

ORDINANCE NO. 2026-14A

AN ORDINANCE AMENDING TITLE 19 ZONING, OF THE PETERSBURG MUNICIPAL CODE TO REGULATE WIRELESS COMMUNICATION FACILITIES (WCF) AND OTHER TOWERS AND TRANSMITTERS

WHEREAS, the Federal Telecommunications Act of 1996 preserves the authority of local governments to regulate the placement, construction, and modification of personal wireless service facilities to protect the health, safety, and welfare of the community; and

WHEREAS, the Petersburg Borough recognizes the increasing demand for wireless services and the necessity of high-quality telecommunications infrastructure for public safety, education, and economic development; and

WHEREAS, the unregulated proliferation of standalone towers can lead to significant visual blight, degradation of the community aesthetic, and potential impacts on neighboring properties and property values, including “fall zone” risks and creation of nuisances; and

WHEREAS, the Planning Commission has held a duly noticed public hearing and determined that these regulations provide the least intrusive means to achieve the community’s connectivity goals while protecting the public interest.

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE PETERSBURG BOROUGH, ALASKA, AS FOLLOWS:

Section 1. Classification: This ordinance is of a general and permanent nature and shall be codified in the Petersburg Municipal Code.

Section 2. Purpose: The purpose of this Ordinance is to establish comprehensive standards for the siting of wireless communication facilities and other towers and transmitters.

Section 3. Substantive Provisions: Title 19, *Zoning*, of the Petersburg Municipal Code is hereby amended as follows. The language proposed for addition is **underlined and bold**, and the language proposed for deletion is in [brackets] and ~~struck through~~.

A. Chapter 19.04, Definitions, is amended to add and/or modify the following definitions:

19.04.185 – Director

“Director” means the director of community development for the Petersburg Borough.

19.04.270 – Essential services.

“Essential services” or “**required essential services**” means the erection, construction, alteration or maintenance by municipal ~~public~~ utility companies or municipal departments or commissions of underground or overhead gas, electrical, steam, wastewater, or water transmission or distribution systems[;], and collection, communication, supply or disposal **components** [systems] **related to said systems**, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants and other similar equipment and accessories[ly] in connection therewith. This definition shall not be interpreted to include public buildings or wireless communication facilities.

19.04.537 – Noncommercial Antenna.

Noncommercial antenna means an antenna and antenna support structure designed and used for private, personal use rather than for business purposes or commercial broadcasting. These include noncommercial a) FCC-licensed amateur (ham) antennas, b) broadcast reception antennas (devices used only to receive over-the-air radio or television signals), c) citizen band (CB) antennas, and d) antennas meeting the conditions of an over-the-air receiving device under 47 CFR 1.4000(a)(1)(i) through (iv), or any successor provision.

19.04.806 – Wireless communication facility.

“Wireless communication facility (WCF)” means the set of equipment and network components, including communication towers and affixed or adjacent antennas, accessory equipment, transmitters, base stations, power supplies, and cabling, necessary or otherwise installed to provide wireless services, including cellular, mobile broadband, and fixed wireless internet services. This term does not include noncommercial antennas and facilities used solely for the transmission of over-the-air broadcast radio or television signals.

- B. Section 19.16.030 – R-R District, Rural Residential – *Accessory uses permitted*, is amended as follows:

19.16.030 – Accessory uses permitted.

The following are accessory uses permitted:

- A. Private garages and required off-street parking;
- B. Greenhouses, woodsheds, tool sheds;
- C. Private docks, moorage, boathouses and net houses;
- D. Detached accessory dwelling per section 19.56.090;
- E. **Noncommercial antennas;**

[E]F. Uses and structures which are customarily accessory and clearly subordinate to permitted uses.

- C. Section 19.20.030 - S-F District, Single-Family Residential – *Accessory uses permitted*, is amended as follows:

19.20.030 – Accessory uses permitted.

- A. Private garages and required off-street parking;
- B. Greenhouses and tool sheds;
- C. Detached accessory dwelling per section 19.56.090;
- D. **Noncommercial antennas;**
- [D]E. Uses and structures which are customarily accessory and clearly subordinate to permitted uses.

- D. Section 19.20.040 – S-F District, Single-Family Residential – *Conditional uses*, is amended as follows:

19.20.040 - Conditional uses.

