this article shall include the following information, in
152 addition to information required by other provisions of this title:

153 1. A level two site plan that shows the location of the communications tower.

154 2. A written narrative explaining why placing wireless communications
155 equipment at the proposed location is necessary to the applicant's wireless
156 communications services coverage, including confirmation that there is no available
157 site for collocation of the wireless communications equipment within a radius of 1,000
158 feet from the proposed location in consideration of the proposed technology, why an
159 existing structure may not be used, an evaluation of alternate communications tower
160 locations that the applicant considered, and an explanation why the proposed
161 location is the best alternative.

162 3. A demonstration that the height of the communications tower is the
163 minimum required for the effective operation of the wireless communications
164 equipment plus the present and future collocations that it supports.

165 4. A map showing the locations of the applicant's existing communications
166 towers that serve customers in the city and of all current and currently proposed
167 communications towers that the applicant intends to construct to serve customers in
168 the city.

169 5. A detailed list of major components of the wireless communications
170 equipment that the communications tower will support, and accessory structures
171 such as equipment cabinets and generators.

172 6. An analysis of the potential visual impacts of the communications tower at
173 distances of 500 feet and 1,500 feet from the proposed location, through the use of
174 photo simulations of the communications tower and the wireless communications
175 equipment that it will support. The analysis shall include, to the extent practicable,
176 the visual impact along two lines extending from the shore of Kachemak Bay through
177 the communications tower site that are separated by an angle of at least 90 degrees,
178 and show the relationship of the communications tower to structures, trees,
179 topography, and other intervening visual barriers. The analysis will include
180 recommendations to mitigate adverse visual impacts of the communications tower on
181 other properties.

182 7. A certificate from an engineer licensed in Alaska that the communications
183 tower, and all antennas and other wireless communications equipment located on it,
184 meet industry standards for their construction, including ANSI 222 G or most recent
185 version.

186 8. Evidence that all wireless communications equipment supported by the
187 communications tower meets applicable Federal Communications Commission
188 requirements.

189 9. A determination of no hazard to air navigation for the communications tower
190 issued by the Federal Aviation Administration.

191 10. For a conditional use permit, minutes of each public meeting held under
192 Section 21.58.060(a), and copies of all public comments received under Section
193 21.58.060(b)(5).

194 b. The applicant shall pay the cost of an independent technical review of the
195 communications tower application by a consultant retained by the city. The applicant shall
196 submit with the application a deposit according to the fee schedule established by resolution of
197 the City Council toward the cost of the technical review. If at any time the city finds that the
198 actual cost of the technical review will exceed the amount of the deposit, the city may require
199 the applicant to increase the amount of the deposit to equal the city's current estimate of the
200 cost of the technical review. Continued review of the application shall be conditioned upon the
201 city's receipt of the increased deposit amount. After final city action on the application, the city
202 shall determine the actual cost of the technical review. If the actual cost exceeds the total
203 deposit received, the applicant shall pay the balance to the city prior to permit issuance; if the
204 total deposit received exceeds the actual cost, the city shall refund the excess to the applicant.
205 Deposits received under this subsection shall be disbursed only as authorized by this subsection
206 and shall not bear interest.

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208 21.58.050 Communications tower standards.

209 a. The distance from a communications tower to the closest property line of a lot that
210 contains a dwelling unit, dormitory, hotel, motel, bar, restaurant, school, day care facility,

211 church, retail establishment or place of public assembly may not be less than 1.1 times its
212 total height.

213 b. The height of the communications tower shall not be greater than the minimum
214 height required for the effective operation of the wireless communications equipment and
215 collocations that it will support upon its initial construction.

216 c. The communications tower and any related equipment compound are painted or
217 coated in a color that blends with the surrounding environment, except to the extent that
218 obstruction marking is required by the Federal Aviation Administration, and the fence or wall
219 that surrounds the equipment compound at the base of the communications tower,
220 combined with any landscaping adjacent to its exterior, shall obscure the equipment
221 compound to view from its exterior.

