

Introduced by: Borough Manager
Drafted by: CDD
Introduced on: 04/06/2017
Public Hearing Date: 06/15/2017
Amended: 06/15/2017
Adopted on: 06/15/2017

**KODIAK ISLAND BOROUGH
ORDINANCE NO. FY2017-21**

AN ORDINANCE OF THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH AMENDING CHAPTERS 17.25 KIBC (DEFINITIONS), 17.160 KIBC (ACCESSORY BUILDINGS), AND RELATED CHAPTERS OF TITLE 17, ZONING TO INCLUDE DEVELOPMENT STANDARDS FOR ACCESSORY DWELLING UNITS AND TO SPECIFICALLY LIST ACCESSORY DWELLING UNITS AS A PERMITTED USE IN CERTAIN RESIDENTIAL ZONING DISTRICTS

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

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

WHEREAS, the Kodiak Island 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, there is a growing awareness of the need for additional housing options in Kodiak; and

WHEREAS, the use of accessory dwelling units may be one part of a regulatory solution to address this multi-faceted issue; and

WHEREAS, KIBC Title 17 (Zoning) does not include regulatory requirements for accessory dwelling units and does not list them as a permitted use in any zoning district; and

WHEREAS, the public necessity and general welfare of the community may be better served by amending the code to include development standards and zoning requirements for accessory dwelling units and to list them as a permitted use in certain residential zoning districts; and

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WHEREAS, the amendments to Chapters 17.25 KIBC (Definitions), 17.50 (C-Conservation), 17.60 (RR2-Rural Residential Two), 17.65 (RR-Rural Residential), 17.70 (RR1-Rural Residential One), 17.75 (R1-Single-family Residential), 17.80 (R2-Two-family Residential), and 17.160 (Accessory Buildings) of Title 17 will accomplish the stated public need; and

WHEREAS, the Planning and Zoning Commission held work sessions or special meetings to review the proposed changes on October 7, 2015, October 14, 2015, and November 10 2015; and

WHEREAS, the Planning and Zoning Commission set aside time for public input and discussion at each work session and special meeting; and

WHEREAS, the Planning and Zoning Commission held work sessions on December 9, 2015, January 13, 2016, March 9, 2016, and May 11, 2016 followed by public hearings on December 16, 2015, January 20, 2016, March 16, 2016, and May 18, 2016; and

WHEREAS, the Planning and Zoning Commission, following the May 18, 2016 public hearing, failed to pass a motion to transmit their recommendations for revisions to Title 17 to the Borough Assembly; and

WHEREAS, on May 19, 2016, two Planning and Zoning Commissioners filed a Reconsideration Affidavit with the Community Development Department stating their intent to reconsider the vote taken after the May 18, 2016 public hearing; and

WHEREAS, the Planning and Zoning Commission, at their July 13, 2016 regular meeting, voted to reconsider the vote taken after the May 18, 2016 public hearing and to postpone the vote on the recommendations for revisions to Title 17 to their September 21, 2016 regular meeting; and

WHEREAS, the Planning and Zoning Commission, held an additional work session on September 14, 2016 followed by an additional public hearing on September 21, 2016; and

WHEREAS, the Planning and Zoning Commission, following the September 21, 2016 public hearing, voted to transmit their recommendations for revisions to Title 17 to the Borough Assembly; and

WHEREAS, the Borough Assembly held work sessions on January 12, 2017, February 9, 2017, March 2, 2017, March 30, 2017, April 13, 2017, and June 8, 2017; and

WHEREAS, the Borough Assembly held a public hearing on June 15, 2017.

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH THAT:

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

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94 **Section 2:** That Title 17 of the Kodiak Island Borough Code of Ordinances is amended to read
95 as follows:

96
97 **Chapter 17.25**
98 **DEFINITIONS**

99 . . .
100 **17.25.020 A definitions.**

101 . . .
102 “Accessory Dwelling Unit (ADU)” means an additional dwelling unit attached to or within
103 a single-family residence or within a detached accessory structure or as a separate
104 structure on the same lot as the single-family residence. ADUs have a separate entrance
105 and exit and contain kitchen, bathroom, and sleeping facilities.