The following are uses that may be permitted by action of the commission under the conditions and procedures specified in Chapter 19.72 of this title:

- A. Home occupation;
- B. Trailers used for construction purposes;
- C. Public and private schools;
- D. Children's nursery;
- E. Churches;
- F. Public buildings and structures;
- [G] ~~Noncommercial radio and television transmitters or towers;~~
- [H]G. Private docks, moorage, boathouses and net houses;
- [H]H. Required essential services.

- E. Section 19.22.030 – S-F 2 District, Single-Family, Special Use – *Accessory uses permitted*, is amended as follows:

19.22.030 – Accessory uses permitted.

- a. Private garages and required off-street parking;
- b. Greenhouses and tool sheds;
- c. Detached accessory dwelling per section 19.56.090;
- d. **Noncommercial antennas;**
- [d]e. Uses and structures which are customarily accessory and clearly subordinate to permitted uses.

- F. Section 19.24.030 – M-F District, Multiple-Family Residential – *Accessory uses permitted*, is amended as follows:

19.24.030 – Accessory uses permitted.

- A. Noncommercial Antennas;**
- B.** Uses and structures which are clearly incidental and subordinate to principal permitted uses and which will not create a nuisance or hazard are permitted as accessory uses.

- G. Section 19.24.040 – M-F District, Multiple-Family Residential – *Conditional Uses*, is amended as follows:

19.24.040 – Conditional uses

The following are uses that may be permitted by action of the commission under the conditions and procedures specified in Chapter 19.72 of this title:

- A. Boardinghouses;
- B. Rooming houses;
- C. Home occupations;
- D. Trailers used for construction purposes;
- E. Public and private schools;
- F. Children's nursery;
- G. Churches;
- H. Public buildings and structures;
- ~~I. Noncommercial radio and television transmitters or towers;~~
- ~~J].~~ Required essential services;
- ~~K].~~ Private docks, moorage, boathouses and net houses.

- H. Section 19.28.030 – SFMH District, Single-Family Mobile Home – *Accessory uses permitted*, is amended as follows:

19.28.030 – Accessory uses permitted.

- A. Detached accessory dwellings per section 19.56.090;
- B. **Noncommercial antennas;**
- C.** Uses and structures which are clearly incidental and subordinate to principal permitted uses and which will not create a nuisance or hazard are permitted as accessory uses.

- I. Section 19.28.040 – SFMH District, Single-Family Mobile Home – *Conditional uses*, is amended as follows:

19.28.040 – Conditional uses.

The following are uses that may be permitted by action of the commission under the conditions and procedures specified in Chapter 19.72 of this title:

- A. Home occupation;
- B. Trailers used for construction purposes;
- C. Public and private schools;
- D. Children's nursery;
- E. Churches;
- F. Public buildings and structures;
- ~~G. Noncommercial radio and television transmitters or towers;~~
- ~~H].~~ Required essential services;

[4]H. Private docks, moorage, boathouses and net houses.

- J. Section 19.32.020 – C-1, Commercial-1 District – *Principal uses permitted*, is amended as follows:

19.32.020 – Principal uses permitted.

The following are principal permitted uses:

- A. Retail businesses;
- B. Business and professional offices;
- C. Barbershops and beauty shops, laundries and other consumer services;
- D. Restaurants, cafes, bars;
- E. Theaters and assembly halls;
- F. Clubs, lodges and fraternal organizations;
- G. Hotels and motels;
- H. Governmental and civic buildings;
- I. Multiple-family dwellings, boardinghouses and rooming houses;
- J. Recreational vehicle parks;
- K. Newspaper and printing establishments;
- L. All uses permitted in S-F and M-F zones;
- ~~[M. Commercial radio and television transmitter or towers;]~~
- [N]M. Service stations;
- [O]N. Required essential services.

- K. Chapter 19.32, C-1, Commercial-1 District, is amended to insert a new section, 19.32.035, entitled Conditional uses, to read as follows:

19.32.035 Conditional uses.

A. Wireless communication facilities (WCF) under the provisions of Chapter 19.58.

B. A radio or television antenna, transmitter, or tower or any other antenna, transmitter, or tower that is not a WCF, excepting noncommercial antennas.