222 d. All guy wires, cables and other accessory support structures for a communications
223 tower shall be on the same lot as the tower, but may be located within required setback
224 areas, and shall be properly jacketed to ensure visibility in accordance with applicable safety
225 standards.

226 e. The equipment compound for a communications tower shall conform to the
227 minimum setback requirements of the zoning district in which it is located.

228 f. Not less than two off-street parking spaces conforming to the requirements of this
229 title shall be provided on the lot where a communications tower is located for use in the
230 operation and maintenance of the communications tower and the wireless communications
231 equipment that it supports.

232 h. The equipment compound at the base of a communications tower shall be
233 surrounded by a fence or wall not less than six feet in height with a secured gate. The lowest
234 part of a climbing apparatus that provides access to equipment on a communications tower
235 shall be at least 12 feet above the ground, and the tower shall have no handholds or
236 footholds below the climbing apparatus.

237 h. Except for switch type lighting, no artificial lighting shall be mounted on a
238 communications tower, and a communications tower shall not be illuminated with artificial
239 lighting, except when required by the Federal Aviation Administration.

240 i. Signs. No sign, flag or pennant may be attached to a communications tower except
241 that the following shall be posted in a location that is visible from the ground outside the
242 equipment compound:

243 1. A sign identifying the party responsible for the operation and maintenance of
244 the communications tower, with a 24-hour emergency contact telephone number.

245 2. Any antenna structure registration number required by the Federal
246 Communications Commission.

247 3. Warnings of dangers associated with the communications tower or
248 equipment that is located on the communications tower.

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253 21.58.060 Public notification of communications tower application.

254 a. The applicant for a conditional use permit for a communications tower shall hold at
255 least one meeting informing the public of the application that conforms to the following
256 requirements.

257 1. The meeting shall be held at city hall, or at a public facility that is nearer to
258 the location of the proposed communications tower and capable of seating a minimum of 20
259 people.

260 2. The meeting shall be held on a day that is not a city holiday at least 15 days
261 before the applicant submits its application to the city.

262 3. The meeting shall be scheduled to last a minimum of two hours and shall not
263 start before 5:00 p.m. or after 7:00 p.m.

264 b. The applicant shall notify each record owner of property within 1200 feet of the
265 parcel that is the site of the proposed communications tower by first class mail at least 15
266 days before the meeting of the following:

267 1. The legal description, street address and a map of the vicinity, of the parcel
268 that is the site of the proposed communications tower;

269 2. A description of the proposed communications tower, including its height,
270 design, and lighting, the proposed access to the site and the services proposed to be
271 provided by the tower;

272 3. The date, time, and location of the meeting;

273 4. A contact name, telephone number, and address of the applicant; and

274 5. A form on which to submit written comments, with a comment submittal
275 deadline and instructions.

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277 21.58.070 Action on communications tower application.

278 a. The reviewing authority shall approve a communications tower only if the applicant
279 demonstrates that it meets the following criteria:

280 1. The communications tower conforms to the requirements in Section
281 21.58.050, and the other applicable standards in this title.

282 2. The coverage for the applicant's wireless communications services
283 customers that the communications tower will provide cannot be provided by
284 collocation on an existing wireless communications support structure.

285 3. Of the available alternate sites, the selected site provides necessary
286 coverage for the applicant's wireless communications services customers with the
287 least visual impact on other properties.

288 b. No action may be taken on a communications tower application on the basis of the
289 environmental effects of radio frequency emissions to the extent that the wireless
290 communications equipment that will be located on the tower complies with Federal
291 Communications Commission regulations concerning such emissions.