106 . . .
107 **Chapter 17.160**
108 **ACCESSORY BUILDINGS AND ACCESSORY DWELLING UNITS**

109 Sections:

- 110 17.160.010 Intent.
- 111 17.160.020 Definition.
- 112 17.160.030 Permitted districts.
- 113 17.160.040 Height limit.
- 114 17.160.050 Area.
- 115 17.160.060 Setbacks.
- 116 17.060.070 Accessory dwelling units.

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118 **17.160.010 Intent.**

119 It is the intent of this chapter to set forth standards for the size and location of accessory
120 buildings and accessory dwelling units. Hoop houses shall not be subject to the limitations of
121 this chapter in all zoning districts where hoop houses are permitted. [Ord. FY2012-10 §12,
122 2012; Ord. 90-31 §2, 1990; Ord. 82-14-O(A) §2, 1982. Formerly §17.51.010].

123
124 **17.160.020 Definition.**

125 “Accessory building” means:

126 A. A detached building, the use of which is appropriate, subordinate and customarily incidental
127 to that of a main building, located on the same lot as the main building and which is not
128 designed or intended to be used for living or sleeping purposes.

129 B. An accessory building shall be considered to be a part of the main building when joined to the
130 main building by a common wall not less than four feet long or by a roofed passageway which
131 shall not be less than eight feet in width.

132 C. Any structure, regardless of type of foundation or base support, including skid-mounted or
133 other movable structure, that also requires a building permit for construction ~~(for example,~~
134 ~~structures where the projected roof area exceeds 120 square feet)~~. A minor structural
135 development that does not require a building permit is not regulated by this chapter.

136 D. A nonmotorized container van when used for the sole purpose of storing emergency
137 response equipment in the Kodiak Island Borough and not placed on a permanent foundation.
138 [Ord. 2001-01 §2, 2001; Ord. 90-31 §2, 1990; Ord. 82-14-O(A) §2, 1982. Formerly §17.51.020].
139

140 **17.160.030 Permitted districts.**

141 A. Accessory buildings are permitted in all land use districts that specifically allow for them.

142 B. In residential zoning districts, no accessory building shall be located on any lot in the
143 absence of a main building used as a residence; except that in the case of a vacant lot, zoning
144 compliance for an accessory building (used solely for the storage of tools and materials needed
145 for the construction of the permitted residence) may be issued at the same time zoning
146 compliance and a building permit are issued for a residence.

147 C. An accessory building as defined by KIBC 17.160.020(D) is permitted in all zoning districts
148 with authorization from the local municipality and issuance of a zoning compliance permit. [Ord.
149 2001-01 §3, 2001; Ord. 90-31 §2, 1990; Ord. 82-14-O(A) §2, 1982. Formerly §17.51.030].
150

151 **17.160.040 Height limit.**

152 The maximum height of an accessory building is ~~25~~ **35** feet. An exception to this section is any
153 structure that meets the definition of an amateur radio antenna as outlined in AS 29.35.141.
154 [Ord. FY2006-08 §2, 2006; Ord. 90-31 §2, 1990; Ord. 82-14-O(A) §2, 1982. Formerly
155 §17.51.040].
156

157 **17.160.050 Area.**

158 A. The maximum lot coverage of the total of all accessory buildings on a lot shall not exceed 10
159 percent of the area of a lot except that on any lot of record, accessory buildings may cover a
160 maximum of 600 square feet of the lot or 10 percent of the area of the lot, whichever is greater.

