

Mayor
James Kallander

Council Members
Keith van den Broek
James Kacsh
David Allison
Bret Bradford
EJ Cheshier
David Reggiani
Robert Beedle

City Manager
Mark Lynch

City Clerk
Susan Bourgeois

Deputy Clerk
Erika Empey

Stu. Co. Rep.

**CITY COUNCIL PUBLIC HEARING
JULY 21, 2010 @ 7:15 PM
LIBRARY MEETING ROOM**

AGENDA

A. CALL TO ORDER

B. ROLL CALL

Mayor James Kallander, Council members Keith van den Broek, James Kacsh, David Allison, Bret Bradford, EJ Cheshier, David Reggiani, and Robert Beedle

C. PUBLIC HEARING

1. Ordinance 1070

(page 1)

An ordinance of the City Council of the City of Cordova, Alaska, enacting Cordova Municipal Code sections 18.08.075 amateur radio antenna, 18.08.078 antenna, 18.08.175 collocation, 18.08.449 monopole, 18.08.562 telecommunication, 18.08.563 telecommunication antenna, 18.08.564 telecommunication tower, 18.08.568 tower height, and 18.40.050 antennas; amending Cordova Municipal Code 18.52.030 damage or destruction and 18.60.010 uses permitted by planning commission approval; and enacting 18.60.015 conditional use for telecommunication tower, to provide for the regulation of antennas and telecommunication towers

D. ADJOURNMENT

**If you have a disability that makes it difficult to attend city-sponsored functions,
You may contact 424-6200 for assistance.**

A MEMO FROM SUSAN BOURGEOIS, CITY CLERK

DATE: July 13, 2010
TO: Mayor and City Council
CC: File
SUBJECT: Ordinance 1070

This ordinance language is thoroughly explained in the attached memo by Tom Klinkner, City Attorney. The ordinance as presented was passed at first reading on July 7, 2010 and comes before Council tonight for a public hearing and a second reading.

Recommended Motion: Adopt Ordinance 1070

Required Action: Majority roll call vote

MEMORANDUM

TO: Mayor and Council Members
City of Cordova

FROM: Tom Klinkner

DATE: July 1, 2010

FILE NO. 401,777.177

RE: Ordinance 1070—Telecommunication Towers

Presently, the only provision in Title 18 of the City code regarding telecommunication towers appears in CMC 18.60.010(O), which authorizes the Planning Commission to permit “public utility or public service facilities” as an exception (conditional use) in any zoning district. Recently we were asked to review a draft of Ordinance 1070 prepared by the Planning Commission to provide more comprehensive regulation of telecommunication towers and antennas in the City. We found that a substantial reorganization of Ordinance 1070 was required to integrate it properly in the City’s zoning ordinance. However, this reorganization results in little change to the substance of the regulations that the Planning Commission approved. The following explains the reasons for the reorganization and other changes from the Planning Commission draft that appear in the current draft of Ordinance 1070 that has been presented to the Council for introduction.

The fundamental reason for reorganizing the original draft of Ordinance 1070 is that it attempted to address different forms of regulation in one code section. Chapter 18.60 of the Code concerns conditional uses, and the draft enacted one new section in Chapter 18.60 to regulate telecommunication towers and antennas. However, this new code section did not treat all telecommunication towers and antennas as conditional uses. Instead, it permitted some of them by right in any zone subject to specified standards.

We believe that it is potentially confusing, and detracts from the existing organization of Title 18, to provide in Chapter 18.60 for the regulation of telecommunication towers and antennas that are not conditional uses. Instead, the regulation of telecommunication towers and antennas that are not conditional uses properly belongs in Chapter 18.40 regarding general use regulations that apply in all zoning districts. Having thus divided the regulation of telecommunication towers and antennas between two chapters in Title 18, we also moved the definitions, which represent a large part of the original draft of Ordinance 1070, to Chapter 18.08, which contains definitions that apply throughout Title 18.

In addition to the general explanation above, we also offer the following detailed explanation of the new draft of Ordinance 1070, organized in the order of the sections in that draft.