- L. Section 19.36.020 – C-2, Commercial-2 District – *Permitted uses permitted*, is amended as follows:

19.36.020. **Principal** [~~Permitted~~] uses permitted.

- A. Warehouses and storage;
- B. Transportation and transshipment facilities;
- C. Manufacturing, fabricating and assembling of a light industrial nature;
- ~~[D. Commercial radio and television transmitters or towers;]~~
- [E]D. Required essential services;
- [F]E. All uses permitted in C-1 zone.

- M. Chapter 19.36, – C-2, Commercial-2 District, is amended to insert a new section, 19.36.035, entitled Conditional uses, to read as follows:

19.36.035 – Conditional uses.

A. Wireless communication facilities (WCF) under the provisions of Chapter 19.58.

B. A radio or television antenna, transmitter, or tower or any other antenna, transmitter, or tower that is not a WCF, excepting noncommercial antennas.

- N. Section 19.38.030 – C-3, Commercial-3 District – *Accessory uses permitted*, is amended as follows:

19.38.030 – Accessory uses permitted.

A. Noncommercial antennas;

B. Uses and structures which are clearly incidental and subordinate to principal uses permitted and which will not create a nuisance or hazard and which are located on the same lot, are permitted.

- O. Section 19.40.030 – MHP District, Mobile Home Park, -- *Accessory uses permitted*, is amended as follows:

19.40.030 – Accessory uses permitted.

A. Noncommercial antennas;

B. Uses and structures which are clearly incidental and subordinate to principal permitted uses and which will not create a nuisance or hazard are permitted as accessory uses.

- P. Section 19.40.040 – MHP District, Mobile Home Park, -- *Conditional uses*, is amended as follows:

19.40.040 – Conditional uses.

The following are uses that may be permitted by action of the commission under the conditions and procedures specified in Chapter 19.72 of this title:

- A. Home occupation;
- B. Trailers used for construction purposes;
- C. Public and private schools;
- D. Children's nursery;
- E. Churches;
- F. Public buildings and structures;
- ~~G. Noncommercial radio and television transmitters or towers;~~
- H]G.** Required essential services.

- Q. Section 19.44.040 - I-1, Industrial District, *Conditional uses*, is amended to read as follows:

19.44.040 – Conditional uses.

- A. Multifamily structures, dormitories, rooming houses and boardinghouses;
- B. Mobile homes on single lots;
- C. Mobile home parks;
- D. One- and two-family dwellings;

- E. Wireless communication facilities (WCF) under the provisions of Chapter 19.58;**
- F. A radio or television antenna, transmitter, or tower or any other antenna, transmitter, or tower that is not a WCF, excepting noncommercial antennas.**

R. Chapter 19.48 - P-1, Public Use District, is amended to insert a new section 19.48.030, to read as follows:

19.48.030 – Conditional uses.

- A. Wireless communication facilities (WCF) under the provisions of Chapter 19.58.**
- B. A radio or television antenna, transmitter, or tower or any other antenna, transmitter, or tower that is not a WCF, excepting noncommercial antennas.**

S. Section 19.56.110 – Building Regulations - *Exceptions to height restrictions*, is amended as follows:

19.56.110 – Exceptions to height restrictions.

A. The height limitations of this title shall not apply to church spires, belfries, cupolas and domes, if not used for human occupancy, nor to chimneys, ventilators, weather vanes, skylights, water tanks, bulkheads, monuments, flag poles, **noncommercial antennas** [~~television and radio antennas~~], and other similar features, and necessary mechanical appurtenances usually carried above roof level.

B. The provisions of this title shall not apply to prevent the erection, above the building height limit, of parapet walls or cornices, without windows and not exceeding five feet in height.

C. The provisions of this title shall not prevent the erection above the building height limit of any structure within any commercial or industrial zone with an approved fire suppression system approved by the State Fire Marshal's office.

T. Title 19 is hereby amended to add a new Chapter 19.58 – entitled *Wireless Communication Facilities*, to read as follows:

Chapter 19.58 – Wireless Communication Facilities

19.58.010 – Purpose.

