Suggested Modifications (red - line) by Anchorage citizens working group on December 10th 2015

~~WORKING DRAFT *** WORKING DRAFT *** WORKING DRAFT 11-18-2015~~

Submitted by: Community and Economic Development Committee (Assembly members Demboski, Evans, Hall, Johnston, Peterson)

Prepared by: Cell Tower Working Group
For reading: _____

ANCHORAGE, ALASKA
AO No. 2015-_____

AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE TITLE 21 (NEW CODE) TO AMEND PROVISIONS REGARDING TELECOMMUNICATIONS FACILITIES, INCLUDING CELL TOWERS.

WHEREAS, ;

WHEREAS,; and

WHEREAS,; now, therefore,

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code subsection 21.05.010E, Table of Allowed Uses, is hereby amended in accordance with the attached Exhibit A.

Section 2. Anchorage Municipal Code subsection 21.05.040K is hereby repealed and reenacted to read as follows (*the remainder of the section is not affected and therefore not set out)*:

21.05.040 Community Uses: Definitions and Use-Specific Standards

* * * * * * * * *

K. **Telecommunication facilities**

This subsection provides the land use standards for the location and design of what are commonly referred to as cell towers, but also includes or excludes other types of telecommunication facilities. Telecommunication facilities are not allowed as a principal use in any area zoned R1-R3, R4-R10, RO or PLI. All telecommunication facilities in any area zoned R1-R3, R4-R10, RO or PLI must go through the Municipality of Anchorage's Conditional Use Process unless the proposed telecommunication facility for this service area consists solely of Small Cell and DAS "Distributed Antenna Systems" technology as defined in Section 21.14.040.~~Telecommunication facilities are allowed as a principal use as provided in table 21.05-1. Telecommunications facilities are allowed as an accessory use as provided in subsection K.2.f.~~

1. Exemptions. Except for the provisions governing abandonment and interference, the following are exempt from this section:

DRAFT

Formatted: Font: 18 pt
Formatted: Font: 18 pt
Formatted: Font: 18 pt
Formatted: Font: 18 pt
Formatted: Indent: Left: 0"
Formatted: Indent: Left: 0.53", First line: 0", Right: 0", Space Before: 2.65 pt, Line spacing: single, Tab stops: Not at 4.54"
Formatted: Line spacing: Exactly 13.8 pt

a. Amateur radio station towers and noncommercial receive-only antennas, provided:

i. The antenna and tower structure are part of a federally-licensed amateur radio station; and

ii. In residential zoning districts there is no use of the tower structure by a third party commercial antenna operator.

b. Personal antenna for use by a dwelling unit occupant for personal, home occupation.

c. Localized utility antenna used for utility telemetry purposes, or by an electric or gas utility on an existing utility pole or cabinet to monitor or control equipment thereon.

d. A DAS, small cell, or wireless mesh networking facility installation on a utility pole, or light pole if the installation meets the following:

i. The applicant shall provide proof that the owner of the utility pole authorizes the installation of the facilities.

ii. The applicant shall provide proof that the property owner, if different from applicant, authorizes the installation of the facilities.

iii. Pole size, diameter and height shall be no larger than the municipality, state or utility would use for its intended purpose without the installation, as determined by said ~~entities~~Entities; Note: the pole size, diameter and height shall be no larger than the pole currently being used in the existing utility line.

iv. Antennas shall be limited to snug-mount, canister-mount or concealed antennas;

v. Antennas shall not increase the pole height by more than three feet per installation and shall not exceed 18 inches in diameter;

vi. Antennas and mounting hardware shall be covered or painted to match the color and texture of the pole on which it is mounted. All cables shall be located inside the installation or within an encasement colored to match the pole and oriented to a side with the least visual impact;

vii. There shall be no more than two separate installations on each pole;

viii. Installations on a single pole shall not exceed a noise level of 65 dB(A);

ix. Any accessory ~~ancillary~~ equipment located in a right-of-way:

(A) Shall be attached to a utility pole and be the same color as the utility pole; and

DRAFT

(B) Shall not exceed two ~~three~~ feet in height, one ~~two~~ feet in width, and one foot in depth.

Formatted: No bullets or numbering

(C) The equipment shall be screened from view by landscaping, architectural features, or a combination of both, and designed in a manner which minimizes nuisance impacts. Screening shall be at least equal to the height of the accessory equipment on all sides and shall be maintained in good order. Failure to maintain fences, walls or landscaping shall constitute a violation of this chapter; Note: Landscaping must be at least 5 feet wide on three sides outside of a solid screening fence enclosure to ensure visual screening and noise reduction. The planting materials must consist of 100% evergreen trees as approved by the MOA Planning Department.

