

MEMORANDUM

TO: Borough Assembly

FROM: Liz Cabrera, Director, Community & Economic Development Department

DATE: June 4, 2026

RE: Ordinance 2026-14 – Wireless Communication Facilities

Summary

Ordinance No. 2026-14 establishes a zoning and permitting framework for wireless communication facilities (WCFs), including cellular towers, communication towers, antennas, and related telecommunications equipment. It also establishes permitting requirements for radio/TV towers and other towers that do not qualify as WCFs.

The ordinance significantly expands the Borough's regulation of wireless infrastructure by:

- requiring conditional use permits for most new wireless facilities,
- establishing siting priorities and development standards,
- requiring technical and engineering documentation,
- imposing design and visual impact standards,
- creating insurance, removal, and bonding requirements,
- formalizing review procedures for WCFs, and
- requiring conditional use permits for radio, television, and other non-WCF towers.

The ordinance is intended to give the Borough greater control over where and how wireless infrastructure is developed while preserving a realistic and feasible path to provide wireless and other communication services within the community.

Staff has incorporated several amendments to Ordinance 2026-12 into this new ordinance based on internal review, legal counsel guidance, and discussion with Assemblymembers. These changes are underlined in the sectional analysis below.

Federal Telecommunications Act Context

Wireless communication facilities are regulated not only by local zoning law, but also by federal law under the Telecommunications Act of 1996 (TCA), related FCC regulations, and federal court case law.

The TCA preserves local government authority over land use, tower siting, aesthetics, setbacks, structural safety, and neighborhood compatibility. However, federal law also limits local authority in several important ways. Local governments generally may not:

- prohibit wireless service (including through de facto prohibition),
- unreasonably discriminate among providers of functionally equivalent services,
- deny facilities based on radio frequency (RF) health concerns if FCC standards are met,
- delay decisions beyond federally established timelines.

A *de facto* prohibition can arise from setback or spacing requirements that eliminate all feasible sites within a provider's service area; repeated denial of applications despite demonstrated coverage gaps where no reasonable alternative locations exist; or requirements that make deployment commercially or technically infeasible. Petersburg's ordinance was specifically designed to avoid these outcomes — the location hierarchy, the waiver process, and the multiple available zones collectively ensure viable sites exist.

The ordinance was drafted with TCA limitations in mind and includes language intended to preserve borough authority while avoiding conflict with federal law. The ordinance expressly provides that it shall not be applied to prohibit or have the effect of prohibiting personal wireless services, and that it shall not unreasonably discriminate between providers of functionally equivalent services (19.58.020(A) and (B)).

Purpose of the Ordinance

The ordinance is designed to address several concerns that commonly arise with wireless infrastructure development, including:

- visual impacts from towers,
- proliferation of standalone towers,
- placement near residential or sensitive areas,
- long-term maintenance and abandonment issues, and
- structural and public safety concerns.

The ordinance also recognizes that wireless infrastructure is increasingly important for emergency communications, public safety, economic activity, and daily communications needs.

The proposal attempts to balance those competing interests by allowing wireless development while subjecting it to more detailed local review. The ordinance also establishes a permitting process for radio/TV towers and other non-WCF towers, which fall outside the scope of the TCA but were previously permitted by right in commercial and industrial zones without meaningful review.

Section-by-Section Summary

Section 1. Classification

The ordinance is of a general and permanent nature and shall be codified in the Petersburg Municipal Code in Title 19.

Section 2. Purpose

Establishes the purpose of the ordinance: to create comprehensive standards for the siting of wireless communication facilities and other towers and transmitters.

Section 3. Substantive Provisions

(A) Definitions

This section adds or modifies definitions in Chapter 19.04. Key additions and changes include:

- Director (19.04.185): Defined as the director of community development for the Petersburg Borough. This definition supports the new WCF permitting process in Chapter 19.58.
- Essential services (19.04.270): Clarified to expressly exclude wireless communication facilities. Because essential services are permitted by right in most zoning districts, this exclusion is necessary to ensure that WCFs are subject to the new conditional use permitting framework rather than being installed without review.
- Noncommercial antenna (19.04.537): Defined to include FCC-licensed amateur (ham) antennas, broadcast reception antennas, citizen band (CB) antennas, and antennas qualifying as over-the-air receiving devices under 47 CFR 1.4000(a)(1). These are exempted from WCF regulation throughout the ordinance.
- Wireless communication facility (19.04.806): Defined to include the full set of equipment and network components necessary to provide wireless services, including cellular, mobile broadband, and fixed wireless internet services. The definition expressly excludes noncommercial antennas and facilities used solely for over-the-air broadcast radio or television transmission.

