

Introduced by: Borough Assembly
Requested by: Borough Assembly /
Planning and Zoning Commission
Drafted by: Community Development
Department
Introduced: 07/30/2015
Public Hearing: 08/06/2015
Adopted: 08/06/2015

**KODIAK ISLAND BOROUGH
ORDINANCE NO. FY2016-03**

**AN ORDINANCE OF THE ASSEMBLY OF THE KODIAK ISLAND
BOROUGH AMENDING KODIAK ISLAND BOROUGH CODE OF
ORDINANCES TITLE 17 ZONING, CHAPTER 17.50 C-
CONSERVATION AND CHAPTER 17.130 PL- PUBLIC USE LANDS
DISTRICT TO ALLOW THE TEMPORARY STORAGE OF MOBILE
HOMES DISPLACED UNDER ALASKA STATUTES 34.03.225 TO BE
STORED ON SITES ZONED C-CONSERVATION OR PL-PUBLIC USE
LANDS**

WHEREAS, as a second class Borough, the Kodiak Island Borough exercises planning, platting, and land use regulations on an area wide basis pursuant to Alaska Statutes (AS) Chapter 29.40; and

WHEREAS, in accordance with AS 29.40, the Borough adopted Ordinance No. FY2008-10 Kodiak Island Borough 2008 Comprehensive Plan Update on December 6, 2007 replacing the 1968 Comprehensive Plan; and

WHEREAS, the Borough has adopted KIBC Title 17 *Zoning* in accordance with AS 29.40 to implement the Kodiak Island Borough Comprehensive Plan; and

WHEREAS, KIBC 17.205.010 provides that "Whenever the public necessity, convenience, general welfare or good zoning practice requires, the assembly may, by ordinance and after report thereon by the Commission and public hearing as required by law, amend, supplement, modify, repeal or otherwise change these regulations and the boundaries of the districts;" and

WHEREAS, the recent announced closure of Jackson's Mobile Home Park pursuant to AS 34.03.225 (a)(4) will result in nearly 100 families being forced to relocate; and

WHEREAS, many of the mobile homes in question may not be able to be moved due to age, structural condition, or modifications over time; and

WHEREAS, recent public comments noted that some mobile home owners may need a temporary location to store their mobile homes until a permanent location is found; and

WHEREAS, there may be space available on C-Conservation zoned land or publicly owned land that is zoned PL-Public Use Lands to accommodate temporary storage of mobile homes if the Conservation or Public Use Lands zoning regulations permitted such storage; and

50 **WHEREAS,** the Borough desires to relax the regulatory requirements to permit mobile
51 homes displaced pursuant to AS 34.03.225 to be temporarily stored in the Conservation
52 and Public Use Lands zoning districts; and

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54 **WHEREAS,** the public necessity and general welfare of the community may be better
55 served by amending the code to allow temporary storage of mobile homes rather than
56 requiring strict adherence to existing zoning requirements for storage; and

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58 **WHEREAS,** the amendments to Title 17 *Zoning*, Chapters 17.50 *C–Conservation*
59 *District* and 17.130 *PL–Public Use Lands* of will accomplish the stated public need; and

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61 **WHEREAS,** the Planning and Zoning Commission held a special work session to review
62 the proposed changes to KIBC Chapters 17.50 and 17.130 on July 1, 2015; and

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64 **WHEREAS,** the Commission set aside time for public input and discussion at the work
65 session; and

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67 **WHEREAS,** the Commission held a public hearing at a special meeting on July 8, 2015
68 and a second public hearing at a regular meeting on July 15, 2015 and following the July
69 15, 2015 public hearing, voted to transmit its recommendations for revisions to KIBC
70 Chapters 17.50 and 17.130 to the Borough Assembly; and

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72 **WHEREAS,** as part of its recommendation to adopt the revisions to KIBC Chapters
73 17.50 and 17.130, the Commission adopted Findings of Fact, which are attached hereto
74 as Exhibit A; and

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76 **NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KODIAK ISLAND**
77 **BOROUGH that:**

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79 **Section 1:** This ordinance is of a general and permanent nature and shall become a
80 part of the Kodiak Island Borough Code of Ordinances.

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82 **Section 2:** The Title 17 *Zoning* Chapters 17.50 *C–Conservation District* and 17.130
83 *PL–Public Use Lands*, are hereby amended as follows:

84
85 **Chapter 17.50**
86 **C – CONSERVATION DISTRICT**

- 87 **Sections:**
- 88 17.50.010 Description and intent.
 - 89 17.50.020 Permitted principal uses and structures.
 - 90 17.50.030 Permitted accessory uses and structures.
 - 91 17.50.040 Conditional uses.
 - 92 **17.50.045 Temporary Uses.**
 - 93 17.50.050 Area requirements.
 - 94 17.50.060 Maximum lot coverage for structures.
 - 95 17.50.070 Building height limit.
 - 96 17.50.080 Setbacks from property lines.
 - 97 17.50.090 Special district regulations.
 - 98 17.50.100 Fences, parking, and signs.
 - 99 17.50.110 Nonconformities.