The purpose of this chapter is to establish reasonable regulations for the issuance of a conditional use permit for the placement, construction, and modification of wireless communication facilities (WCF) consistent with the Telecommunications Act of 1996 and applicable law in order to:

- A. Promote the health, safety, and general welfare of the public and the borough;**
- B. Preserve the authority of the borough to regulate the location of wireless communication facilities; and**
- C. Protect residential neighborhoods and the borough's aesthetic character from the adverse impacts of towers.**

19.58.020 – Applicability.

Except for facilities and activities exempt under section 19.58.030, this chapter applies to development of WCFs, including, without limitation, placement, installation, construction, modification, and collocation, and applies to existing and new WCFs.

- A. **The provisions of this title are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting personal wireless services as the term is defined in 47 U.S.C. 332(c)(7)(C)(i).**
- B. **This chapter shall not be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent personal wireless services.**

19.58.030 – Exempt facilities and activities.

The following facilities and activities are exempt from this chapter:

- A. **A noncommercial antenna.**
- B. **A radio and television antenna, transmitter, or tower or any other antenna, transmitter, or tower that is not a WCF.**
- C. **A temporary WCF installed upon the declaration of a state of emergency by federal, state, or local government, or a written determination of public necessity by the borough manager except that such facility must comply with all federal, state and local requirements. The WCF shall be exempt from the provisions of this article for up to one (1) week after termination or expiration of the state of emergency;**
- D. **Temporary, commercial WCF installed for providing coverage of a special event such as news coverage or sporting event, subject to approval by the director. The WCF shall be exempt from the provisions of this article for up to one (1) week after the end of the special event;**
- E. **All legally permitted WCFs existing on or before the effective date of this chapter shall be allowed to continue as they presently exist, provided however, that any proposed modification to an existing WCF, including collocation, must comply with this chapter.**
- F. **Eligible facility requests, and routine maintenance and repairs, that do not meet the definition of a substantial change, provided that any existing conditions of approval of the WCF are met. These activities may also require approval of the state fire marshal and a borough building permit prior to commencement of development. As a condition of any required building permit, the applicant shall provide documentation certifying that the modification will meet radio frequency emission standards established by the Federal Communications Commission (FCC).**
- G. **Facilities and activities that would be exempt from this chapter under federal law.**

19.58.040 – Location preferences.

- A. **Locating a new WCF shall be in accordance with the following priorities, one (1) being the highest priority and seven (7) being the lowest priority:**
1. **Collocated WCF on an existing communication tower;**
 2. **Rooftop WCF;**
 3. **Attached WCF on an existing building;**
 4. **New communication tower located in C-1, C-2, or I-1 district at least 500 feet from a residential district, waterfront, or public park;**
 5. **New communication tower in I-1 district;**
 6. **New communication tower in C-1 or C-2 district;**
 7. **Any communication tower located in an area where the FAA would require air navigation lighting.**
- B. **An application seeking to vary from the stated priority hierarchy set out in paragraph A above and locate a WCF in a lower-ranked location may be denied unless the applicant demonstrates, to the satisfaction of the planning commission, that, despite diligent efforts to adhere to the established hierarchy, doing so is technically infeasible as demonstrated by a Radio Frequency (RF) Propagation Study certified by a qualified radio frequency engineer, structurally impossible as certified by a professional engineer licensed in the state of Alaska, or commercially impractical or unavailable.**

19.58.050 - Development standards for WCFs.

- A. **Setbacks.** Notwithstanding any other yard setback requirements for each district,
- a. **A communication tower base must be situated on a parcel such that it is set back a minimum of One Hundred Ten Percent (110%) of the total tower height (1x1.1 ratio) from all property lines and the boundary lines of any public road or right-of-way.**
 - b. **Sensitive area setback.** A communication tower base must be situated on a parcel such that it is set back a minimum of Fifteen Hundred (1,500) feet from any property line of a parcel on which is located an existing school, or licensed childcare facility.
- B. **Separation.** No communication tower shall be permitted within one-half (1/2) mile (2,640 feet) of another communication tower.
- C. **Minimum number of antenna arrays.** A communication tower exceeding 120 feet shall be engineered and constructed to accommodate no fewer than three antenna arrays. A communication tower exceeding 150 feet in height shall be engineered and constructed to accommodate no fewer than four antenna arrays.
- D. **Fencing.** A WCF shall be enclosed by a minimum seven (7) foot fence or wall with a secured gate. Transmitters and telecommunications control points must be installed in a manner to be readily accessible only to people authorized to operate or service them.