161 **B. Accessory dwelling units are exempt from the lot coverage limitations of this section.**

162
163 **17.160.060 Setbacks.**

164 The minimum yard setbacks ~~s~~ requirements for accessory buildings and accessory dwelling
165 units are those established for the zoning district in which the accessory building or accessory
166 dwelling unit will be located.
167

168 **17.160.070 Accessory dwelling units.**

169 **A. Intent.**

170 **Accessory dwelling units (ADUs) add options and housing choice in residential**
171 **neighborhoods and can be an effective way to add affordable housing to existing**
172 **neighborhoods. ADUs also provide a flexible way to address family needs for additional**
173 **housing. ADUs are not intended for use as transient housing and shall not be permitted**
174 **for use as a bed and breakfast.**

- 175 1. **ADUs are not intended to allow a two-family residence in ~~the R-1~~ any single-family**
176 **residential zoning district.**
- 177 2. **ADUs are not intended to circumvent the parking requirements for a two-family**
178 **dwelling (duplex) in the R-2 zoning district.**

179 **B. Permitted Uses.**

- 180 1. **ADUs are a permitted use in the following residential zoning districts:**

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- a. Chapter 17.50 KIBC, C-Conservation District;
- b. Chapter 17.60 KIBC, RR2-Rural Residential Two District;
- c. Chapter 17.70 KIBC, RR1-Rural Residential One District (attached);
- d. Chapter 17.75 KIBC, R1-Single-family Residential District (attached);
- e. Chapter 17.80 KIBC, R2-Two-family Residential District.

C. Conditional Uses.

- 1. ADUs are a conditional use in the following residential zoning districts:
 - a. Chapter 17.65 KIBC, RR-Rural Residential District;
 - b. Chapter 17.70 KIBC, RR1-Rural Residential One District (detached);
 - c. Chapter 17.75 KIBC, R1-Single-family Residential District (detached).

D. Development Standards for ADUs.

- 1. Only one ADU shall be permitted on a lot.
- 2. Location. An ADU may be attached to or located within a single-family residence or within a detached accessory building on the same lot as the single-family residence or as a separate structure on that lot. If the ADU is located within a single-family dwelling, there shall only be one entrance to the front of the house. Separate entrances to an ADU located within the principal dwelling or attached to it are permitted at the side or the rear of the principal dwelling unit.
- 3. ADUs are required to comply with all applicable building and fire code requirements.
- 4. Water supply and wastewater disposal. The accessory dwelling unit must have a bathroom and shall share the same sewage disposal and water supply systems (e.g., a well and septic system or connection to public water and sewer) as the principal dwelling unit unless separate sewer and water connections are required by the City of Kodiak, ADEC, or the communities of Ahkiok, Karluk, Larsen Bay, Old Harbor, Ouzinkie, or Port Lions.
- 5. One (1) additional parking space ~~shall be provided for~~ is required with an ADU.
- 6. Size Limit.
 - a. An ADU shall be limited to 480 square feet or less.
 - b. Mobile homes, recreational vehicles, campers, ~~conexes~~, and travel trailers are not permitted to be used as an ADU.
- 87. The owner of the property shall live in the principal dwelling or the ADU.
- 98. No new access points or driveways shall be created or installed for access to the ADU.
- 109. Nonconforming structures.
 - a. ADUs may be located within an existing single-family detached dwelling that is nonconforming with respect to required setbacks, provided the ADU requirement for off-street parking is met.
 - b. ADUs are prohibited in any accessory structure that is nonconforming with respect to required setbacks.
- 110. Access for emergency services providers.
 - a. The zoning compliance permit and site plan for an ADU must show the location of an unobstructed route of travel from the street to the ADU entrance.

224 b. Exterior doors and openings required by this code or the IBC shall be
225 maintained readily accessible for emergency access by the fire department. An
226 approved access walkway leading from the apparatus access roads to exterior
227 openings shall be provided when required by the fire code official.
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230 **Chapter 17.50**
231 **C – CONSERVATION DISTRICT**
232 ...