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101 **17.50.010 Description and intent.**

102 The C conservation zoning district is established for the purpose of maintaining open
103 space areas while providing for single-family residential, and limited commercial land uses.

104 For the conservation district, in promoting the general purposes of this title, the specific
105 intentions of this chapter are:

106 A. To encourage the use of land for single-family residential and limited commercial
107 purposes;

108 B. To encourage the continued use of land for open space areas; and

109 C. To encourage the discontinuance of existing uses that are not permitted under the
110 provisions of this chapter.

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112 **17.50.020 Permitted principal uses and structures.**

113 The following land uses and activities are permitted in the conservation district:

114 A. All of the permitted principal uses and structures in the NU natural use zoning district;

115 B. Agricultural activities and related structures, including commercial livestock grazing;
116 with a written conservation plan between the land owner or lease holder and the Kodiak
117 soil and water conservation district, in those areas historically established for livestock
118 grazing consisting of the northeast portion of Kodiak Island east of a line drawn from Crag
119 Point on Sharatin Bay to the mouth of Wild Creek in Ugak Bay, and including Chirikof
120 Island and Sitkinak Island;

121 C. Commercial fishing activities and related structures, including mariculture activities and
122 related structures;

123 D. Commercial guiding and/or outfitting activities (e.g., hunting, fishing, photography, etc.)
124 and related structures (e.g., lodges) containing provisions for no more than six clients;

125 E. Parks;

126 F. Recreational activities (including recreational mining activities);

127 G. Single-family dwellings/recreational cabins and associated home occupations;

128 H. Timber harvesting activities and transportation and utility facilities constructed in
129 support of permitted timber harvesting activities;

130 I. Churches;

131 J. Bed and breakfasts;

132 K. Vacation homes; and

133 L. Hoop houses.

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135 **17.50.030 Permitted accessory uses and structures.**

136 In addition to those uses and structures specifically identified in KIBC 17.50.020, the
137 following accessory uses and structures are permitted when developed in support of
138 permitted principal uses:

139 A. Docks, piers, water intake facilities, power structures, etc.;

140 B. Accessory residential buildings (e.g., crew quarters in support of commercial set-net
141 fishing and lodge operations, banyas, outhouses, etc.);

142 C. Storage and warehouse structures (e.g., gear buildings, generator sheds, etc.); and

143 D. Transportation and utility facilities (e.g., roads, pipelines, communication facilities, etc.)
144 but not airstrips.

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17.50.040 Conditional uses.

The following land uses and activities may be allowed by obtaining a conditional use permit in accordance with the provisions of Chapter 17.200 KIBC:

- A. All of the conditional uses in the NU natural use zoning district;
- B. Airstrips;
- C. Commercial livestock grazing, excluding those areas historically established for livestock grazing as described in KIBC 17.50.020(B), where it is a permitted use;
- D. Lodges that have provisions for more than six clients;
- E. Logging camps and timber harvesting support facilities (e.g., log transfer facilities), including timber products processing facilities;
- F. Nonrecreational mineral extraction activities and related structures;
- G. Seafood processing facilities and related structures; and
- H. Transportation and utility facilities not otherwise permitted and not otherwise used in conjunction with permitted uses (e.g., roads, pipelines, communications facilities, etc.).

17.50.045 Temporary Uses.

The following land uses may be allowed in the public lands district subject to approval of the property owner and any conditions related to such storage established by the owner:

- A. Storage of mobile homes displaced by closure of a mobile home park pursuant to AS. 34.03.225.
- B. This provision shall sunset on December 31, 2018.

17.50.050 Area requirements.

- A. Lot Area. The minimum lot area required is five acres.
- B. Lot Width. The minimum lot width required is 250 feet.

17.50.060 Maximum lot coverage for structures.

The maximum lot coverage allowed by the total of all structures is five percent of the lot area, except that on any lot of record, structures may cover 2,000 square feet of the lot or five percent of the lot area, whichever is greater.

17.50.070 Building height limit.

The maximum building height allowed is 35 feet for residential buildings and 50 feet for accessory buildings.

17.50.080 Setbacks from property lines.

- A. Setbacks from Property Lines.
 - 1. There is a required front yard setback of 25 feet except lots fronting on marine waters are exempt from any front yard setback.
 - 2. There is a required side yard setback of 25 feet.
 - 3. There is a required rear yard setback of 25 feet.
- B. Setbacks from Anadromous Fish Water Bodies.