- E. **Signs.** No sign, flag, banner, or pennant may be attached to a communication tower except that the following shall be posted in a location that is visible from the ground outside the equipment compound:
- a. A weatherproof sign identifying the party responsible for the operation and maintenance of the communication tower, with a 24-hour emergency contact telephone number.
 - b. Any antenna structure registration number required by the FCC.
 - c. Warnings of dangers associated with the communication tower or equipment located at the site.
- F. **Lighting.** No lighting shall be mounted on or illuminate a communication tower, except when required by the Federal Aviation Administration (FAA). Required lighting shall be equipped with shields or louvers to avoid projecting directly onto surrounding properties.
- G. **Height.**
1. Subject to paragraph 2 below, the height of a collocated WCF shall not exceed the greater of:
 - a. The maximum building height of the zoning district in which the WCF is located;
 - b. The height of a building or utility pole to which the WCF is attached, including any existing mechanical equipment located on the roof of a building; or
 - c. The minimum height necessary for effective functioning of the WCF, as certified by a qualified radio frequency engineer, but not to exceed:
 - (i) Ten (10) feet above the height of the existing utility pole to which the WCF will be attached; or
 - (ii) Fifteen (15) feet above the height of the existing building to which the WCF will be attached, including any existing mechanical equipment located on the roof.
 2. The height of a communication tower shall not be greater than the minimum necessary for effective functioning of a WCF as certified by a qualified radio frequency engineer. For new construction, proposed height should consider required collocations under paragraph C above.
- H. **Protrusion Limit.** No part of a WCF shall protrude more than 36 inches from the face of the support structure, measured to the outer face of the WCF.
- I. **Radio Frequency Emission Standards.** Radio frequency emissions from antenna array(s), both individually and cumulatively and considering any other WCF located on or immediately adjacent to the proposed WCF, shall meet radio frequency emission standards established by the FCC.

- J. No Air Navigation Hazard. An Applicant shall submit a determination of no hazard to air navigation for the communication tower issued by the FAA.
- K. Professional engineering plans. The WCF, including foundation and appurtenant attachments, shall be designed by a professional engineer licensed in the state of Alaska to meet relevant site and subsurface conditions, and will be constructed to meet ANSI/TIA-222-G (as amended) and adopted building code structural requirements for loads, including wind, snow and ice loads.
- L. No guy wires. Use of guy wires is prohibited for all communication towers.
- M. Visual impacts. WCFs shall be configured and located in a manner that shall minimize adverse visual impacts on the landscape and adjacent properties, including through use of alternative tower structure or other stealth technologies.
- N. Significant Coverage Gap/Least Intrusive Means. A WCF shall be placed, constructed, or installed only to fill a carrier's significant coverage gap in the least intrusive manner available.

19.58.060 – Conditional use permitting process for WCFs.

- A. As of the effective date of this chapter, and excepting exempt facilities and activities under section .030 of this chapter, no WCF shall be sited, placed, built, constructed, installed, collocated, or modified in any zoning district unless permitted as a conditional use and a conditional use permit has been obtained per this chapter and chapter 19.72 of this title. In the event of any conflict between this chapter and chapter 19.72, this chapter shall govern.
- B. The director may, at the director's discretion, require a technical review from a third-party expert, the actual costs of which shall be borne by the applicant, when the director determines that such review would aid the borough's review of the application. Based on the results of the technical review, the director may require changes to the WCF design or location, or submittal of additional documentation, before the application is considered complete. The technical expert review may address any matter deemed to be relevant to determining whether a proposed WCF complies with the provisions of this chapter.
- C. An application, meeting the requirements of section .070 of this chapter, shall be submitted to the director. The director shall review the application for completeness.
 - 1. Incomplete applications shall be rejected and the applicant notified in writing within thirty (30) days of submission. If rejected, the director's decision shall identify the deficiencies in the application, which, if cured, would make the application complete.
 - 2. Once resubmitted following a notice of deficiency, the director will have ten (10) days to identify any missing documents or information consistent with the director's original notification under paragraph 1 necessary to make the application complete.