(B–R) Zoning District Amendments

The ordinance amends multiple zoning districts to modernize and restructure how wireless and antenna uses are classified. The principal changes across districts are:

- Noncommercial antennas are added as expressly permitted accessory uses in all residential districts (R-R, S-F, S-F 2, M-F, SFMH, MHP, C-3) and in most other zones where they were previously unaddressed. Accessory use is allowed once permitted use is established. For example, a noncommercial antenna is allowed in a residential district once a dwelling is constructed.
- Legacy references to “noncommercial radio and television transmitters or towers” as conditional uses in residential and mobile home districts are removed. These uses are now addressed through the noncommercial antenna definition or, if commercial in nature, through the new WCF chapter.
- Legacy references to “commercial radio and television transmitters or towers” as permitted uses in C-1 and C-2 commercial and I-1 industrial districts are removed and replaced with conditional use requirements.
- WCFs are established as conditional uses (requiring a CUP under Chapter 19.58) in C-1, C-2, I-1, and P-1 districts.
- Radio and television antennas, transmitters, or towers that are not WCFs — and that are not noncommercial antennas — are added as conditional uses in C-1, C-2, I-1, and P-1 districts, subject to standards in amended 19.72.020(D).

(S) Building Height Exemption

The exception to height restrictions in 19.56.110 is updated to reference “noncommercial antennas” rather than the former “television and radio antennas,” consistent with the new definition.

(T) New Chapter 19.58 – Wireless Communication Facilities

The ordinance creates an entirely new chapter dedicated to WCF regulation. Key components are summarized below.

Applicability and Exemptions – 19.58.020 and 19.58.030

Chapter 19.58 applies to all WCF development — including placement, installation, construction, modification, and collocation — for both new and existing WCFs, except for the following exempt facilities and activities:

- Noncommercial antennas.
- Radio and television antennas, transmitters, or towers that are not WCFs.
- Temporary WCFs installed during a declared state of emergency or upon a written determination of public necessity by the borough manager, for up to one week after the emergency ends.
- Temporary WCFs for special events (news coverage, sporting events, etc.), subject to director approval, for up to one week after the event.
- Existing lawfully permitted WCFs that were in place on the ordinance's effective date. Such facilities may continue operating as they presently exist, but any proposed modification — including collocation — must comply with the new chapter.
- Eligible facilities requests (EFRs) and routine maintenance and repairs that do not constitute a "substantial change" under 47 CFR 1.6100(b)(7). Federal law (Section 6409(a) of the Spectrum Act) requires local governments to approve these requests within 60 days. A building permit with FCC RF emissions certification may still be required.
- Facilities and activities that are federally exempt.

Location Preferences – 19.58.040

The ordinance establishes a seven-tier siting hierarchy, with Priority 1: Collocation on an existing communication tower being most preferred.

Applicants seeking a lower-priority site must demonstrate, to the satisfaction of the planning commission, that adherence to a higher-priority location is technically infeasible (certified by a qualified RF engineer), structurally impossible (certified by a licensed Alaska PE), or commercially impractical or unavailable.

Development Standards – 19.58.050

The ordinance establishes detailed physical standards for WCFs:

- Setbacks: A communication tower base must be set back from all property lines and road rights-of-way by a minimum of 110% of the total tower height. A separate sensitive area setback requires a minimum of 1,500 feet from the property line of any parcel containing a school or licensed childcare facility.

This section was amended to delete assisted living facility and hospital from the sensitive area setback requirement and specify that the setback applies to licensed childcare facilities.