189 1. There is a required setback (preventing clearing, filling, excavation, or structural
190 development) of 50 feet from the bank vegetation of anadromous fish water bodies that
191 are specified pursuant to AS 16.05.870(a) and 5 AAC 95.010, except in the case of timber
192 harvesting activities, whose required setback will be regulated by AS 41.17.010 through
193 41.17.950, as amended, and the regulations enacted thereunder. This provision shall not
194 prevent removal in the setback area associated with a habitable residential or recreational
195 structure of:

- 196 a. Up to 50 percent of the trees; and
- 197 b. Other vegetation if a suitable ground cover (such as grass) is planted.

198 2. Water-dependent facilities, in stream development activities, and fording may be located
199 closer than 50 feet, and in the water when permitted by the Alaska Department of Fish and
200 Game under AS 16.05.870(b) and (d) and 5 AAC 95.700. "Water-dependent facilities" are
201 defined as uses, activities or structures which can be carried out only on, in or adjacent to
202 water areas because the use, activity, or structure requires access to the water body (e.g.,
203 water intake facilities, micro hydro projects, docks, piers, and boat watching facilities, etc.).
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205 **17.50.090 Special district regulations.**

206 A. Conditional uses in this zoning district are required to conform to the general district
207 regulations unless the terms of the conditional use permit specify otherwise.

208 B. Approved conditional uses in this district shall conform to the following specific
209 performance standards:

210 1. Conditional uses must minimize the impact on the natural environment and preserve, to
211 the extent feasible and prudent, natural features. Specifically, to the extent feasible and
212 prudent:

- 213 a. Conditional uses in upland habitats must retain natural vegetation coverage, natural
214 drainage patterns, prevent excessive runoff and erosion, and maintain surface water
215 quality and natural groundwater recharge areas; and

- 216 b. Conditional uses in estuaries, tidelats, and wetlands must maintain or assure water
217 flow, natural circulation patterns, and adequate nutrient and oxygen levels.

218 Nothing in this provision shall require improvement to the natural condition existing prior to
219 development.

220 2. Although a particular conditional use may constitute a minor change, the cumulative
221 effect of numerous piecemeal changes can result in a major impairment of the
222 environment. The particular site for which a conditional use application is made will be
223 evaluated with the recognition that it may be part of a complete and interrelated
224 environmental area. A conditional use shall be denied under this provision only if the
225 weight of credible scientific evidence shows that the proposed conditional use, together
226 with all other then-existing conditional uses in the area, will have a substantial adverse
227 impact on the interrelated environmental area if such conditional uses are operating in
228 accordance with all required state and federal rules and regulations. Consideration shall
229 be given to the mitigating effect of not locating the conditional use in any other area and
230 mitigation efforts, if any, which the proposed conditional user may offer for this or any
231 other environmental areas.
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- 234 **17.50.100 Fences, parking, and signs.**
- 235 Fences, parking areas, and signs are permitted and unregulated when they are related to
- 236 the use of the property for a permitted and/or approved conditional use.
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- 238 **17.50.110 Nonconformities.**
- 239 A. On nonconforming lots of record any permitted principal uses and structures and any
- 240 permitted accessory uses and structures are allowed.
- 241 B. On nonconforming lots of record the commission may grant a conditional use permit for
- 242 any use listed in KIBC 17.50.040.
- 243 C. Setbacks from property lines for nonconforming lots of one-half acre or less:
- 244 1. There is a required side yard and rear yard setback of 10 feet; and
- 245 2. There is a required front yard setback of 15 feet, except lots fronting on marine waters
- 246 are exempt from any front yard setback.
- 247 D. Nonconforming uses will be regulated by the general nonconforming use provisions of
- 248 this title.
- 249 E. Nonconforming structures will be regulated by the general nonconforming structures
- 250 provisions of this title.

Chapter 17.130
PL – PUBLIC USE LANDS DISTRICT

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- 254 Sections:
- 255 17.130.010 Description and intent.
- 256 17.130.020 Permitted uses.
- 257 17.130.030 Conditional uses.
- 258 **17.130.035 Temporary Uses.**
- 259 17.130.040 Area requirements.
- 260 17.130.050 Yards.
- 261 17.130.060 Building height limit.

17.130.010 Description and intent.

- 264 The PL public use lands zoning district is established as a land use district for publicly
- 265 owned land containing recreational, educational and institutional uses. For the public lands
- 266 district, in promoting the general purposes of this title, the specific intentions of this chapter
- 267 are:
- 268 A. To identify lands owned by governments that are used for public purposes;
- 269 B. To prohibit residential, commercial and industrial land uses and any other use of the
- 270 land which would interfere with the development or continuation of public services in the
- 271 district; and
- 272 C. To encourage the discontinuance of existing uses that are not permitted under this
- 273 chapter.