3. Once an application is deemed complete, the application shall be scheduled for a public hearing before the planning commission per 19.72.060.
- D. Notwithstanding the requirements of 19.72.080, the planning commission shall grant or reject a WCF conditional use permit application within a presumptively reasonable period of time, as such is defined under 47 CFR §1.6003, less any tolling periods. If no applicable period of time is established under 47 CFR §1.6003, the period of time shall not exceed Ninety (90) days, less any tolling periods.
- E. The planning commission's decision shall be in writing and be based on the compliance of the application with the requirements and conditions of this chapter. The decision of the commission and the reasons therefore shall be entered in the records of the commission and shall be available to the public. A denial of a permit shall be in writing and supported by substantial evidence contained in a written record.

19.58.070 – Conditional use permit application requirements for WCFs.

- A. An application for a conditional use permit for a WCF subject to regulation under this chapter shall be made on a form provided by the borough and include the following information. Additional information may be required under other provisions of this title or requested by the director or the planning commission:
 1. Site plan. Consistent with section 19.72.040, applicant shall provide a site plan of the parcel on which the WCF is to be located, with the following information:
 - a. Size of the parcel stated both in square feet and lot line dimensions, and a diagram showing the location of all lot lines;
 - b. Locations of any dwellings and public roads within a radius equal to the height of the proposed tower from its base;
 - c. Location, size, and height of all existing and proposed structures on the parcel;
 - d. Location, size, and height of all proposed and existing antennas and all appurtenant structures, including fuel tanks and generators; and
 - e. Type, locations, and dimensions of all proposed and existing lighting, landscaping, and fencing.
 2. Coverage area. The application shall provide information about the existing and proposed coverage area and demonstrate the significant coverage gap the proposed WCF will fill by submittal of a RF propagation study certified by a qualified radio frequency engineer.
 3. Site justification. An application shall provide supporting documentation that justifies the proposed site in accordance with the location priorities set out in Section 19.58.040, and demonstrates that the means chosen by applicant to fill a significant coverage gap is the least intrusive means available. This should include verification that no existing sites or structures are available for equipment, summary of alternative locations

investigated, and an explanation of the technical, structural or commercial impediments that rendered higher-ranked sites infeasible.

4. *Height.* An application shall provide supporting documentation that the proposed WCF meets the requirements of paragraph 19.58.050(G).
5. *Visual impacts.* An application shall provide an analysis of the potential visual impacts of the communication tower at distances of 500 feet and 1,500 feet from the proposed location, through the use of photo simulations of the communication tower and the wireless communication equipment that it will support. The analysis shall include, to the extent practicable, the visual impact from multiple vantage points of any adjacent roadways and from all residential zones that are within 1,500 feet of the proposed site. The analysis should include recommendations to mitigate adverse visual impacts of the communication tower on nearby properties.
6. *Other information.* An application shall include maps, plans, studies, reports, certifications, and other necessary information to show compliance with the other requirements of section 19.58.050.
7. *Waiver request.* Applicants seeking a waiver under 19.58.090 shall provide supporting documentation justifying the request and demonstrating request is the minimum required at the time of application.

19.58.080 - Conditions of approval.

- A. The planning commission shall approve a WCF conditional use permit if the commission finds the WCF conforms to the development requirements of this chapter and the other applicable standards and criteria in this title, including without limitation that the location satisfies the priorities of section 19.58.040, and that the selected site provides the necessary coverage for the applicant's wireless communication services customers with the least intrusive manner available, including consideration of visual impacts on other properties.
- B. Insurance, Performance Guarantee, and Removal Requirements. Every conditional use permit issued under this chapter shall include the insurance, performance guarantee, and removal requirements of sections .100 and .110 of this chapter as express conditions of approval.
- C. Compliance with FCC enforcement orders. Every conditional use permit issued under this chapter shall include as an express condition of approval compliance by the permittee with all FCC rules, regulations, and enforcement orders, including without limitation those relating to radio frequency emissions and interferences. Determinations of compliance hereunder shall be made by the FCC and the Borough is not responsible for enforcing or interpreting FCC requirements.
- D. No action may be taken on a WCF conditional use permit application on the basis of the environmental effects of radio frequency emissions, provided that the

wireless communication equipment that will be sited complies with FCC regulations concerning such emissions.

19.58.090 - Waiver.