292 c. The reviewing authority shall act on a communications tower application within a
293 reasonable period of time after the application has been filed with the city taking into
294 account the nature and scope of the application, but within no more than 150 days after the

295 application is filed. The 150-day period excludes (i) any time that begins when the reviewing
296 authority gives written notice to the applicant within 30 days of receipt of the application that
297 the application is incomplete, clearly and specifically delineating all missing documents or
298 information, until the applicant makes a supplemental submission in response to the notice
299 of incompleteness; and (ii) any time that begins when the reviewing authority has given
300 written notice to the applicant within 10 days of receipt of such a supplemental submission
301 that the supplemental submission did not provide the information identified in the original
302 notice delineating missing information until the applicant makes another supplemental
303 submission.

304 d. An action denying a communications tower application shall be in writing and
305 supported by substantial evidence contained in a written record.

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307 21.58.080 Communications tower insurance requirements.

308 The issuance and continuation of a zoning permit or conditional use permit for a
309 communications tower that is subject to regulation under this article shall be conditioned upon
310 the permittee securing and at all times maintaining insurance meeting the requirements of this
311 section.

312 a. The insurance policy shall provide commercial general liability coverage for personal
313 injuries, death and property damage with limits not less than \$1,000,000 per occurrence and
314 \$3,000,000 aggregate.

315 b. The insurance policy shall be issued by an agent or representative of an insurance
316 company licensed to do business in the State of Alaska and with an AM Best's rating of at least A.

317 c. The insurance policy shall contain an endorsement obligating the insurance company
318 to furnish the city with at least thirty (30) days prior written notice in advance of the cancellation
319 of the insurance.

320 d. The permittee shall provide the city with an insurance policy or certificate of insurance
321 demonstrating compliance with the requirements of this section before the permit is issued, and
322 a renewal or replacement policy or certificate at least fifteen (15) days before the expiration of
323 the insurance that is to be renewed or replaced.

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325 21.58.090 Communications tower removal requirements.

326 a. The owner and the lessee of the property that is the site of a communications tower
327 are jointly and severally responsible for its removal:

328 1. If corrective action is not taken within six months after notice that the City
329 Engineer has found the communications tower, or equipment on the communications
330 tower, to be unsafe or not in compliance with applicable law.

331 2. Within 90 days after all wireless communications equipment on a
332 communications tower has not been operational for a period of at least 12
333 consecutive months

334 b. The issuance and continuation of a zoning permit or conditional use permit for a
335 communications tower that is subject to regulation under this article shall be conditioned upon
336 the permittee providing the city with a performance bond in an amount of at least \$150,000

337 issued by corporation licensed to act as a surety in Alaska and securing the obligations of the
338 owner and the lessee of the property that is the site of the communications tower under
339 subsection (a) of this section.

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Article II. Small Wind Energy Systems

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21.58.110 Purpose and application. The purpose of this article is to establish minimum health and safety standards for small wind energy systems. It applies to small wind energy systems in all districts where they are allowed as permitted or conditional uses.

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21.58.120 Installation requirements.

a. The wind turbine of a small wind energy system may be mounted on a building or a wind energy system tower.

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b. The surfaces of all small wind energy system components that are visible when the small wind energy system is in operation shall be painted a nonreflective, neutral color.

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c. A zoning permit application for a small wind energy system shall include the following information:

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1. A level one site plan that shows the location of the small wind energy system.

2. Specifications for the small wind energy system including manufacturer make and model, an illustration or picture of the turbine unit, maximum rated power output, blade diameter, total height, tower color and, if proposed, the location of ladders and/or climbing pegs.

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3. Tower foundation blueprints or drawings.

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4. Noise decibel data prepared by the wind turbine manufacturer or qualified engineer indicating noise decibel level at the property line nearest to the location of the small wind energy system.

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5. Evidence of compliance with, or exemption from, Federal Aviation Administration requirements.

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6. Evidence that the small wind energy system complies with current Underwriters Laboratories standards for local utility connections.

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d. Dimensional Requirements.

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1. The distance from a small wind energy system to the closest property line may not be less than 1.1 times its total height.

