



June 2, 2026

VIA US MAIL ONLY

Mayor Robert Lynn
Petersburg Borough
12 Nordic Drive
Petersburg, AK 99833

VIA EMAIL ONLY

Sara Heideman
Petersburg Borough
12 Nordic Drive
Petersburg, AK 99833
hlolawalaska@gmail.com

RE: *Ordinance #2026 – 12 An Ordinance Amending Title 19 Zoning, of the Petersburg Municipal Code to Regulate Wireless Communication Facilities (WCF) And Other Towers and Transmitters - Ordinance Amending Title 19*

Dear Mayor Lynn and Ms. Heideman:

I represent The Alaska Wireless Network, LLC (AWN), a GCI subsidiary, on its tower site and build in Petersburg. First of all, thank you for your time in meeting with the AWN team on Friday May 29. As the team promised, included below is the background of the tower and the applicable FCC law surrounding tower builds like this one in Petersburg. As discussed, AWN plans to build a monopine tower at 1111 South Nordic Drive in Petersburg, Alaska. AWN previously met with Director Cabrera and Building Official Jim Holder regarding local permit requirements prior to the new ordinance proposal and has started the FCC permitting process for the tower build. AWN relied upon the unamended ordinance and the discussions with the Borough in their decision to purchase the Nordic Drive property, and AWN will soon close on its purchase of the Nordic Drive property where its tower will be located.

Building this tower is a critical piece of wireless infrastructure for the Petersburg Borough and the Alaska Plan. The Alaska Plan is the FCC's high-cost support program for Alaska. GCI is a participant in the Alaska Plan, and Petersburg's wireless infrastructure is supported through this program. As part of that support, GCI is required to meet its federal obligations, which would include the Petersburg community, to provide defined wireless

service levels by the end of 2026. AWN's tower at Nordic Drive is essential to meet the Alaska Plan service level needs in your community.

The Nordic Drive site would close a significant gap in wireless coverage in the Petersburg area. This coverage gap is the reason AWN purchased the site—the monopine tower on the Nordic Drive site will fill the significant coverage gap and is ideally situated between the two collocation sites AWN already operates in Petersburg. The two sites are located at 212 Hungerford Hill Road and 1302 Howkan Street and essentially straddle the main town of Petersburg. The two-mile distance between the sites and the beautiful but challenging topography contributes to the significant coverage gap. The gap is significant as critical infrastructure lies within the Petersburg boundaries such as the Coast Guard Station, dock, ferry terminal, the waterways around Peterburg, and a portion of the Petersburg Airport. It is essential that wireless coverage is sufficient to ensure proper operations and to provide coverage over these critical areas. Moreover, a significant portion of Petersburg itself lies within the significant coverage gap. This gap results in weak and unreliable coverage that is particularly problematic in emergency situations.

Ordinance #2026-12 will prevent AWN from closing this significant coverage gap. The Ordinance creates numerous overlapping barriers to entry for wireless providers, including prohibition on standalone towers in residential and Commercial 3 zoned areas. When the zoning requirements are considered together with Petersburg's limited site availability and the Ordinance's restrictive separation and setback requirements, **no viable sites exist to close the significant coverage gap.**

Because the Ordinance prohibits tower builds that would otherwise mitigate substantial gaps in coverage in Petersburg, it violates the Telecommunications Act of 1996 since it “effectively prohibits” any builds from AWN.¹ Under federal law “no State or local statute or regulation, or other State or local requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.”² In like fashion, the Telecommunications Act provides that “(i) the regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof – (II) shall not prohibit or have the effect of prohibiting the provision of personal wireless services.”³

The Ninth Circuit has detailed how these provisions work within the context of municipal restrictions on wireless tower builds, particularly where—as here—the ordinance would “effectively prohibit” a provider from closing a significant coverage gap.⁴ The court explained that a locality violates the “effective prohibition” clause of the

¹ See generally 47 U.S.C.S. §§253 and 332(c)(7)(B)(II).

² 47 U.S.C.S. §253(a).

³ 47 U.S.C. § 332(c)(7)(B)(II).

⁴ See *T-Mobile USA Inc. v. City of Anacortes*, 572 F.3d 987 (9th Cir. 2009).

Telecommunications Act if it prevents “a wireless provider from closing a ‘significant gap’ in service coverage.”⁵ A wireless provider would be prohibited from closing a gap in service coverage if the locality’s actions leaves it without available or feasible alternatives.⁶ This is exactly the situation that Ordinance #2026 presents AWN here. The Ordinance’s waiver provisions do not change this analysis because they cannot save an otherwise facially invalid regulation by reserving discretion in the Borough to improperly apply the Ordinance to AWN.

The Ordinance also cites radio frequency emission levels and requires an independent audit of such levels. A local jurisdiction may not regulate wireless facilities based on RF emissions.⁷ Through the Telecommunications Act, Congress preempted municipal regulation of RF emissions that comply with FCC standards.⁸ Taken with the restrictive nature of the Ordinance, the RF emissions would provide an additional basis for preemption under the Telecommunications Act.

In selecting the site and designing the build, AWN carefully balanced the public safety needs of the Borough and concerns of citizens to ensure that the tower was in a commercial zone with minimal external effects but still able to meet the community’s wireless needs. AWN appreciates the viewshed concerns of the community and carefully designed the tower to both fit between its existing towers and minimize its effect on those views. And as designed, the tower will satisfy day-to-day communication needs, including 911 and other critical public safety needs, in an area that currently has spotty service in light of the coverage gap. Ordinance #2026 would foreclose any options available to AWN to meet those needs in the coverage gap.

The improved coverage provided by the new tower will help ensure Petersburg’s wireless network remains reliable, resilient, and capable of meeting increasing resident and public safety needs. Without continued network advancement, older phones and other devices that depend on modern wireless infrastructure become increasingly unreliable because outdated networks can no longer support them, leaving residents, businesses, and visitors with diminished service when dependable connectivity matters most. In short, the improved coverage will ensure Petersburg’s network continues to meet the increasing demands from the community well into the future.

AWN is under extremely tight deadlines to meet federal funding requirements to build this tower. We want to avoid costly and lengthy litigation over the proposed Ordinance. We ask that the Borough reconsider its opposition to the AWN tower so AWN can immediately

⁵ *T-Mobile*, 572 F.3d at 995-96.

⁶ *Id.* At 997-98.

⁷ *See City of Portland v. United States*, 969 F.3d 1020, 1046 (9th Cir. 2020).

⁸ *Id.* at 1046.

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begin construction on its Nordic Drive tower as anticipated. AWN is committed to working with the community to address any concerns and looks forward to moving forward.

Sincerely,

/s/ Jahna M. Lindemuth

Jahna M. Lindemuth, Partner

jahna@cashiongilmore.com

(907) 222-7932 (main)

(907) 339-4966 (direct)