Formatted: Indent: Left: 0.07", No bullets or numbering

Formatted: Indent: Left: 3.52", No bullets or numbering

x. Any accessory~~ancillary~~ equipment not located in a right-of-way must meet the following criteria:

1. Antennas shall not be located on poles planned for removal by the municipality, state or a utility within ~~5~~ years of the date of application;

2. The equipment may be located within a required side or required rear yard, provided, that it shall be no closer than ten feet to any lot line;

3. The equipment shall be included in lot coverage and non-open space calculations for the site, including the pad;

4. The equipment shall be located on a concrete pad, at the same elevation of the initial grade, unless required to be elevated due to FEMA requirements, and the height of the concrete elevated pad if required by FEMA shall be included as part of the total allowed height limit (ie. the sum of both the pad height and the pole/tower height must be at or below the allowed height) ;

5. The equipment shall be screened from view by landscaping, architectural features, or a combination of both, and designed in a manner which minimizes nuisance impacts, such as noise and odor. Screening shall be at least equal to the height of the ancillary equipment on all sides and shall be maintained in good order. Failure to maintain fences, walls or landscaping shall constitute a violation of this chapter; Note: Landscaping must be at least 5 feet wide on three sides outside of a solid screening fence enclosure to ensure visual screening and noise reduction. The planting materials must consist of 100% evergreen trees as approved by the MOA Planning Department.

6. Shall be set back from any existing residential dwelling at least ~~one foot~~two foot for every foot in height of the facility (dwellings located on the same parcel as the structure are excluded); except for Small Cell technology as defined in Section 21.14.040 that is placed on existing poles and structurers for which this setback shall be waived. and

DRAFT

7. All equipment, including power generators, service panels and service connections shall be housed in one of the following: within a building, within a wireless equipment compound, within a wireless equipment cabinet, or completely underground. The wireless equipment cabinet shall not exceed four feet in height and 80 cubic feet. Undergrounding of wireless equipment cabinets is preferable and unless proven not to be feasible they shall be located underground.

xi. The top of any installation on the utility pole shall not exceed 50 feet in height from the base of the pole, or 6 feet above the top of the pole, whichever is less.

xii. The building, wireless equipment compound or wireless equipment cabinet shall be architecturally compatible with

the surrounding area in terms of scale, form, texture, materials and color.

e. Owners of antennas exempt under subsection K.1.d. shall make the annual inventory report required by subsection K.5.n.

f. Any antenna or tower structure exempt under this subsection shall not exceed the height limits set forth in subsection 21.06.020, nor interfere with Federal Aviation Administration Regulations on airport approaches.

2. Definitions

a. Telecommunication facility
A facility which transmits signals between or among points using electromagnetic waves. The facilities may include towers, support structures, antennas, buildings, transformers, transmitters, receivers, equipment cabinets, and parking lots.

Formatted: Indent: Left: 0.08", No bullets or numbering

b. Type 1 tower
A freestanding vertical support structure of cylindrical, conical, or rectangular cross section constructed of composite, wood, concrete, or metal employed primarily for the purpose of supporting an antenna array and commonly called a monopole. A utility pole with one or more telecommunications facilities is a type 1 tower unless it meets the requirements of 1.d. of this section.

c. Type 2 tower
A freestanding vertical support structure of open frame skeletal design employed primarily for the purpose of supporting an antenna array and commonly called a lattice tower. This tower type includes lateral arrays.

d. Type 3 tower
A guyed vertical support structure of open frame, skeletal design, or solid pole design employed primarily for the purpose of supporting an antenna array and commonly called a guyed tower.

e. Type 4 tower

A Stealth/camouflaged new construction tower ~~concealed~~ telecommunications facility and its support equipment ~~structure~~. This type of telecommunications facility as defined in Section 21.05.040 below shall only be allowed in residential zoned areas after the proposed telecommunications facility has gone through and approved by the MOA Conditional Use permit Process.

Formatted: Line spacing: Exactly 13.8 pt

DRAFT

~~**f.** Telecommunications facilities are allowed or prohibited as an accessory use in residential and PLI zones, in accordance with the following:~~

f. Type 5 –Non Tower

Small Cell technology and DAS on existing poles or structures and
Concealed telecommunications facilities within existing buildings and structures. This type of telecommunications facility as defined in Section 21.05.040 below shall only be allowed in residential zoned areas after the proposed telecommunications facility has gone through MOA Administrative Site Plan approval process and public notice has properly been provided as outlined in the applicable Notice and Public Process sections written in this portion of 21.050.040.

g. Type 6 – Existing Building

An Existing Building Telecommunication Facility is a telecommunications facility that is affixed to an existing building. This type of telecommunications facility as defined in Section 21.05.040 below shall be allowed after the proposed telecommunications facility has gone through MOA Administrative Site Plan approval process and has been properly noticed to the public as outlined in the applicable Notice and Public Process sections written in this portion of 21.050.040.

