

Presented by: The Manager
Introduced: 02/23/2015
Drafted by: A. G. Mead

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2015-12

An Ordinance Amending the Land Use Code Relating to Wireless Communication Facilities.

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. Amendment of Article. Article IX. Wireless Communication Facilities, is amended to read:

ARTICLE IX. WIRELESS COMMUNICATION FACILITIES

49.65.900 Purpose.

...

- (h) Respond to the policies embodied in Section 6409(a) of the Spectrum Act (P.L. 112-96).

...

49.65.950 Administrative permits.

- (a) A WCF described in Table 1 shall be approved or denied by the director, unless lighting would be required by the FAA or FCC. An eligible facility request in Table 1 must be approved by the director. A special use permit shall be required of all lighted WCF or any WCF requiring air navigation lighting.

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TABLE 1

WCF Type	Zoning Districts	Maximum Height	Minimum Distance
Eligible Facility Request	All	No substantial change as provided in 49.65.950(b)	N/A
Collocation other than an Eligible Facility Request	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 ¹	N/A
Non-concealed attached	D-1—D-18	≤ 5 feet ¹	N/A
Non-concealed attached	Nonresidential and mixed use	≤ 20 feet ¹	N/A
New concealed tower	WI, WC, GC, LC	≤ 20 feet above maximum height of zoning district	N/A
New concealed tower	RR	≤ 100 feet	> 500 feet to recognized neighborhood association established in accordance with CBJ chapter 11.35
New concealed tower	I	≤ 120 feet	> 500 feet to D-1—D-18 districts
New concealed tower	D-1—D-18	Compliant with maximum height of zoning district	N/A
New non-concealed tower	RR	≤ 120 feet	> 1,000 feet to recognized neighborhood association established in accordance with CBJ chapter 11.35

New non-concealed tower	I	≤ 60 feet	>500 feet to D-1—D-18 districts
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Note: ¹ Rooftop and attachment heights are identified as above the highest point of the existing structure.

(b) Substantial change for collocation applications including Eligible Facilities Requests. A modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

- (1) For towers other than towers in the public rights-of-way, it increases the height of the tower by more than ten percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than ten percent or more than ten feet, whichever is greater;
 - (A) Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act (P.L. 112-96);
- (2) For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;
- (3) For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structures, or else involves installation of ground cabinets that are more than ten percent larger in height or overall volume than any other ground cabinets associated with the structures;
- (4) It entails any excavation or deployment outside the current site;
- (5) It would defeat the concealment elements of the eligible support structure; or

- (6) It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in 47 CFR § 1.40001(b)(7)(i) through (iv).
- (c) Director's decision. An eligible facility request in Table 1 must be approved by the director. All other Table 1 WCF applications shall be approved or denied, 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 application is deemed complete. If rejected as incomplete, the director shall identify the deficiencies in the application, which if cured, would make the application complete. Any period of time from when the director notifies the applicant to the date the revised application is received shall not count for the purposes of calculating the calendar day deadline in subsection (3).
 - (2) The director shall review all completed applications for compliance with the requirements of section 49.65.930 except an eligible facility request is exempt from 49.65.930(f). The director may notify an applicant of a failure to comply with section 49.65.930 and may allow the applicant to resubmit a revised application.
 - (3) Decision deadlines. The director's decision shall be made in writing and supported by substantial evidence. The director's decision shall be postmarked to the applicant by the deadlines noted below.
 - (A) An eligible facility request shall be approved by the sixtieth calendar day from the date of receipt of the application, less any tolling periods. Unless approved by the director prior to the sixtieth day, an eligible facility request is deemed granted on the sixty-first day.
 - (B) All other Table 1 WCF applications not meeting the requirements of this article shall be rejected. The director's decision shall be postmarked to the applicant by the ninetieth calendar day from the date of receipt of the application, less any tolling periods.

49.65.960 General application submittal requirements for all WCFs.

- (a) An application for a WCF shall be signed on behalf of the applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. The landowner, if different than the applicant, shall also sign the application. All information submitted in an application shall be provided by a person qualified to provide the information. All applications for the construction or installation of a new WCF shall be accompanied by the

following documentation, except an applications for an eligible facility request is exempt from providing the documentation required by subsections (b) and (r);

...

Section 3. Amendment of Section. CBJ 49.80.120 Definitions, is amended by the addition of the following definitions and amendments to existing definitions, to be incorporated in alphabetical order:

...

Appurtenant or associated facilities means an accessory facility or structure serving or being used in conjunction with WCF, and located on the same property or lot as the WCF, including, but not limited to, utility or transmission equipment storage shelters or cabinets.

Base station means a facility consisting of radio transceivers, antenna, coaxial cable, a regular and back-up power supply, and other electronics associated with the operation of a WCF. It includes a structure that currently supports or houses an antenna, transceiver, or other associated equipment that constitutes part of a bases station. It may encompass such equipment in any technological configuration, including Attached WCF.

Collocation means the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

Eligible Facilities Request means any request for modification of an existing wireless tower or base station involving (a) collocation of new transmission equipment; (b) removal of transmission equipment; or (c) replacement of transmission equipment. In this context, the term "existing wireless tower or base station" only means a WCF that has been reviewed and approved per this article.

Eligible Support Structure means any structure that meets the definition of a wireless tower or base station.

Transmission equipment means any equipment that facilitates transmission for any FCC licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

Tower or Wireless Tower means any structure built for the sole or primary purpose of supporting any FCC licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed

wireless services and fixed wireless services such as microwave backhaul, and the associated site.

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

Specific types of WCFs include:

Attached WCF means an antenna or antenna array that is secured to an existing building or structure with any accompanying pole or device which attaches it to the 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. An Attached WCF includes distributed antenna system (DAS) and small cell technologies.

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), vegetation, natural features, and uses on a site. There are two types of concealed WCFs: 1) attached and 2) freestanding. Examples of concealed attached WCF include, but are not limited to, those designed to integrate or blend with the building or structure upon which the facility is attached by the use of paint, faux windows, dormers or other architectural features. 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.

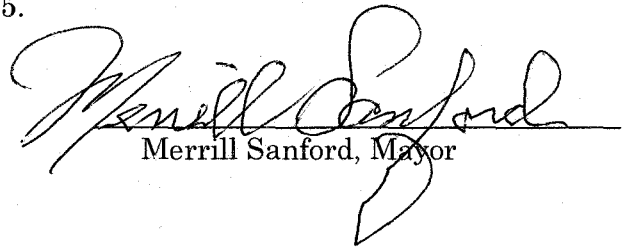
Freestanding WCF means any manned or unmanned location for the transmission and/or reception of radio frequency signals, or other wireless communications, and usually consisting of an antenna or group of antennas, feed lines, and equipment cabinets, and may include an antenna support structure. A freestanding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

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

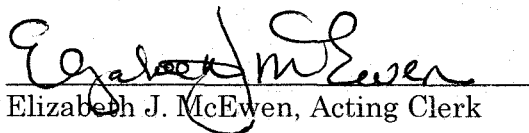
WCF Site means towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any other access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structures and to other transmission equipment already deployed on the ground.

Section 4. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this 16th day of March, 2015.


Merrill Sanford, Mayor

Attest:


Elizabeth J. McEwen, Acting Clerk