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234 **17.50.030 Permitted accessory uses and structures.**

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

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240 B. Accessory residential buildings (e.g., accessory dwelling units (ADUs), crew quarters in
241 support of commercial set-net fishing and lodge operations, banyas, outhouses, etc.);
242 ...

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244 **Chapter 17.60**
245 **RR2 – RURAL RESIDENTIAL TWO DISTRICT**
246 ...

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248 **17.60.020 Permitted uses.**

249 The following land uses and activities are permitted in the rural residential two district:

250 A. Accessory buildings and accessory dwelling units (ADUs);

251 ...

252
253 **Chapter 17.65**
254 **RR – RURAL RESIDENTIAL**
255 ...

256
257 **17.65.040 Conditional uses.**

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

- 260
261 A. Firework stands; ~~and~~
262 B. Recreational vehicle parks; and
263 C. Accessory dwelling units (ADUs).

264
265 **Chapter 17.70**
266 **RR1 – RURAL RESIDENTIAL ONE DISTRICT**
267

268 **17.70.020 Permitted uses.**

269 The following land uses are permitted in the rural residential one district:

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272 K. Recreational cabins; ~~and~~

273 L. Hoop houses; ~~and~~

274 M. Accessory dwelling units (ADUs) (attached).

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276 **17.70.030 Conditional uses.**

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

279 A. Firework stands; ~~and~~

280 B. Recreational vehicle parks; ~~and~~

281 C. Accessory dwelling units (ADUs) (detached).

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285 **Chapter 17.75**

286 **R1 – SINGLE-FAMILY RESIDENTIAL DISTRICT**

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288 ...

289 **17.75.020 Permitted uses.**

290 The following land uses and activities are permitted in the single-family residential district:

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293 F. Single-family dwellings; and

294 G. Hoop houses; and

295 H. Accessory dwelling units (ADUs) (attached).

296 ...

297 **17.75.030 Conditional uses.**

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

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301 ...

302 D. Vacation homes; ~~and~~

303 E. Recreational vehicle parks; ~~and~~

304 F. Accessory dwelling units (ADUs) (detached).

305 ...

306 ...

307 ...

308 **Chapter 17.80**

309 **R2 – TWO-FAMILY RESIDENTIAL DISTRICT**

310 ...

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312 **17.80.020 Permitted uses.**

313 The following land uses are permitted in the two-family residential district:

314 ...

- N. Bed and breakfasts; ~~and~~
- O. Hoop houses; and
- P. Accessory dwelling units when there is a single-family residence on the property.

Section 3: By this ordinance, the Borough Assembly adopts the following findings of fact in support of their approval of these amendments:

1. There is a growing need for housing options in Kodiak. The use of accessory dwelling units may be one part of a regulatory solution to address this multi-faceted issue.
2. Current KIBC Title 17 (Zoning) does not include regulatory requirements for accessory dwelling units and does not list them as a permitted or conditional use in any zoning district.
3. The amendments to Chapters 17.25, 17.160, and related Chapters of Title 17 KIBC provide the regulatory requirements for accessory dwelling units and list accessory dwelling units as a permitted or conditional use in certain residential zoning districts.
4. The amendments to Chapters 17.25, 17.160, and related Chapters of Title 17 KIBC are consistent with the adopted Comprehensive Plan goals and policies related to housing and specifically, affordable housing.
5. The Planning and Zoning Commission recommends approval of the amendments to Chapters 17.25, 17.160, and related Chapters of Title 17 KIBC.

Effective Date: This ordinance takes effect upon adoption. (Note: KIBC 2.30.070 states an ordinance takes effect upon adoption or at a later date specified in the ordinance.)

**ADOPTED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH
THIS FIFTEENTH DAY OF JUNE, 2017.**

KODIAK ISLAND BOROUGH

ATTEST:

Daniel A. Rohrer, Mayor

Nova M. Javier, MMC, Clerk

VOTES:

Ayes: Crow, LeDoux, Townsend, Smiley, Symmons, and Van Daele

Noes: Skinner