	All R1-R3	R4-R10	RO	PLI

Formatted: Body Text, Indent: Left: 0.08", Line spacing: Exactly 13.25 pt, No bullets or numbering

Formatted: Indent: Left: 2.53", No bullets or numbering

Formatted: No bullets or numbering

Formatted: Line spacing: Exactly 14.35 pt, No bullets or numbering

Formatted: Indent: Left: 2.53", No bullets or numbering

Formatted: No bullets or numbering

Formatted: Line spacing: Exactly 13.8 pt, No bullets or numbering

Formatted: Line spacing: Exactly 13.8 pt, No bullets or numbering

Formatted: No bullets or numbering

Type 1	Not Permitted	Not Permitted~~Accessory to R use, if ≥ 6 dwelling units; Accessory to NR uses~~	Not Permitted ~~Permitted under Admin Site Plan (K.3.b.)~~	Not Permitted ~~Permitted under Admin Site Plan (K.3.b.)~~
Type 2	Not Permitted	~~Condition Use Permit, if accessory to NR uses~~Not Permitted	~~Condition Use Permit~~Not Permitted	Not Permitted
Type 3	Not Permitted	~~Condition Use Permit, if accessory to NR uses~~Not Permitted	~~C~~Condition ~~Use Permit~~Not Permitted	Not Permitted
Type 4	~~Accessory only to NR uses~~Conditional Use Permit	~~Accessory to R use, if > 6 dwelling units;~~ Conditional Use Permit, ~~Accessory to NR uses under~~	~~Permitted under Admin Site Plan (K.3.b.)~~ Conditional Use Permit	~~Permitted under Admin Site Plan (K~~ Conditional Use Permit~~.3.b.)~~
Type 5 Type 6 ~~Antenna only (except small cell, DAS, WMN)~~	~~Accessory only to NR uses~~ Admin Site Plan approval with required public	~~Accessory only to NR uses~~ Admin Site Plan approval with required public	~~Accessory only to NR uses~~ Admin Site Plan approval with required public	~~Per~~ Admin Site Plan approval with required public notice ~~mitted~~
Amateur Radio; noncommercial ~~receive only; small cell, DAS, WMN; utility specific~~	Permitted	Permitted	Permitted	Permitted

* In the AF district, three towers per lot are permitted by right. The installation of more than three towers per lot requires a conditional use permit.

hg. Telecommunications facilities are allowed as an accessory use in all other zoning districts in which they are allowed as a permitted use, but subject to the same approval process as if a permitted use.

3. Applications

a. For antennas or towers permitted "by right"

i. Installation and use of a telecommunication facility that does not require an approval under this Code may still be required to comply with other laws, including approval of a building or land use permit under Title 23 of this Code. Building or land use permits shall be reviewed for compliance or eligibility for exemption from this title. Prior to issuance of a building or land use permit for type 1, 2, or 3 towers, or amateur radio station towers, the applicant

DRAFT

shall notify property owners in accordance with 21.03.020H.

ii. A tower as a permitted principal use shall be subject to the common standards in subsection 5.

iii. The effective date of the building or land use permit shall be no earlier than 30 days after the date of mailing of the notification required by 21.03.020H.

b. For antennas or towers requiring administrative site plan approval under table 21.05-1, Table 21.09.050-1, or Table 21.10-4. A site plan review and approval is required of towers in certain districts because they have aesthetic and visual impacts on their neighbors. The public interest is best served by allowing these neighbors and the public at large a chance to comment on and provide input concerning the location and design of these towers. An administrative approval for the site plan shall be obtained from the director.

i. Submittal information. Applicants for an administrative site plan review and approval for a tower structure shall submit the information required by subsection 21.03.180C, any corresponding regulations, and:

(A) The proposed tower height and type,

(B) A description of the design of the tower, and types, sizes and locations of antennas on the tower, including a rendition, drawing, or photographic representation of what the tower will look like if constructed,

(C) The legal description of the site, its zoning and its street address, if any, and

(D) A list of who was notified, with what information, and when.

ii. Certified information. Any information of an engineering nature that the applicant submits, which shall be fully supported by a signal analysis, data analysis, and cost analysis whether civil, mechanical, or electrical, shall be certified by an independent, third ~~a~~party, Alaska licensed professional engineer. directly under contract with the MOA. This is to be complied with for both an Administrative Site Plan Approval and a Conditional Use Permit. The cost of this review shall be covered by the application fee.

iii. Notice and public process. Notwithstanding Table 21.03-1, at least 45~~35~~ days before acting on a tower site plan application the director shall publish, provide to affected property owners, residents, and community councils, –including the Federation of Community Councils and mail notice of the application in accordance with subsection

Formatted: Indent: Left: 0.08", Hanging: 2.95"

DRAFT

2112.03.020H.

(A) The notice shall state the name of the applicant, a clear and concise description of the project, the street address, if any, and the legal description of the land subject to the application. The applicant shall reimburse the municipality for the expense of publishing and mailing such notice. The applicant shall also post the property with notice pursuant to subsection 21.03.020H.5.