Section 1. The definition of “amateur radio antenna” is new, but is derived from part of the definition of “antenna” 18.60.015(B)(1) of the original draft. A separate definition of this term is appropriate because the ordinance regulates amateur radio antennas differently from other types of antennas.

Section 2. The definition of “antenna” is derived from the definition of “antenna” in 18.60.015(B)(1) of the original draft.

Section 3. There is no definition of “collocation” in the original draft. However, collocation—the use of a telecommunication tower by more than one telecommunication service provider—is a common practice in the industry. It reduces the number of towers that are required for multiple carriers to provide service in a community, avoiding the installation of unnecessary towers and reducing the cost for a carrier to enter the market. We have incorporated this term in the criteria for conditional use approval.

Section 4. There is no definition of “monopole” in the original draft, although the term appears in the definition of “communications tower” in 18.60.015(B)(3) of the original draft.

Section 5. A definition of “telecommunication” is incorporated in the definition of “communications antenna(s)” in 18.60.015(B)(4) of the original draft. We have changed the terms of the definition to conform to the description of telecommunication utility service that appears in the Alaska statutes governing public utility regulation.

Section 6. With the definitions of “antenna” and “telecommunication” in the new draft, a simplified version the definition of “communications antenna(s)” in 18.60.015(B)(4) of the original draft appears in this section.

Section 7. The definition of “telecommunication tower” in this section replaces the definition of “communication tower” in 18.60.015(B)(3) of the original draft.

Section 8. The definition of “tower height” in this section replaces the definition of “height” in 18.60.015(B)(6) of the original draft. The more specific term “tower height” is used to distinguish the measurement of the height of a telecommunication tower from the measurement of the height of other structures under other provisions of Title 18.

Section 9. This section enacts CMC 18.40.050 to establish general use regulations for antennas on existing structures, satellite and microwave dishes, and amateur radio antennas. With the exception of amateur radio antennas having a height greater than 35 feet, the original draft treats all of these structures as permitted uses subject to specified requirements, rather than as conditional uses. 18.40.050(A) addresses the regulations regarding antennas on existing structures that appear in 18.60.015(E), except for 18.60.015(E)(3)(d), of the original draft. 18.40.050(B) addresses the regulations regarding satellite and microwave dishes that appear in

18.60.015(E)(3)(d) of the original draft. 18.40.050(C) addresses the regulations regarding amateur radio towers that appear in 18.60.015(D) of the original draft. However, the provision in 18.60.015(D) of the original draft requiring a conditional use for an amateur radio antenna having a height greater than 35 feet is eliminated, because it conflicts with the permission of taller amateur radio towers in AS 29.35.141.

Section 10. This section amends CMC 18.60.01(O) to make a conditional use for a telecommunication tower subject to the standards in CMC 18.60.015. This amendment serves the same purpose as 18.60.015(C)(1) of the original draft.

Section 11. This section enacts CMC 18.60.015 regarding conditional use permits for telecommunication towers. The statement in 18.60.015(A) that telecommunication towers are permitted as conditional uses in any zoning district appears in 18.60.015(C)(1) of the original draft. 18.60.015(B) states the application requirements that appear in 18.60.015(C)(2) of the original draft. 18.60.015(C) states the standards for conditional use approval that appear in 18.60.015(C)(3) of the original draft. 18.60.015(D) states the federal requirement for approval of telecommunication towers that appears in 18.65.015(H) of the original draft.

Please let me know if we may be of further assistance in this matter.

