

ORDINANCE NO. 654

AN ORDINANCE OF THE CITY OF SALEM, SD, AMENDING THE 2011 REVISED SALEM ZONING REGULATIONS, BY AMENDING CHAPTER 11.07, ADDITIONAL USE REGULATIONS, AMATEUR RADIO ANTENNAS; AND CHAPTER 19.02, DEFINITIONS, DEFINITIONS.

BE IT ORDAINED BY THE CITY OF SALEM, SD:

Section 1. That Chapter 11.07 of the 2011 Revised Salem Zoning Regulations is hereby amended to read as follows:

11.07 Amateur Radio Antennas.

- A. *Purpose.* The purpose of this Chapter is to reasonably accommodate amateur radio communications while simultaneously protecting the health, safety, and welfare of the community.
- B. *Scope.* Unless otherwise provided herein, this Chapter applies to any tower or antenna that is greater than thirty-five (35) feet in height that is owned and operated by a federally-licensed amateur radio station operator from his or her residence or similar facilities that are used exclusively as a receive-only antenna.
- C. *General Requirements.* Amateur radio antenna installations may be installed, erected, and maintained as accessory structures in conjunction with residential dwellings. Unless specifically exempted pursuant to Chapter 11.07(D), or otherwise specified herein, amateur antenna installations shall comply with all of the following:
 - 1. Height. Amateur radio antenna installations over thirty-five (35) feet in height shall require a permit. Amateur radio antenna installations less than or equal to thirty-five (35) feet in height are authorized as accessory structures without the requirement to obtain such a permit, but are still subject to the regulations of subchapters (2) and (3) below. For an amateur radio antenna installation that is either mounted to any part of a structure or mounted to the ground, height shall be measured from the ground level immediately adjacent to the antenna support structure to the highest point of the amateur radio antenna installation.
 - 2. Number. A maximum of one (1) amateur radio antenna installation, which consists of an antenna support structure, antennas, and other communication-related appurtenances, is allowed per lot. The single amateur radio antenna installation may accommodate multiple antennas. Proposals for more than one (1) amateur radio antenna installation shall require a permit.

3. Siting/Setbacks. Amateur radio antenna installations may be mounted to any part of a building or mounted to the ground. No amateur radio antenna installation shall be located within any front yard or building setback area. Unless otherwise required to fulfill the City's reasonable accommodation requirement, an amateur radio antenna installation shall be at least one (1) time its height from all lot lines. Proposals for antenna installations that do not comply with this provision shall require a permit.
 4. Building Permit. Nothing in this Chapter shall be interpreted as waiving the requirement that the applicant obtain a building permit prior to the installation or erection of any antenna installation.
- D. Exempt Antenna Installations.* Amateur radio antenna installations legally established prior to the effective date of this Chapter are exempt therefrom. However, any increase in height thereto shall be subject to the requirements of this Chapter, including the requirement to obtain a permit if the increased height is proposed to be greater than thirty-five (35) feet.
- E. Permit Application.* Amateur radio antenna installations that are thirty-five (35) feet in height or greater or those that do not comply with the provisions of Chapter 11.07(C)(2)-(3), shall require a permit. Any person seeking such a permit shall file an application with the Authorized Official on a form as provided. Every permit application shall contain the following information:
1. Legal description and address of the lot for which the permit is requested.
 2. Name, address, and phone number of each owner of the lot.
 3. The name, address, and telephone number of the applicant (if different).
 4. Written consent of all property owner(s), if lot is not solely owned by the applicant.
 5. The zoning district and principal land use designation(s) under which the lot is regulated at the time of the application.
 6. Specific details of any equipment associated with the amateur radio antenna installation, such as footings, guy-wires and braces, including rooftop mounts, if applicable.
 7. A site plan in conformance with Chapter 11.07(F).

8. Any other information concerning the lot or amateur radio antenna installation as may be requested by the Authorized Official.

F. *Information on Site Plan.* Plans of sufficient clarity to indicate the location, nature, and extent of the land use or work proposed shall be provided to the Authorized Official. Where applicable, all site plans required in Chapter 11.07(E)(7) shall contain the following information:

1. Legal description or address of the lot for which the permit is requested.
2. A north arrow.
3. Elevations drawn to scale and dimensioned so as to fully described the proposed amateur radio antenna installation.
4. The location of the proposed amateur radio antenna installation in relation to property lines, setbacks, and any structures located on the lot.
5. The location of all structures on the lot.
6. The location of all structures within 1.1 times the height of the proposed amateur radio antenna installation if it is to be ground mounted.

Approved plans shall not be changed, modified, or altered, and all work shall be done in accordance with the approved plans.

G. *Application Review and Planning Commission Hearing Procedure.* The Authorized Official shall review the application. After doing so, he or she shall either: (1) inform the applicant in writing of the specific reasons why the application is incomplete and/or does not meet the submittal requirements; or (2) deem the application complete. If the application is determined to be incomplete, the applicant may submit additional materials to complete the application. An applicant's failure to complete the application within sixty (60) business days after receipt of written notice shall constitute a withdrawal of the application and forfeiture of any fees paid.