(B) Interested persons and the affected community councils have 45~~35~~ days from the date of the notice to respond. In order to be considered, responses must be in writing, email, phone or in person..

iii. Approval, with or without conditions. In addition to the general standards for site plan approval under subsection 21.03.180F., the director shall also consider the factors for conditional uses for tower structures in subsection c., below. In approving a site plan, the director mayimpose conditions to the extent the director concludes conditions are necessary to minimize any adverse effect of the proposed tower structure, including all associated structures and landscaping, on adjoining properties.

iv. Time period for approval. The director shall take action on the site plan within the timeframe provided in 21.03.180C. Within 10 days of issuance, the applicant shall mail a copy of the written action of the director to all addresses on the original notice list.

c. For antennas or towers requiring a conditional use ~~22~~ permit.

Formatted: Font: Not Bold

Formatted: Indent: Left: 2.03", No bullets or numbering

Applications for conditional use approval under this section shall be subject to the conditional use procedures and approval criteria in section 21.03.080 in this title, except as modified in this section.

i. Submittal information. Applicants for conditional use for a tower structure shall submit the information required in section 21.03.080, any corresponding regulations, and the following:

(A) Evidence to demonstrate that no existing tower, structure, or feasible alternative technology can accommodate the applicant's proposed antenna. Such evidence shall consist of information demonstrating the following:

1. No existing tower or structure is located within the geographic area needed to meet applicant's engineering requirements.

2. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.

3. Existing towers or structures do not have sufficient structural strength to support

DRAFT

applicant's proposed antenna and related equipment.

4. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

5. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or co-locate on ~~r~~ a structure for sharing are commercially unreasonable. Costs exceeding new tower structure development are presumed to be unreasonable. This does not apply to alternative technology as referenced in section 7 below.

6. There are other limiting factors that render existing tower or structures unsuitable.

7. An alternative technology that does not require the use of a tower or structure, such as a cable microcell network using multiple low-powered transmitters or receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower structure or antenna development shall not be presumed to render the technology unsuitable.

ii. Certified information. Any information of an engineering nature that the applicant submits, which shall be fully supported by a signal analysis, data analysis, and cost analysis whether civil, mechanical, or electrical, shall be certified by an independent, third party engineering review by a consultant that is an, Alaska licensed professional engineer directly under contract with the MOA. This is to be complied with for both an Administrative Site Plan Approval and a Conditional Use Permit. The cost of this review shall be covered by the application fee.

~~**iii. Notice.** Notice of the application shall be provided to property owners, residents, and community councils in~~

DRAFT

~~accordance with 21.03.020H~~.

iii. **Notice and public process.** Notwithstanding Table 21.03-1, at least 45 days before acting on a tower site plan application the director shall publish, provide to affected property owners, residents, and community councils, including the Federation of Community Councils and mail notice of the application in accordance with subsection 21.03.020H.

(A) The notice shall state the name of the applicant, a clear and concise description of the project, the street address, if any, and the legal description of the land subject to the application. The applicant shall reimburse the municipality for the expense of publishing and mailing such notice. The applicant shall also post the property with notice pursuant to subsection 21.03.020H.5.

(B) Interested persons and the affected community councils have 60 days from the date of the notice to respond. In order to be considered, responses must be in writing, email, phone and in person.

iv. Factors considered in granting a conditional use for antennas and tower structures. In addition to the general standards for a conditional use in subsection 21.03.080D., the planning and zoning commission shall consider the following factors in determining whether to issue a conditional use:

(A) Height of the proposed tower structure;

(B) Proximity of the tower structure to residential structures and residential district boundaries;

(C) Nature of uses on adjacent and nearby properties;

(D) Surrounding topography;

(E) Surrounding tree coverage and foliage;

(F) Design of the tower structure, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

(G) Proposed ingress and egress; and

(H) Availability of suitable existing towers, structures, or alternative technologies not requiring the use of towers or structures. No new tower structure shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the planning and zoning commission:

1. No existing tower or structure can accommodate or replace the applicant's proposed antenna; and

2. No alternative technology that does not require the use of tower structures can accommodate or replace the applicant's proposed antenna.

v. **Approval, with or without conditions.** The commission may waive or reduce the burden on the applicant of one or more of the conditional use criteria in this section if the commission finds the goals of this Title are better served thereby. Planning And Zoning shall hold a public hearing for each conditional use application with regard to proposed telecommunication facilities that require a c conditional use ~~In~~permit. In granting a conditional use, the planning and zoning commission may impose conditions to the extent the commission finds such conditions are necessary to minimize any adverse effect of the proposed tower structure or antenna on adjoining properties.

5. Common standards

a. Applicability

DRAFT

b. Minimum separation distance from protected land uses

i. The minimum separation distance between the base of a Type 1, 2, or 3 ~~the~~ T~~t~~ower given that is sited on commercially zoned land, (or Type 4 Stealth/concealed Tower located in a residential zoned area) from ~~and~~ any principal structure on PLI or residentially-zoned land, or any school or licensed child care center, shall be 200~~150~~% of the allowable tower height.

ii. After giving due consideration to the comments of the applicant, the property owner, the residents and the local community council, the approving authority may reduce the minimum separation distance set forth in the paragraph b.i. above to no less than 150~~10~~% of the allowable tower height. The planning and zoning commission may not further reduce this separation distance.