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2. All guy wires, cables and other accessory support structures for a small wind energy system must be on the same lot as the small wind energy system, but may be located within required setback areas, and shall be properly jacketed to ensure visible safety standards.

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21.58.130 Operation standards.

a. Electrical Standards.

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1. A small wind energy system shall comply with the National Electric Code.

378 2. All electric transmission wires connected to a small wind energy system
379 must be underground, or within the building on which the small wind energy system is
380 mounted.

381 3. A small wind energy system shall not interfere with television, microwave,
382 navigational or radio reception.

383 b. Noise and vibration from a small wind energy system shall not exceed the levels
384 permitted in HCC 21.59.010(b) and (c), except during short-term events such as utility outages
385 and severe wind storms.

386 c. Tower Safety.

387 1. The lowest part of a climbing apparatus that provides access to a wind
388 turbine shall be at least 12 feet above the ground, and the wind energy system tower
389 or building on which the wind turbine is mounted shall have no handholds or
390 footholds below the climbing apparatus.

391 2. The lowest point through which a wind turbine blade rotates must be at
392 least 20 feet above the ground.

393 d. Lighting. Except for switch type lighting, no artificial lighting shall be mounted on a
394 small wind energy system, and a small wind energy system shall not be illuminated with
395 artificial lighting, except when required by the Federal Aviation Administration and approved
396 by conditional use permit.

397 e. Signs. No sign, flag or pennant may be attached to a small wind energy system
398 except for the following:

399 1. A sign identifying the manufacturer or installer of the small wind energy
400 system.

401 2. Signs warning of dangers associated with the small wind energy system.

402 f. Removal. The owner and the lessee of the property that is the site of a small wind
403 energy system are jointly and severally responsible for its removal:

404 1. If corrective action is not taken within six months after notice that the City
405 Engineer has found the small wind energy system to be unsafe or not in compliance
406 with applicable law.

407 2. Within 90 days after the small wind energy system has not been operational
408 for a period of at least 12 consecutive months.

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410 Section 6. Subsection (c) of Homer City Code 21.70.010, Zoning permit required, is
411 amended to read as follows:

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413 c. The following are exempt from the requirement to obtain a zoning permit, but not
414 from compliance with applicable requirements of the Homer Zoning Code, such as, but not
415 limited to, the development activity plan or stormwater protection plan:

416 1. Any change to an existing building that does not increase the height, or
417 exterior dimension of any floor, of the building, and any change to an existing
418 structure that does not increase the height, or footprint area, of the structure.

419 2. Erection or construction of a one-story detached accessory building used as
420 a tool and storage shed, playhouse, or other accessory use, provided the building area
421 does not exceed 200 square feet; and further provided, that there is already a main
422 building on the same lot.

423 3. Erection or construction of a communications tower with a height not
424 exceeding 35 feet, or an amateur radio tower.

425 4. Fences or walls used as fences, unless otherwise regulated by the Homer City
426 Code.

427 5. Removal of any building or structure.

428 6. Termination of any type of use.

429
430 Section 7. This Ordinance is of a permanent and general character and shall be
431 included in the City Code.

432
433 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this 22nd day of August, 2016 .
434

CITY OF HOMER



Mary E. Wythe
MARY E. WYTHE, MAYOR

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439 ATTEST:

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441 *Jo Johnson*
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443 _____
444 JO JOHNSON, MMC, CITY CLERK

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447 AYES: 5
448 NOES: 0
449 ABSTAIN: 0
450 ABSENT: 1
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457 First Reading: 4/28/14
458 Public Hearing: 8/22/16
459 Second Reading: 8/22/16
460 Effective Date: 8/23/16

461 Reviewed and approved as to form:

462

463

464 Mary K Koester

465 Mary K. Koester, City Manager

466

467 Date: 8.25.14



Holly C. Wells, City Attorney

Date: 9.16.16