- Tower separation: No communication tower may be located within one-half mile (2,640 feet) of another communication tower.
- Collocation capacity: Towers exceeding 120 feet must be engineered to accommodate at least three antenna arrays; towers exceeding 150 feet must accommodate at least four.
- Fencing: WCFs must be enclosed by a minimum seven-foot fence or wall with a secured gate.
- Signs: Required identification signage with 24-hour emergency contact information, FCC antenna structure registration number, and danger warnings.
- Lighting: No lighting on towers except when required by the FAA; required lighting must use shields or louvers.

- Height: Tower height must be the minimum necessary for effective functioning, as certified by a qualified RF engineer. For collocated facilities, height is also limited relative to the structure on which the WCF is mounted.
- Protrusion: No part of a WCF may protrude more than 36 inches from its support structure.
- RF emissions: Must meet FCC emission standards individually and cumulatively.
- No air navigation hazard: Applicants must obtain an FAA determination of no hazard to air navigation.
- Engineering: WCFs must be designed by a licensed Alaska professional engineer to meet ANSI/TIA-222-G structural requirements and applicable building codes.
- No guy wires: Guy wires are prohibited for all communication towers.
- Visual impacts: WCFs must be configured to minimize adverse visual impacts, including use of alternative tower structures or stealth technologies.
- Coverage gap/least intrusive means: A WCF may only be placed to fill a significant coverage gap, using the least intrusive means available.

Permitting Procedures – 19.58.060

All WCFs not otherwise exempt require a conditional use permit under this chapter. Key procedural elements include:

- Completeness review: The director reviews applications for completeness. Incomplete applications must be rejected in writing within 30 days of submission with identification of deficiencies. Upon resubmittal, the director has 10 days to identify any remaining deficiencies.
- Third-party technical review: At the director's discretion, a third-party technical expert may be retained to review the application. The actual costs of this review are borne by the applicant.
- Public hearing: Once complete, the application is scheduled for a public hearing before the planning commission.
- Decision timeline: The planning commission must grant or deny the application within the presumptively reasonable timeframe established under 47 CFR §1.6003 (generally 90 days for collocations, 90 days for new towers), less any tolling periods. If no federal tolling period applies, the maximum is 90 days.

This section was amended from 150 days to 90 days. The amendment is intended to provide time for an applicant to file an appeal and the Assembly to take action before the 150-day time period lapses.

- Written decision: All decisions must be in writing and based on compliance with the standards of this chapter. Denials must be supported by substantial evidence in a written record.

Application Requirements – 19.58.070

Applications must include:

- A site plan showing parcel dimensions, lot lines, proximity of dwellings and roads, existing and proposed structures, antennas, appurtenances, lighting, landscaping, and fencing.
- A coverage area analysis demonstrating the significant coverage gap to be filled, supported by an RF propagation study certified by a qualified RF engineer.

- Site justification demonstrating compliance with the location priority hierarchy, verification that no higher-ranked sites are available, a summary of alternative locations investigated, and an explanation of why those sites are infeasible.
- Height documentation certifying compliance with the height standards of 19.58.050(G).
- A visual impact analysis with photo simulations at 500-foot and 1,500-foot distances, including multiple vantage points from adjacent roadways and residential zones within 1,500 feet.
- Maps, plans, studies, reports, certifications, and other materials necessary to demonstrate compliance with all development standards.
- Waiver documentation, if applicable.

Conditions of Approval – 19.58.080

The planning commission shall approve a WCF CUP if it finds the application meets all applicable development standards, that the location satisfies the siting priority hierarchy, that the proposed site fills the necessary coverage gap, and that the least intrusive means available has been selected.

Every issued permit automatically includes as conditions of approval: the insurance requirements of 19.58.100, the performance guarantee and removal requirements of 19.58.110, and compliance with all FCC rules and enforcement orders.

The commission may not deny a permit on the basis of radio frequency emission health concerns if the equipment meets FCC standards.

Waiver – 19.58.090

The planning commission shall grant a waiver from one or more of the development standards in 19.58.050(A)–(H) if the applicant demonstrates that denial of a permit or strict adherence to the standard would:

- require a technically infeasible location, design, or installation, as certified by a qualified RF engineer, to fill a significant coverage gap; or;
- result in a structurally unsound support structure, as certified by a licensed Alaska PE; or
- jeopardize public health, safety, or welfare because the current level of service in the proposed coverage area is functionally inadequate for emergency calls.