- A. The planning commission shall grant a waiver to one or more of the development standards for WCFs set out in paragraphs 19.58.050(A-H), if it is determined that the applicant has established that denial of a permit or strict adherence to the standards would:
1. Require a technically infeasible location, design or installation of a WCF, as certified by a qualified radio frequency engineer to fill a significant coverage gap: or
 2. Result in a structurally unsound support structure of a WCF, as certified by a qualified engineer licensed in the state of Alaska; or
 3. Jeopardize public health, safety, and welfare because the current level of service in the proposed coverage area is functionally inadequate for emergency calls.
- B. A waiver granted under paragraph A above shall be limited to the minimum extent required to avoid the findings of A(1-3) hereof.
- C. Any applicant seeking a waiver hereunder shall, at the time of submission of its application, provide a detailed description, explanation, and documentation supporting its request for a waiver, demonstrating that it meets the requirements of A above.
- D. In addition to the circumstances set out in paragraph A of this section, the commission shall grant a waiver of the minimum setback requirements in paragraph 19.58.050(A) of this chapter if a qualified structural engineer licensed in the state of Alaska certifies a breakpoint design that limits the fall radius to a lesser area. In such a waiver, the setback shall be 110% of the tower height above the breakpoint.
- E. At the director's discretion, technical claims for a waiver, including engineering reports and RF propagation maps, may be reviewed and verified by an independent third-party hired by the borough under 19.58.060B.

19.58.100 - Insurance requirements.

The issuance and continuation of a permit for a WCF that is subject to regulation under this title shall be conditioned upon the permittee securing and at all times maintaining insurance meeting the following requirements:

- A. An insurance policy providing commercial general liability coverage for personal injuries, death and property damage with limits not less than \$1,000,000 per occurrence and \$3,000,000 in the aggregate. The policy shall also contain coverage for environmental damages, including fuel spills, if the WCF contains a fuel tank.

- B. The insurance policy shall be issued by an insurance company licensed to do business in the State of Alaska and with an AM Best's rating of at least A.
- C. The insurance policy shall contain an endorsement obligating the insurance company to furnish the borough with at least 30 days' prior written notice in advance of the cancellation of the insurance.
- D. The permittee shall provide the borough with a certificate of insurance demonstrating compliance with the requirements of this section before the permit is issued, and upon annual renewal thereafter, at least 30 days before expiration.
- E. At the assembly's discretion, the requirements of this section may be amended from time to time, including increases in policy limits, in accordance with changing industry standards. Such amended requirements shall be applicable to all new and existing permittees.

19.58.110 Removal requirements and performance guarantee.

- A. A WCF shall be removed, and the parcel returned to its prior condition, upon either of the following:
 - 1. Within six (6) months, after revocation of a permit issued under this Chapter. This period may be shortened if the revocation is based upon the WCF presenting an immediate safety threat or health hazard as reasonably determined by the borough building official; or
 - 2. Within ninety (90) days, after all wireless communication equipment on a communication tower has been removed, or such equipment has been nonoperational for at least twelve (12) consecutive months.
- B. The owner of the WCF and the owner of the parcel on which the WCF is located are jointly and severally responsible for its removal.
- C. The issuance of a conditional use permit for a communication tower that is subject to regulation under this title shall be conditioned upon the permittee providing and maintaining for the benefit of the borough a performance guarantee, in the form of a cash or surety bond, in an amount equal to the estimated costs of removing the tower and returning the parcel to its original condition, but in no event less than the sum of One Hundred Fifty Thousand Dollars and No Cents (\$150,000.00). A surety bond must be issued by a corporation licensed to act as a surety in Alaska and securing the obligations of the tower and property owner. A current certificate must be provided to the borough demonstrating compliance with this provision.

19.58.120 Definitions

The following definitions shall apply to this chapter:

- A. "Alternative tower structure" means siting techniques, such as artificial trees or similar mounting structures, that camouflage or conceal the presence of antennas or communication towers.