CITY OF CORDOVA, ALASKA
ORDINANCE 1070

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CORDOVA, ALASKA, ENACTING CORDOVA MUNICIPAL CODE SECTIONS 18.08.075 AMATEUR RADIO ANTENNA, 18.08.078 ANTENNA, 18.08.175 COLLOCATION, 18.08.449 MONOPOLE, 18.08.562 TELECOMMUNICATION, 18.08.563 TELECOMMUNICATION ANTENNA, 18.08.564 TELECOM-MUNICATION TOWER, 18.08.568 TOWER HEIGHT, AND 18.40.050 ANTENNAS; AMENDING CORDOVA MUNICIPAL CODE 18.52.030 DAMAGE OR DESTRUCTION AND 18.60.010 USES PERMITTED BY PLANNING COMMISSION APPROVAL; AND ENACTING 18.60.015 CONDITIONAL USE FOR TELECOMMUNICATION TOWER, TO PROVIDE FOR THE REGULATION OF ANTENNAS AND TELECOMMUNICATION TOWERS

WHEREAS advances in communications technology have created an increased need for telecommunication towers, antennae and other related equipment within the City of Cordova (“City”); and

WHEREAS the City wants to encourage providers to deliver much needed wireless telecommunication services to City residents, businesses and visitors; but

WHEREAS, the City also wants to ensure that wireless telecommunication services are delivered in a manner that complies with the City’s planning and zoning goals;

THEREFORE BE IT ORDAINED by the Council of the City of Cordova, Alaska, that:

Section 1: CMC 18.08.075 Amateur radio antenna is enacted to read as follows:

18.08.075 Amateur radio antenna. “Amateur radio antenna” means a structure or device designed to collect or radiate electromagnetic waves for non-commercial amateur radio equipment including without limitation ham, citizen band radio, VHF and single side band antennas.

Section 2: CMC 18.08.078 Antenna is enacted to read as follows:

18.08.078 Antenna. “Antenna” means a structure or device designed to collect or radiate electromagnetic waves, including without limitation directional antennas such as panels, microwave dishes, satellite dishes; and omni-directional antennas such as whip antennas.

Section 3: CMC 18.08.175 Collocation is enacted to read as follows:

18.08.175 Collocation. “Collocation” means the use of a telecommunication tower by more than one provider of telecommunication service.

Section 4: CMC 18.08.449 Monopole is enacted to read as follows:

18.08.449 Monopole. “Monopole” means a support structure constructed of a single, self supporting hollow metal tube securely anchored to a foundation.

Section 5: CMC 18.08.562 Telecommunication is enacted to read as follows:

18.08.562 Telecommunication. “Telecommunication” means the transmission and reception of messages, impressions, pictures, and signals by means of electricity, electromagnetic waves, and any other kind of energy, force variations, or impulses whether conveyed by cable, wire, radiated through space, or transmitted through other media within a specified area or between designated points.

Section 6: CMC 18.08.563 Telecommunication antenna is enacted to read as follows:

18.08.563 Telecommunication antenna. “Telecommunication antenna” means an antenna used in telecommunication, and whose operation is subject to licensing by the Federal Communications Commission.

Section 7: CMC 18.08.564 Telecommunication tower is enacted to read as follows:

18.08.564 Telecommunication tower. “Telecommunication tower” means a structure intended to support equipment used to transmit and/or receive telecommunication signals including monopoles, guyed and lattice steel structures. This definition does not include a tower that supports only one or more amateur radio antennas.

Section 8: CMC 18.08.568 Tower height is enacted to read as follows:

18.08.568 Tower height. “Tower height” means the vertical distance from the grade to the top of the telecommunication tower, including any antenna or other equipment thereon.

Section 9. CMC 18.40.050, Antennas, is enacted to read as follows:

18.40.050 Antennas. A. Antennas located on existing structures. Except for satellite and microwave dishes, which are governed by subsection B of this section, and amateur radio antennas, which are governed by subsection C of this section, antennas and accessory equipment are permitted in all zoning districts when located on an existing structure, including without limitation a building, water tank, utility pole, broadcast tower or other existing support structure, subject to the requirements of this subsection.

1. The height of the antenna and accessory equipment may exceed the maximum building height for the zoning district, but shall conform to the following dimensional requirements.
 - a. Omni-directional or whip antennas shall not exceed twenty feet (20') in length and seven inches (7") in diameter.
 - b. Directional or panel antennas shall not exceed ten feet (10') in length and two feet (2') in width.
 - c. Cylinder-type antennas shall not exceed ten feet (10') in length and twelve inches (12") in diameter.
 - d. Antenna types other than those described above shall be permitted if they are not significantly larger and do not have a significantly greater visual impact than the antenna types described above. The purpose of this provision is to allow for future technological advances in the design of antennas.