~~15~~ iii. For Type 5- Non Tower and Type 6 –Existing Building Telecommunication Facilities there shall be no additional separation distance required other than the current distance of the pole or building that the equipment shall be attached.

c. Tower structure height

i. Height for a tower structure directly fixed to the ground shall be determined by measurement from grade to the highest point on the tower structure, including any installed antennas and lighting and associated structures. Maximum height shall be as set forth below:

(A) Residential Zoned areas~~districts~~—65 feet.

(B) Commercial Zoned Areas~~districts~~—130 feet.

(C) Industrial Zoned Areas~~districts~~—150 feet.

(D) AF Zoned areas~~district~~—200 feet.

(E) All other Zoned areas~~districts~~—100 feet.

ii. Height for a tower structure not directly affixed to the ground shall be determined by measurement from the grade of the building to the highest point on the tower structure, including any installed antennas and lighting and supporting structures. At no time shall the height of a tower installed on a building as measured from grade to

Formatted: Indent: Left: 3.03", No bullets or numbering

Formatted: No bullets or numbering

DRAFT

the highest point on the tower structure as set forth above exceed the height of the building multiplied by two or the base height, whichever is greater. Tower structures not directly affixed to the ground shall not exceed the height limits set forth in section 21.06.020. of this title nor interfere with Federal Aviation Administration Regulations on airport approaches.

d. Parking

Off-street parking is not required, however if it is provided, parking spaces may be shared with other principal uses on the site. The parking spaces shall be paved in class A districts and, in class B districts, shall be covered with a layer of crushed rock of no more than one inch in diameter to a minimum depth of three inches. Parking space illumination shall be provided only to extent that the area is illuminated when the parking space is in use. The illumination shall be the lowest possible intensity level to provide parking space lighting for safe working conditions.

e. Landscaping and fencing

For any tower or related base station, screening landscaping shall be provided in accordance with 21.07.080G.4. Note: Landscaping must be at least 10 feet wide on three sides outside of a solid screening fence enclosure to ensure visual screening and noise reduction. The planting materials must consist of 100% evergreen trees as approved by the MOA Planning Department.

f. Security

The tower structure and support structures shall be secured to prevent unauthorized access.

g. Separation distance

If any tower on a site exceeds 200 feet in height, the tower site shall be separated from any other tower site with tower(s) exceeding 200 feet in height by at least 5,280 feet (one mile).

h. Installation

All transmitting antennas shall be installed in a manner as set forth by the manufacturer and by the Federal Communications Commission (FCC) as meeting the current American National Standards Institute (ANSI) standard for nonionizing electromagnetic radiation (NIER).

i. Tower lighting

Tower structures shall not be lighted unless the Federal Aviation Administration requires or recommends that obstruction lighting be installed. To prevent direct light reflection on other property, tower structure lighting shall be shielded to the extent permitted by the Federal Aviation Administration.

j. Tower color

Except for qualifying Type 4 concealed towers where the color used enhances the concealment, the tower structure and any other structure(s) directly related to the operation of any antenna mounted on the tower structure shall be neutral in color and, to the extent possible, panted to ~~shall~~ be compatible with the appearance
and character of the neighborhood or location unless obstruction

DRAFT

marking is required by the Federal Aviation Administration.

k. Identification placard

An identification placard shall be attached to the tower structure or the security fencing in a location clearly visible at eye level. The placard shall provide the following information:

i. The name and address and phone number for 8:00am to 5:00pm and emergency number of the tower structure owner;

ii. The name and address and phone number for 8:00am to 5:00pm and emergency number of the tower structure manager, if different from the owner;

iii. The date of erection of the tower structure; and

iv. The owner's name and address of each antenna on the tower structure.

v. Last inspection date of telecommunication facility and date of next inspection.

l. Co-location

1. Co-location for Type 1, 2, and 3, towers.

Any additional height allowed by co-location under this title is concurrent with, and not in addition to, height modifications made pursuant to 47 U.S.C. 1455.

i. All towers shall, for reasonable compensation, be made available for use by as many licensed carriers as can be technically co-located thereon when the use will not result in substantial injury to the owner, or in substantial detriment to the service to the customers of the owners. All licensed carriers shall cooperate with each other in co-locating additional facilities upon such towers. All licensed carriers shall exercise good faith in co-locating with other licensed carriers and in the sharing of towers, including the sharing of technical information to evaluate the feasibility of co-location.

ii. Colocation is prohibited if the installation will violate the standards of the original approval (except as to height allowed by this subsection), including violation of standards applicable to concealment.

iii. All new type 1, 2 and 3 towers in allowed ~~residential or PLI~~ zones, or within 200 yards of the property line of such properties shall be engineered and constructed to accommodate a total of 3 separate antenna array without the need to re-engineer.