This section was amended to change from the planning commission “may” grant a waiver to “shall” grant a waiver. This change makes clear that an applicant meeting the criteria for a waiver should be granted a waiver.

The section was amended to add “to fill a significant coverage gap” to the first criteria for a waiver. This aligns the criterion with the language of the development standards in 19.58.050.

The commission shall also waive the minimum setback requirement of 19.58.050(A) if a qualified structural engineer certifies a breakpoint design that limits the tower’s fall radius to a lesser area equal to 110% of the height above the breakpoint.

This section was amended to change the commission “may” grant a waiver to “shall” grant a waiver. This change makes clear that an applicant meeting the criteria for a waiver should be granted a waiver. The section was also amended to specify the new setback at 110% of the height above the breakpoint.

The waiver provision serves an important federal law function. The TCA prohibits local governments from taking any action that effectively prohibits wireless service. Without a waiver

mechanism, rigid application of the Borough's development standards could, in certain circumstances, make it impossible for a carrier to provide service — potentially exposing the Borough to a federal preemption challenge. The waiver process provides a structured, on-the-record path to grant limited relief where strict compliance is genuinely unworkable, without opening the door to broad exceptions.

Three key guardrails govern all waivers: (1) the waiver extends only to the minimum relief necessary to resolve the qualifying condition — not a blanket exemption from the standard; (2) all waiver documentation must be submitted with the original application; and (3) the director may obtain an independent third-party review of technical waiver claims at the applicant's expense.

Insurance Requirements – 19.58.100

Every WCF permittee must maintain commercial general liability insurance for as long as the permit is active, providing at minimum \$1,000,000 coverage per occurrence and \$3,000,000 in the aggregate. Facilities with fuel tanks must also carry environmental damage coverage. The insurer must be licensed in Alaska and carry an AM Best rating of at least A. The insurer must provide the Borough at least 30 days' advance written notice before cancellation. The Assembly may update coverage limits from time to time, and any amended requirements apply to all new and existing permittees.

Removal and Performance Guarantee – 19.58.110

WCFs must be removed and the parcel restored to its prior condition:

- within six months of permit revocation (shortened if the WCF presents an immediate safety or health hazard as determined by the borough building official); or
- within ninety days after all wireless communication equipment on a tower has been removed or has been nonoperational for at least 12 consecutive months.

The WCF owner and the parcel owner are responsible for removal. As a condition of any CUP for a communication tower, the permittee must maintain a performance guarantee — in the form of cash or a surety bond — in an amount equal to estimated removal and site restoration costs, but no less than \$150,000. A current certificate evidencing the guarantee must be provided to the Borough.

Definitions – 19.58.120

Chapter 19.58 includes its own definitions applicable throughout the chapter, including: alternative tower structure, antenna, base station, collocation, communication tower, eligible facilities request (EFR), substantial change, and temporary WCF. Several definitions incorporate or cross-reference federal regulatory definitions for consistency with federal law.

(U) Conditional Use Standards for Non-WCF Towers – 19.72.020(D)

The conditional use permit criteria in 19.72.020 are amended to add a new subsection (D) establishing standards for radio and television antennas, transmitters, or towers — and any other antenna, transmitter, or tower — that are not WCFs and are not noncommercial antennas. These standards parallel some of the WCF development standards and include:

- Setbacks: 110% of tower height from all property lines and road rights-of-way; 1,500-foot sensitive area setback from schools, hospitals, childcare facilities, and assisted living facilities.
- Tower separation: One-half mile (2,640 feet) from any other tower.

- Fencing: Minimum seven-foot fence or wall with secured gate.
- Lighting: No illumination except as required by the FAA; required lighting must use shields or louvers.
- Height: Minimum necessary for effective functioning.
- Visual impacts: Located to minimize adverse visual impacts.
- FCC compliance: Permit must include as an express condition compliance with all FCC rules and enforcement orders regarding RF emissions and interference (except for noncommercial amateur ham antennas).

The commission may waive any of these standards upon finding that strict compliance would be technically infeasible, structurally unsound, or result in conditions unreasonably disproportionate to the public benefit served by the standard.

Section 4. Severability

If any part of this ordinance is found to be invalid, the rest of it remains in effect.