2. The antenna and accessory equipment shall be of a color that is identical to or similar to the color of the supporting structure in order to be visually unobtrusive.

B. Satellite and microwave dishes. Satellite and microwave dishes are permitted in all zoning districts subject to following requirements. The diameter of a satellite or microwave dish shall not exceed ten feet (10'). A satellite or microwave dish having a diameter greater than three feet (3') shall be screened with an appropriate architectural treatment that is compatible with or integral to the architecture of the building on which it is mounted to which it is an accessory structure.

C. Amateur radio antennas. Amateur radio antennas are permitted in all zoning districts subject to the following requirements. An amateur radio antenna shall be designed and constructed in accordance with reasonable and customary engineering practices, shall conform to the height limitations in AS 29.35.141(b), and otherwise shall conform to the requirements applicable to an amateur radio antenna in the zoning district where it is located. This subsection applies only to amateur radio antennas erected on or after July 26, 2001.

Section 10: CMC 18.52.030 Damage or destruction is amended to read as follows:

18.52.030 Damage or destruction. A. Except as provided in subsection B of this section, nNo building which has been damaged or partially destroyed to the extent of more than fifty percent of its assessed value shall be repaired, moved or altered except in conformity with the provisions of this title.

B. The Planning Commission may grant a conditional use permit for a telecommunication tower to be repaired or replaced without changing its location, provided that the repaired or replaced telecommunication tower meets all of the requirements for a conditional use permit under Section 18.60.015, except the requirements in Section 18.60.015(C)(7) and (9).

Section 11: Subsection O of CMC 18.60.010 is amended to read as follows:

O. Public utility or public service facilities, subject, in the case of a telecommunication tower, to the standards in Section 18.60.015;

Section 12: CMC 18.60.015 Conditional use for telecommunication tower is enacted to read as follows:

18.60.015 Conditional use for telecommunication tower. A. The Planning Commission may grant a conditional use permit for a telecommunication tower in any zoning district subject to the conditions in this section.

B. The application for a conditional use permit for a telecommunication tower shall include the following information:

1. A written narrative explaining why the proposed site has been chosen, why the telecommunication tower is necessary, why the requested height was chosen, and a full explanation regarding the telecommunication tower's ability to accommodate other providers, and

2. Specifications for the telecommunication tower and all antennas to be located on it, including a description of design characteristics and material;

3. A site plan drawn to scale showing property boundaries, telecommunication tower location, telecommunication tower height, guy wires and anchors and existing structures and land uses on the site and on adjacent property.

4. A map showing the locations of the applicant's existing telecommunication towers that serve customers in the city and of all telecommunication towers that the applicant proposes to construct to serve customers in the city.

5. A report prepared by a person registered as a structural engineer in Alaska showing the capacity by type and number of the telecommunication tower and antennas, and that the telecommunication tower and antennas are designed to withstand winds in accordance with the latest revision of ASI/EIA/TIA/222 standards ("Structural standards for steel communications antenna towers and communications antenna supporting structures");

6. Identification of the person or persons who own the telecommunication tower and the equipment that is to be located on it;

7. Written authorization for the application from the owner of the site;

8. Evidence that the applicant has a valid FCC license for the use of the telecommunication tower;

9. A line of sight analysis showing the potential visual and aesthetic impacts of the telecommunication tower on adjacent residential districts through the use of photo simulations of the telecommunication tower, including all antennas, structures, and equipment, using the vantage points and number of photo simulations requested by the Planning Department;

10. A written agreement, on a form approved by the City Attorney, to remove the telecommunication tower and restore the site to its original condition within one hundred eighty (180) days after the telecommunication tower is substantially unused for a period of twelve (12) consecutive months, and providing that if the telecommunication tower is not removed within this hundred eighty (180) day period, the city may removal the telecommunication tower at the cost of the owner.