- B. “Antenna” means any exterior apparatus designed for telephonic, data, voice, internet, or any other communications through the sending or receiving of electromagnetic waves.
- C. “Base station” means a structure or equipment that enables wireless communications, as further described in 47 CFR 1.6100.
- D. “Collocation” means mounting or installing a WCF onto an existing structure, regardless of whether another WCF is already mounted on the structure. This definition includes modification or replacement of existing structures for the purpose of mounting or installing WCF transmission equipment on that structure. This definition shall include “collocation” as described in 47 CFR 1.6002(g), or any successor provision.
- E. “Communication tower” means any structure built for the sole or primary purpose of supporting any wireless communication facility. This definition shall include “tower” as described in 47 CFR 1.6100(b)(9), or any successor provision.
- F. “Eligible facilities request” (“EFR”) means any request for modification of an existing WCF that involves a collocation, removal or replacement of transmission equipment that does not substantially change the physical dimensions of the existing support structure.
- G. “Substantial change” means a modification that meets the criteria of 47 CFR 1.6100(b)(7), or its successor.
- H. “Temporary WCF” means a support structure that is not permanently affixed to the ground or another structure. This definition includes, but is not limited to, cell-on-wheels (COW), WCFs attached to vehicles, and crank-up towers.

U. Section 19.72.020 - Conditional Use Permits - Conditions of approval, is amended as follows:

- A. The commission shall consider the suitability of the property, the character of the surrounding property and the economic and aesthetic effects of the proposed use upon the property and neighboring property. The use will be permitted if it is in harmony with the general purpose and intent of this title and where the use will be in keeping with the uses generally authorized for the zone in which the use is to take place. The commission shall require the conditional user to take those steps necessary so that the permitted conditional use will not be offensive because of injurious and noxious noise, vibrations, smoke, gas, fumes or odors or will not be hazardous to the community because of danger of fall, collapse, fire or explosion.
- B. Exits and entrances and off-street parking for the conditional use shall be located to prevent traffic hazards or congestion on public streets.
- C. In addition to the conditions of subsections (A) and (B) of this section, schools, governmental and civic buildings and other public uses shall meet the following condition: The proposed location of the use and size and character of the site shall facilitate maximum benefit and service to the public.

- D. In addition to the conditions of subsections (A) and (B) of this section, a radio and television antenna, transmitter, or tower or any other antenna, transmitter, or tower that is not a WCF, excepting noncommercial antennas, shall meet the following standards, unless waived by the commission upon a finding that strict compliance with the standard would be technically infeasible, structurally unsound, or result in conditions unreasonably disproportionate to the public benefit served by the standard:
1. **Setbacks.** Notwithstanding any other yard setback requirements for a district,
 - a. A tower base must be situated on a parcel such that it is set back a minimum of One Hundred Ten Percent (110%) of the total transmitter or tower height (1x1.1 ratio) from all property lines and the boundary lines of any public road or right-of-way.
 - b. *Sensitive area setback.* A tower base must be situated on a parcel such that it is set back a minimum of Five Hundred (500) feet from any property line of a parcel on which is located an existing school, or licensed childcare facility.
 2. **Separation.** No tower shall be permitted within one-half (1/2) mile (2,640 feet) of another tower.
 3. **Fencing.** A tower shall be enclosed by a minimum seven (7) foot fence or wall with a secured gate.
 4. **Lighting.** No lighting shall be mounted on or illuminate a tower, except when required by the Federal Aviation Administration (FAA). Required lighting shall be equipped with shields or louvers to avoid projecting directly onto surrounding properties.
 5. **Height.** The height of a tower shall not be greater than the minimum necessary for effective functioning of the tower.
 6. **Visual impacts.** A tower shall be located in a manner that shall minimize adverse visual impacts on the landscape and adjacent properties.
 7. **Compliance with FCC enforcement orders.** A conditional use permit issued for a radio and television transmitter or tower (excepting a noncommercial, FCC-licensed amateur (ham) antenna) or any other transmitter or tower that is not a WCF shall include as an express condition of approval that the permittee must operate in compliance with all FCC rules, regulations, and enforcement orders, including without limitation those relating to radio frequency emissions and interferences.

Section 4. Severability: If any provision of this ordinance or any application to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected.

Section 5. Effective Date: This ordinance will take effect immediately upon adoption.

PASSED and APPROVED by the Assembly of the Petersburg Borough, Alaska this 20th day of July, 2026.

Robert Lynn, Mayor

ATTEST:

Rebecca Regula, Borough Clerk