Formatted: Indent: Left: 3.03", No bullets or numbering

Formatted: No bullets or numbering

Formatted: Font: Not Bold

Formatted: Normal, Line spacing: single, No bullets or numbering, Allow hanging punctuation

DRAFT

2. Co-location for new Type 5 and 6, non-towers.

i. All Type 5 and 6 facilities shall, for reasonable compensation, be made available for use by as many licensed carriers as can be technically co-located thereon when the use will not result in substantial injury to the owner, or in substantial detriment to the service to the customers of the owners. All licensed carriers shall cooperate with each other in co-locating additional facilities at such locations. All licensed carriers shall exercise good faith in co-locating with other licensed carriers and in the sharing of locations, including the sharing of technical information to evaluate the feasibility of co-location.

ii. Colocation is prohibited if the installation will violate the standards of the original approval including violation of standards applicable to concealment.

Formatted: Normal, Line spacing: single, No bullets or numbering, Allow hanging punctuation

m. Time period for construction

Construction of a tower shall commence within one year from the later date of the building or land use permit, site plan, or conditional use approval, with opportunity for a six-month extension. If not used within one year, or within the extension period, the permit or approval, or both, shall become null and void.

n. Interference

Within 30~~90~~ days of activation of an antenna, the operator shall provide written notice to property owners and residents in accordance with 21.03 notice. The notice shall include:

i. The date of activation;

ii. The operator's contact information, including phone number, and

iii. Normal business hours or, if none, hours the operator can be reached by phone.

o. Annual inventory

Within 30 days from the end of each calendar quarter~~By January 31 of each year~~, the owner of each antenna or tower regulated by this section shall provide the municipality Planning Department with an inventory of all additions and deletions of the owner's existing antennas, towers or approved sites for such facilities that are within the municipality or within one mile of the border thereof ~~as of December 31 of the previous year~~. This inventory shall also be posted on the MOA Planning Department Website at the end of each quarter for public review.

i. The first inventory from each provider shall be a comprehensive current list of their existing antennas, towers and approved sites.

ii. The inventory shall be provided in an electronic format, preferably in a spreadsheet, emailed to (address) and shall contain a separate entry for each tower or, if no tower, each site and antenna. Each entry shall contain:

(A) Municipal or borough parcel ID. In the absence of a parcel Id, a legal description or official street address,

(B) Actual height of the antenna or tower or, in the absence of a constructed antenna or tower, the approved tower height,

(C) Number of actual or planned antenna,

(D) Name of each antenna owner for co-located antenna,

(E) number of inactive antenna or, if applicable, indicate the entire tower or site is inactive, and

Formatted: Line spacing: Exactly 13.8 pt

DRAFT

(F) Unutilized number of antenna co-locations available on the tower, by counting designed or

Formatted: No bullets or numbering

~~49~~ (G) Calculation of cumulative EMF and Radio emissions for actual and planned antenna.

existing and known engineered capacity in 15 foot increments.

iii. Failure to comply with this section is a violation enforceable under 21.13.040.

6. Specific Standards for types of telecommunications facilities

Formatted: Normal, Indent: Left: 0", Line spacing: single, Allow hanging punctuation

a. Type 1.

i. Setbacks. The minimum distance from any lot line to the vertical axis of the tower structure shall be equal to or greater than the setbacks of the underlying zoning district.

b. Type 2.

i. Setbacks. The minimum distance from any lot line to the vertical axis of the tower structure shall be equal to or greater than the distance measured from grade to the first taper transition.

c. Type 3.

i. Setbacks. The minimum distance from any lot line to the vertical axis of the tower structure shall be equal to or greater than the distance measured from the tower structure axis to the outermost guy wire anchor. The guy wire levels and anchor radius must match manufacturer's criteria for the proposed application. That portion of guy wire anchor structure that is above grade shall be set back from any property line in accordance with the following:

(A) Guy wire with a nominal diameter of 0.25 inches or less—25 feet, provided the setback may be reduced to 0 feet if the anchor structure is enclosed within a sight obscuring fence.

(B) Guy wire with a nominal diameter greater than 0.25 inches but less than 0.625 inches—25 feet, provided the setback may be reduced to five feet if the anchor structure is enclosed within a sight obscuring fence.

(C) Guy wire with a nominal diameter equal to or greater than 0.625 inches—25 feet.

d. Type 4.

DRAFT

i. **Setbacks.** The minimum distance from any lot line to the vertical axis of the tower structure shall be equal to or greater than the setbacks of the underlying zoning district.

~~No setback is required under this section.~~

However, general setback requirements and building code requirements still apply.

ii. **Qualification of Type 4 tower structure and antenna concealment designs for installation and use in residential, commercial and PLI zoning districts**.

