**CITY OF HOMER**
**HOMER, ALASKA**

Planning Commission

**ORDINANCE 14-18(A)(S)**

AN ORDINANCE OF THE HOMER CITY COUNCIL AMENDING HOMER CITY CODE 21.03.040, DEFINITIONS USED IN ZONING CODE, HOMER CITY CODE 21.05.030, MEASURING HEIGHTS, AND HOMER CITY CODE 21.70.010, ZONING PERMIT REQUIRED; REPEALING HOMER CITY CODE CHAPTER 21.58, SMALL WIND ENERGY SYSTEMS; AND ENACTING HOMER CITY CODE CHAPTER 21.58, TOWERS AND RELATED STRUCTURES.

THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code Chapter 21.03.040, Definitions used in zoning code, is amended by adding the following definitions:

"Collocation" means the placement or installation of wireless communications equipment on an existing wireless communications support structure or in an existing equipment compound.

"Equipment compound" means the area occupied by a wireless communications support structure and within which wireless communications equipment is located.

"Tower, amateur radio" means a fixed vertical structure used exclusively to support an antenna used by an amateur radio operator licensed by the Federal Communications Commission, plus its accompanying base plates, anchors, guy cables and hardware.

"Tower, communications" means a fixed vertical structure built for the primary purpose of supporting wireless communications equipment, plus its accompanying base plates, anchors, guy cables and hardware.

"Wireless communications equipment" means the set of equipment and network components used in the provision of wireless communications services, including without limitation antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables, and coaxial and fiber optic cables, but excluding any wireless communications support structure.

"Wireless communications services" means transmitting and receiving information by electromagnetic radiation, by an operator (other than an amateur radio operator) licensed by the Federal Communications Commission.

"Wireless communications support structure" means a structure that is designed to support, or is capable of supporting, wireless communications equipment, including a communications tower, utility pole, or building.

Section 2. Subsection (b) of HCC 21.05.030 is amended to read as follows:

b. When measuring height of a building, the following are excluded from the measurement:

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

**2. Wireless communications equipment that does not extend more than 10 feet above the height of the building.**

Section 3. Subsection (d) of Homer City Code 21.05.030 is amended to read as follows:

d. When determining the height of a nonbuilding structure, such as a sign**,** ~~or~~ fence**, amateur radio tower, communications tower or wireless communications support structure**, the height shall be calculated as the distance from the base of the structure at normal grade to the top of the highest part of the structure**, excluding lightning rods**. For this calculation, normal grade shall be construed to be the lower of (1) existing grade prior to construction or (2) the newly established grade after construction, exclusive of any fill, berm, mound, or excavation made for the purpose of locating or supporting the structure. In cases in which the normal grade cannot reasonably be determined, structure height shall be calculated on the assumption that the elevation of the normal grade at the base of the structure is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the main building on the lot, whichever is lower.

Section 4. Homer City Code Chapter 21.58, Small Wind Energy Systems, is repealed.

Section 5. Homer City Code Chapter 21.58, Towers and Related Structures, is enacted to read as follows:

CHAPTER 21.58

TOWERS AND RELATED STRUCTURES

Article I. Communications Towers and Wireless Communications Equipment

21.58.010 Purpose.

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

21.58.020 Exemption from regulation.

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

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

2. A communications tower that is placed temporarily to support wireless 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.

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

4. An amateur radio tower, to the extent that it is exempt from regulation under AS 29.35.141.

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:

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.

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

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.

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

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.

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.

21.58.030 Permission for communications towers.

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

b. A communications tower that exceeds the following maximum height for the zoning district in which the communications tower is located is permitted only when authorized by conditional use permit issued in accordance with Chapter21.71.

| District | Maximum Height (feet) |
|---|---|
| CBD | 60 |
| TC | 60 |
| GBD | 60 |
| GC1 | 120 |
| RO | 85 |
| UR | 60 |
| RR | 85 |
| CONS | 60 |
| GC2 | 120 |
| EEMU | 120 |
| MI | 120 |
| MC | 120 |
| OSR | 60 |
| BCWPD | 120 |

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

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

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

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

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

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

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

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

h. Evidence that all wireless communications equipment supported by the communications tower meets applicable Federal Communications Commission requirements.

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

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

21.58.050 Communications tower standards.

a. The distance from a communications tower to the closest property line of a lot that contains a dwelling unit, dormitory, hotel, motel, bar, restaurant, school, day care facility, church, retail establishment or place of public assembly may not be less than 1.1 times its total height.

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

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

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

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

f. Not less than two off-street parking spaces conforming to the requirements of this title shall be provided on the lot where a communications tower is located for use in the

operation and maintenance of the communications tower and the wireless communications equipment that it supports.

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

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

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

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

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

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

<u>21.58.060 Public notification of communications tower application</u>.

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

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

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

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

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

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

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

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

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

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

21.58.070 Action on communications tower application.

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

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

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

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

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

c. The reviewing authority shall act on a communications tower application within a reasonable period of time after the application has been filed with the city taking into account the nature and scope of the application, but within no more than 150 days after the application is filed. The 150-day period excludes (i) any time that begins when the reviewing authority gives written notice to the applicant within 30 days of receipt of the application that the application is incomplete, clearly and specifically delineating all missing documents or information, until the applicant makes a supplemental submission in response to the notice of incompleteness; and (ii) any time that begins when the reviewing authority has given written notice to the applicant within 10 days of receipt of such a supplemental submission that the supplemental submission did not provide the information identified in the original notice delineating missing information until the applicant makes another supplemental submission.

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

21.58.080 Communications tower removal requirements.

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

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

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

## Article II. Small Wind Energy Systems

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.

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.

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.

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

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.

3. Tower foundation blueprints or drawings.

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.

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

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

d. Dimensional Requirements.

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.

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.

21.58.130 Operation standards.

a. Electrical Standards.

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

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

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

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

c. Tower Safety.

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

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

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

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

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

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

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

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

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

Section 6. Subsection (c) of Homer City Code 21.70.010 is amended to read as follows:

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

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

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

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

**4**~~3~~. Fences or walls used as fences, unless otherwise regulated by the Homer City Code.

**5**~~4~~. Removal of any building or structure.

**6**~~5~~. Termination of any type of use.

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

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this ____ day of _____, 2016 .

CITY OF HOMER

_____
MARY E. WYTHE, MAYOR

ATTEST:

_____
JO JOHNSON, MMC, CITY CLERK

AYES:
NOES:
ABSTAIN:
ABSENT:

First Reading:
Public Hearing:
Second Reading:
Effective Date:

Reviewed and approved as to form:

_____ _____
Mary K. Koester, City Manager Thomas F. Klinkner, City Attorney

Date: _____ Date: _____

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