If the application is determined to be complete, the Authorized Official shall set the date, time, and location for a public hearing to be held by the Planning Commission. At least ten (10) days prior to the date of the scheduled public hearing, he or she shall notify the landowner by mail; post notices of the public hearing at City Hall, on the lot that is the subject of the permit application, and on the City's website; and shall publish notice of the public hearing in the City's legal newspaper(s).

The public hearing shall be held at the designated date, time, and location. Any person or persons interested in the application may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Planning Commission.

H. Decision. The Planning Commission shall make the following findings before approving a permit for a proposed antenna installation thirty-five (35) feet or greater in height or an antenna installation that does not comply with the provisions of Chapter 11.07(C)(2)-(3):

1. The design of the proposed amateur radio antenna installation is the minimum necessary for the reasonable accommodation of the communication needs of the operator as set forth in Federal and/or State rules and regulations; and
2. There are no other feasible alternatives.

The applicant shall be responsible for proving that the above findings can be met. Failure to do so shall result in the denial of the application.

I. Permit Expiration. A permit shall expire one (1) year from the date it was issued if no work has commenced. Upon written request to the Authorized Official and prior to the permit's expiration date, a one (1) year time extension may be granted by the Authorized Official subject to the following requirements:

1. The land uses for the surrounding properties have not significantly been altered since the original permit was approved; and
2. The delay was caused by other on-going permitting processes, severe weather events, or necessary engineering/planning studies relating to the project that significantly impacted the one (1) year schedule for project completion.

A permit shall expire one (1) year after the use discontinues on the lot.

J. Permit Review. The following procedures shall be employed when acting upon reviews of previously approved permits:

1. Basis for Review. The Planning Commission may review the issuance of a permit for the following reasons:
 - a. The applicant(s) provided false information on the application; or

- b. Noncompliance with any of the terms or requirements placed on the permit.
2. Procedure. If the Authorized Official is reasonably satisfied there exists a basis for reviewing the permit, he or she shall give written notice of such to the person, firm, corporation, or entity to which the permit was granted. Additionally, he or she shall advise the Planning Commission of such at its next regularly scheduled meeting. Upon such advisement, the Planning Commission may, in their discretion, set a time for review of the permit at a subsequent regularly scheduled meeting. Such review will be open to the public and follow the same notice requirements as the hearing at which the permit was originally granted.
3. Hearing. In the event the Planning Commission determines by a majority vote of its members that false information was included on the application or that compliance has not been established or maintained, it may do any of the following:
- a. Revoke the permit.
 - b. Amend the permit.
 - c. Postpone action for a period of time it deems appropriate to allow the permit holder to comply with all terms, conditions, and requirements of the permit in question.
 - d. Require any other such action it deems appropriate and in accordance with the provisions of this Ordinance.
- K. *Appeals*. Any decision rendered by the Planning Commission regarding a permit subject to this Chapter may be appealed to the City Council. The applicant or any other person aggrieved by the decision of the Planning Commission shall file a written appeal with the Authorized Official within five (5) business days of the Planning Commission's decision. When an appeal is filed, the Authorized Official shall present the Planning Commission's decision to the City Council for review. When reviewing the matter on appeal, the City Council shall follow the same process and require the same findings as required by the Planning Commission pursuant to this Chapter.
- L. *Maintenance and Abandonment*. A maintenance and removal agreement shall be executed by the property owner(s) of any lot subject to a permit issued pursuant to this Chapter. No building permit shall be issued until such agreement has been executed. The agreement shall be a continuing requirement of the permit.

Section 2. That Chapter 19.02 of the 2011 Revised Salem Zoning Regulations is hereby amended to amend or include the following definitions as applicable:

AMATEUR RADIO ANTENNA – Any antenna that is used for the purpose of transmitting and receiving radio signals in conjunction with an amateur radio station licensed by the Federal Communications Commission.

ANTENNA – Any device that radiates or captures electromagnetic wave signals, including digital voice and data signals, analog voice and data signals, video signals or microwave signals, and is mounted on a structure that allows freedom from obstruction for the radiation and capture of electromagnetic signals.

ANTENNA SUPPORT STRUCTURE – A monopole, lattice tower, guy-wire support tower, building, or other structure being used for the placement and support of antennas and other communication-related appurtenances.

AMATEUR RADIO ANTENNA INSTALLATION – A single structural unit which is comprised of the antenna support structure, antennas, and other communication-related appurtenances.

COMMUNICATION-RELATED APPURTENANCES – Any device or object, other than the antenna support structure and antennas, that plays a functional role in the operation of an amateur radio antenna installation. While this definition is highly situational, an example may include guy-wire supports for an antenna or antenna support structure.

Adopted this 7th day of June 2021.

Shawn English, Mayor

ATTEST:

Lori Heumiller, Finance Officer

Seal

First Reading: May 10, 2021

Second Reading & Adoption: June 7, 2021

Published: June 17, 2021

Effective Date: July 8, 2021

Published once at the approximate cost of _____.