(A) Each type 4 tower structure and antenna proposed for installation and use in a residential, commercial or PLI zoning district based on its qualification as a concealed telecommunications facility shall be qualified as meeting the concealment standards in this section by the planning and zoning commission.

(B) An applicant for a building or land use permit for a type 4 tower structure and antenna design under this subsection shall provide the commission with evidence in the form of construction and instalation drawings, photographs, renderings, or other data sufficient for the commission to find the concealment standards are satisfied.

(C) At completion of the construction of the first tower structure and antenna under a newly qualified design, it shall be reviewed by the director to confirm the installation complies with the design standards.

(D) If the installation complies, future installations using the same design do not require design approval by the municipality. If the installation fails to comply, subsequent tower structure and antenna design and installation shall be amended or redesigned as directed by the commission.

e. Type 5 and Type 6

i. No specific setbacks required – however general setback requirements and building code requirements apply.

ii. Qualification of Type 5 and Type 6. for installation and use in residential, commercial and PLI zoning

Formatted: Line spacing: Exactly 14 pt, Outline numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 11 + Alignment: Left + Aligned at: 0.08" + Indent at: 2.53"

Formatted: Indent: Left: 0.08"

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Normal, Line spacing: single, No bullets or numbering, Allow hanging punctuation

Formatted: Font: Not Bold

DRAFT

districts

(A) Each Type 5 "Non Tower" or Type 6 "Existing Building" proposed installation and use in a residential, commercial or PLI zoning district based on its qualification as a concealed telecommunications facility shall meet the standers for these Types of telecommunication facilities as described in this section of the code.

(B) An applicant for a Site Plan approval for a Type 5 or 6 telecommunication facilities under this subsection shall provide public notice as outlined in the Notice and Public Process sections written in this portion of the code.

37

7. Modifications and Amendments

a. Standards for modifications to telecommunications facilities are as follows:

i. Repairs and maintenance to a tower structure may be performed consistent with subsection 21.12.010F.

ii. The replacement or repair of antennas, or addition of antennas to a tower that does not increase the maximum height or width of the tower, shall not be considered an amendment of final approval under subsection b. and

Formatted: Font: Arial, Not Bold

Formatted: Indent: Left: 0.08", Hanging: 3.45", Line spacing: Exactly 13.8 pt, Outline numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 10 + Alignment: Left + Aligned at: 0.08" + Indent at: 3.03"

Formatted: Character scale: 100%

Formatted: Indent: Left: 3.53", Line spacing: Exactly 13.8 pt, No bullets or numbering

Formatted: Line spacing: Exactly 13.8 pt, No bullets or numbering

Formatted: Indent: Left: 0.08", Hanging: 2.95", Line spacing: Exactly 14 pt

Formatted: Heading 1, None, Line spacing: Exactly 14.15 pt

Formatted: Font: Times New Roman

Formatted: Normal, Line spacing: single, No bullets or numbering, Allow hanging punctuation

DRAFT

shall be considered a use contemplated within the original approval where the replacement, repair, or addition:

(A) Will serve the same user or successor entity under the original approval;

(B) Will serve the same general purpose as was served under the original approval; and

(C) Is consistent with the conditions and standards applicable to the original approval.

iii. Antenna owners who replace or add an antenna shall comply with the notification of activation requirement in subsection K.5.n.

iv. An application under this title for modification approval is not required. A review for eligibility and compliance with this subsection shall occur during the building or land use permit review.

b. Amendments to final approval

Applications for amendments to a conditional use shall be subject to the requirements of 21.03.080E. Applications for amendments to an administrative site plan approval shall be subject to the requirements of 21.03.180H.

i. Utilization of the criteria provided in (FCC 6409) ("Rule"), as it may be amended from time to time, shall be treated as a minor amendment under this title if:

(A) The application clearly requests treatment of the modification as an insubstantial change under the Rule;

(B) The application is complete in accordance with this title and the Rule; and

(C) The director determines the application meets all the requirements of the Rule and applicable provisions of this title not preempted by the Rule. The director may use the maximum time allowed by the Rule to determine whether the application is complete and eligible under the Rule.

8. Building or land use permit, administrative site plan, or conditional use revocation

DRAFT

a. Unless cured, a building or land use permit or approval of a site plan or conditional use shall be revoked after notice and the opportunity to cure, for any of the following:

i. Construction, maintenance, and/or operation of a tower at an unauthorized location;

ii. Construction or operation of a tower in violation of any of the terms and conditions of this title or the conditions attached to the permit or approval;

iii. Material misrepresentation by or on behalf of an applicant or permittee in any application or written statement upon which the approving authority substantially relies in making the decision to grant, review, or amend any permit or approval pursuant to this section and which materially changes the application of the standards of approval of the permit or issuance of the approval;

iv. Abandonment of a tower as set forth in this section; or

v. Failure to relocate or remove facilities as required in this section.

b. After having a permit or approval revoked, no tower shall be re-permitted or subsequently approved for that property or by that tower owner on any property within the municipality for a period of one year except through a conditional use approval.