11. A cell phone coverage map showing the applicant's proposed cell phone coverage within the city;

12. A certificate from an engineer licensed in Alaska that the telecommunication tower, and all antennas and other equipment located on it, are built and installed to approved specifications and will contain only equipment meeting Federal Communications Commission requirements.

13. Any additional information required by the Planning Department during the application process

C. The Planning Commission may approve an application under this section, with or without conditions, if the application meets the following criteria:

1. Location and visual impact. The proposed location of the telecommunication tower will minimize the visual impact on the surrounding area while allowing the telecommunication tower to function in accordance with minimum standards imposed by the applicable telecommunications regulations and the applicant's technical design requirements. Telecommunication towers and attached antennas and equipment must be painted or coated in a color that blends with the surrounding environment. Muted colors, earth tones, and subdued hues, such as gray, shall be used. All associated structures such as equipment buildings, including the roofs, shall be painted with earth tone colors unless otherwise required under this code or other applicable law. Where necessary to make a telecommunication tower compatible with the historical, environmental or cultural character of its location, the Planning Commission may require that the telecommunication tower be disguised, hidden or screened, or integrated as an architectural feature of a structure, to reduce its visual impact.

2. Inability to collocate. It is not feasible to locate the applicant's telecommunication antenna and other equipment on any existing structure or tower under the control of the applicant.

3. Location in a residential zoning district. An applicant seeking to locate a telecommunication tower in a residential zoning district must show that the area cannot be adequately served by a telecommunication tower located in a nonresidential zoning district for valid technical reasons.

4. Location on public property or other private property. If the applicant proposes to acquire a site on private property for the telecommunication tower, the applicant must show that no available publicly owned site or available privately owned site occupied by a compatible use is suitable under applicable communications regulations and the applicant's technical design requirements.

5. Design for future use. A new telecommunication tower shall be designed to allow collocation of telecommunication antennas equal in number to the applicant's present and reasonably foreseeable future requirements.

6. Safety code met. The telecommunication tower meets all applicable laws and code requirements, including without limitation health, nuisance, noise, fire, building and safety code requirements.

7. Distance from existing telecommunication towers. A telecommunications tower shall not be approved if it is located within one half mile (2,640 feet) of an existing telecommunication tower, unless the applicant certifies that the existing telecommunication tower

does not meet the applicant's structural specifications and technical design requirements, or that a collocation agreement could not be obtained.

8. Zoning requirements. With the exception of requirements for setback and height, which are established in this section, the telecommunication tower must comply with all applicable zoning laws and regulations, including without limitation all laws governing land development, visibility, fencing, screening, landscaping, parking, access, lot size, exterior illumination, and sign, storage.

9. Setback. In all zoning districts, a telecommunication tower must be located no less than a distance equal to the tower height from all lot lines.

10. Signs. No signs may be located on a telecommunication tower except for identification signage.

11. Lighting. No lighting may be located on a telecommunication tower except as reasonably required for safety purposes or as required by the Federal Communications Commission, Federal Aviation Administration or other government agency with jurisdiction.

12. Fencing. A fence with a minimum height of eight feet (8') must be placed on the perimeter of the site of a telecommunications tower site to limit access by the public.

13. Height. The height of a telecommunications tower may not exceed the maximum tower height specified in the conditional use permit or in this section.

D. No decision regulating the placement, construction or modification of a telecommunication tower may be made on the basis of environmental or health effects of radio frequency emission if the antennas and other equipment on the telecommunication tower comply with Federal Communications Commission regulations.

Section 13: This ordinance shall be effective thirty (30) days after its passage and publication. This ordinance shall be enacted in accordance with Section 2.13 of the Charter of the City of Cordova, Alaska and published in the Cordova Times, a newspaper of general circulation in the City, within ten (10) days after its passage.

First reading: July 7, 2010

Public Hearing & 2nd reading:

PASSED AND APPROVED THIS 21ST DAY OF JULY, 2010

James Kallander, Mayor

ATTEST:

Susan Bourgeois, City Clerk