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279 **17.130.020 Permitted uses.**

280 The following land uses are permitted in the public lands district subject to the approval of
281 a detailed site plan by the commission:

- 282 A. Cemeteries;
- 283 B. Community buildings and halls;
- 284 C. Fire stations;
- 285 D. Gymnasiums;
- 286 E. Hospitals;
- 287 F. Libraries;
- 288 G. Museums;
- 289 H. Nursing homes;
- 290 I. Offices for local, state and federal governments;
- 291 J. Open air theaters;
- 292 K. Parks, playgrounds, playfields, and open space;
- 293 L. Recreation centers;
- 294 M. Sanitariums;
- 295 N. Schools, public and private;
- 296 O. Swimming pools; and
- 297 P. Utility installations.

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299 **17.130.030 Conditional uses.**

300 The following land uses may be allowed by obtaining a conditional use permit in
301 accordance with the provisions of Chapter 17.200 KIBC:

- 302 A. Airports;
- 303 B. Correctional facilities;
- 304 C. Dormitories;
- 305 D. Governmental maintenance and service facilities and storage yards;
- 306 E. Natural resource extraction;
- 307 F. Solid waste disposal sites; and
- 308 G. Radio and television transmitters.

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310 **17.130.035 Temporary Uses.**

311 The following land uses may be allowed in the public lands district subject to
312 approval of the property owner and any conditions related to such storage
313 established by the owner:

- 314 A. Storage of mobile homes displaced by closure of a mobile home park pursuant to
315 AS. 34.03.225.
- 316 B. This provision shall sunset on December 31, 2018.

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318 **17.130.040 Area requirements.**

- 319 A. Lot Area. The minimum lot area required is 7,200 square feet.
- 320 B. Lot Width. The minimum lot width required is 60 feet.

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324 **17.130.050 Yards.**
325 A. Front Yard. The minimum front yard required is 25 feet.
326 B. Side Yard. The minimum yard required on each side of a principal building is 10 percent
327 of the lot's width but need not exceed 25 feet. The minimum required side yard on the
328 street side of a corner lot is 25 feet.
329 C. Rear Yard. The minimum rear yard required is 25 percent of the lot's depth but need
330 not exceed 25 feet.

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332 **17.130.060 Building height limit.**
333 The maximum building height is 50 feet.

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335 **Section 3:** This ordinance will take effect upon adoption.

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337 **ADOPTED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH**
338 **THIS SIXTH DAY OF AUGUST, 2015**

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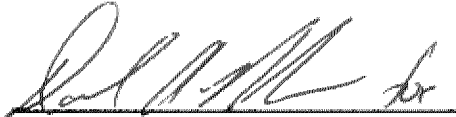
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KODIAK ISLAND BOROUGH



Jerrol Friend, Borough Mayor

ATTEST:

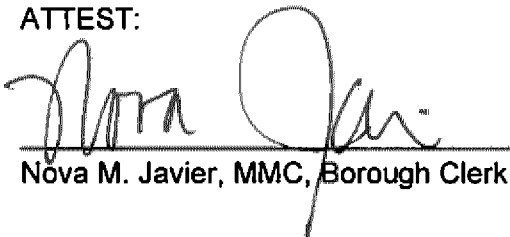

Nova M. Javier, MMC, Borough Clerk

EXHIBIT A

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354 Planning and Zoning Commission adopted Findings of Fact for Kodiak Island Borough
355 Ordinance No. FY2016-03.

356 **FINDINGS OF FACT (KIBC17.205.020)**

357 1. The announced closure of Jackson's Mobile Home Park will force mobile home
358 owners in the park to relocate their homes. Since there are limited locations for
359 displaced mobile homes to relocate to, there may be a need for temporary
360 storage of mobile homes until the owners are able to secure a permanent
361 location.

362 2. There is a lack of readily available land that is designated for any new mobile
363 home park.

364 3. Currently, outdoor storage is only allowed in the business and industrial zoning
365 districts. The zoning code amendments will now allow the temporary storage of
366 displaced mobile homes in the C-Conservation and PL-Public Use Lands
367 zoning districts.

368 4. The proposed amendments to KIBC Title 17 *Zoning*, Chapters 17.50 *C-*
369 *Conservation* and 17.130 *PL-Public Use Lands* are consistent with
370 Comprehensive Plan Goals and Policies related to affordable housing.

371 5. The Planning and Zoning Commission recommends approval of the code
372 amendments.

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