9. Abandonment

Any antenna or tower structure that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower structure shall remove the same within 180 days of receipt of notice from the director notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower structure within said 180 days shall be grounds for the municipality to remove the tower structure or antenna at the owner's expense. If there are two or more users of a single tower structure, then this provision shall not become effective until all users cease using the tower structure.

10. Appeals

a. Notwithstanding 21.03.050, a decision to

i. deny or issue a building or land use permit based on requirements of this section where an approval of an

DRAFT

administrative site plan or conditional use is not required, or

ii. deny or approve an administrative site plan under the authority set forth in this section,

is final unless appealed to the planning and zoning commission within 30-days of the denial or effective date of the permit or approval. An appeal may be filed by the applicant or by a petition of at least one-third of the owners (excluding owners of rights-of-way) of the privately owned land within 500 feet of the outer boundary of the site. The appeal shall be heard by the commission in accordance with the procedures in 21.03.050A.

b. An appeal from an original or appellate decision of the planning and zoning commission may be brought in Superior Court.

(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13)

Section 3. Anchorage Municipal Code section 21.14.040, definitions, is hereby amended to add new definitions to read as follows (*the remainder of the section is not affected and therefore not set out)*:

21.14.040 Definitions.

Accessory equipment means any equipment serving or being used in conjunction with a Telecommunications Facility or Support Structure. This equipment includes utility or transmission equipment, antenna, power supplies,
generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or other structures.

Concealed Telecommunications Facility means any Telecommunications Facility as defined in section 21.05.040, and its support structure, that:

1. Is integrated as an architectural feature of an existing structure and is designed and built so that the purpose of the facility for providing wireless services is not readily apparent to a casual observer. Common concealments include integration into building facades, street light poles, flagpoles, free standing signs, steeples and spires at places of worship, and water towers. The antennas of the facility are mounted on the structure so that they are located and designed to minimize or eliminate visual and aesthetic impacts to surrounding land uses and structures and shall, to the greatest extent practical, blend into the existing environment. This definition shall include any antenna or antenna array complying with the objective of this definition whether it is mounted on a support structure or not. By itself, paint schemes on the support structure or telecommunication facility are presumptively not sufficient to classify a facility as concealed under this definition; or

2. Has the appearance of a natural feature, consistent with its surroundings, that is not commonly recognized as a man-made structure. Common types include trees, large rocks, and cliff faces.

DAS or *distributed antenna system* means a system that distributes RF signals from transceivers at a central hub to a specific service area with otherwise poor coverage or inadequate capacity. DAS provides another alternative to macrocells mounted on tall antenna structures and its deployment is an alternative to macrocells mounted on tall antenna structures. As typically configured, a DAS network consists of: (1) a number of remote communications nodes deployed throughout the desired coverage area, each including at least one antenna for transmission and reception; (2) a high capacity signal transport medium (typically fiber optic cable) connecting each node to a central communications hub site; and (3) radio transceivers located at the hub site (rather than at each individual node as is the case for small cells) to process or control the communications signals transmitted and received through the antennas. DAS deployment offers robust and broad coverage without creating the visual and physical impacts of multiple macrocells. Whereas *small cells* are usually operator-managed and support only a single wireless service provider, DAS networks can often accommodate multiple providers using different frequencies and/or wireless air interfaces.

Small cell means a low-powered wireless base station that function like cells in a mobile network but provide significantly smaller coverage area than traditional macrocells. Small cells are low-powered wireless base stations that function like cells in a mobile wireless network, typically covering targeted indoor or localized outdoor areas ranging in size from homes and offices to stadiums, shopping malls, hospitals, and metropolitan outdoor spaces. It includes femtocells, picocells, metrocells, and microcells.For this definition a "Small Cell" equipment installation must be no larger thant 2 feet high 1 foot wide and I foot deep and be installed on an existing pole, tower or building.

Utility Pole means one of a series of poles usually located at the side of a street or road, or within a utility easement, and used to support wires and other equipment used by utilities, generally transmitting or distributing electricity or serving primarily as a light pole. A structure used solely or primarily for antennas or their associated facilities is not a utility pole.

WMN or *Wireless mesh networking facility* means low-powered telecommunication devices including nodes, wireless access points (WAPs) and repeaters which are part of a decentralized internet backbone system or wireless local area network (LAN) intended to deliver telecommunications and internet services to small areas within a larger network coverage area. These facilities operate on the 802.11 family of protocols and range in frequencies from 2.4 GHz to five GHz.

~~40~~ "Antenna" means -----(staff to insert definition)

Formatted: Indent: Left: 1.03", No bullets or numbering

Formatted: No bullets or numbering

Section 4. This ordinance shall be effective immediately upon passage and approval by

DRAFT

the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this_____day of _____, 2015.

_____

Chair of the Assembly

ATTEST:

_____

Municipal Clerk

DRAFT