

Introduced by: Community Development Department thru the Mayor
Drafted by: Community Development Director
Introduced on: 04/07/2022
Public Hearing Date:04/21/2022
Adopted on: 04/21/2022

**KODIAK ISLAND BOROUGH
ORDINANCE NO. FY2022-14**

**AN ORDINANCE OF THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH AMENDING
KODIAK ISLAND BOROUGH CODE SECTION 17.145.070 REGARDING THE
COMMUNICATION TOWER APPROVAL CRITERIA**

WHEREAS, on March 23, 2018, the Assembly adopted Ordinance No. FY 2018-17 adding communication towers as a conditional use in eleven zoning districts and setting out application requirements and approval criteria which supplement the default approval criteria for conditional use permits in KIBC 17.200.050; and

WHEREAS, when Ordinance No. FY2018-17 adopted Kodiak Island Borough Code (KIBC) 17.145.070, it was silent on the requirement for a public hearing and established a sixty (60) day time limit from application to Planning Commission decision on a conditional use permit application for a communications tower; and

WHEREAS, all conditional use permit applications under KIBC 17.200 are subject to a ninety (90) day review period and public hearing; and

WHEREAS, the Assembly finds that the risk of confusion is reduced, and the public interest served, by resolving inconsistencies for action on conditional use permit applications; and

WHEREAS, the Planning and Zoning Commission has reviewed the proposed amendment pursuant to KIBC 17.205.020 and has recommended approval of the amendment.

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

Section 1: Classification. Section 2 of this ordinance is of a general and permanent nature and shall become a part of the Code of Ordinances of the Kodiak Island Borough. The remainder shall not be codified.

Section 2: Kodiak Island Borough Code section 17.145.070, Approval Criteria, is amended to read as follows:

17.145.070 **Approval Criteria Approval Process and Criteria**

46 Except as modified by this chapter, conditional use permits for communication towers will be
47 processed following the procedures for all conditional use permits set out in KIBC Chapter 17.200.
48 The commission shall hold a public hearing on each properly submitted application for a
49 communication tower or other tall structure permit within 90 days after the date of the next
50 available meeting agenda deadline. The community development department shall give notice of
51 the hearing in the same manner prescribed for variances in KIBC 17.195.040. ~~Within 60 days~~
52 ~~from application, the planning and zoning commission shall approve, approve with conditions or~~
53 ~~deny a permit under this section after considering all of the following criteria. After the public~~
54 hearing, the commission shall render its decision, unless such time limit has been extended by
55 common consent and agreement of the applicant and the commission. In addition to the criteria
56 in KIBC 17.200.050, the commission shall consider the following criteria specific to
57 communication towers:

58 *A. Location and Visual Impact.* The proposed communications tower, antenna or accessory
59 structure will be placed in a reasonably available location which will minimize the visual impact on
60 the surrounding area and allow the facility to function in accordance with minimum standards
61 imposed by the applicable communications regulations and applicant's technical design
62 requirements. Conditions may be imposed, including camouflage, screening, vegetative buffers
63 and/or site requirements, to ensure this criteria is met.

64 *B. Inability to Locate on an Existing Structure.* A permit should not be issued unless a proposed
65 antenna and equipment cannot be accommodated and function as required by applicable
66 regulations and applicant's technical requirements without unreasonable modifications on any
67 existing structure or communications tower.

68 *C. Necessity for Location in a Residential Neighborhood.* A permit should not be issued in a
69 residential neighborhood unless the area cannot be adequately served by a facility placed in a
70 nonresidential area for valid technical reasons. Conditions may be imposed to lessen the impact
71 of a communications tower on a residential neighborhood, including limitations on times for
72 maintenance work to be performed, number of vehicles present, yard maintenance, and similar
73 requirements.

74 *D. Design for Future Use.* A new tower must be designed to accommodate additional antennas
75 equal in number to the applicant's present and reasonably foreseeable future requirements.

76 *E. Collocation.* A permit shall be conditioned to require the applicant to make the tower available
77 for use by as many other licensed carriers as can be technically collocated thereon when the use
78 will not result in substantial injury to the owner, or in substantial detriment to the service to the
79 customers of the owners. All licensed carriers shall cooperate with each other in collocating
80 additional facilities upon such towers. All licensed carriers shall exercise good faith in collocating
81 with other licensed carriers and in the sharing of towers, including the sharing of technical
82 information to evaluate the feasibility of collocation.

83 *F. Illumination.* A communications tower may not be illuminated unless otherwise required by
84 state or federal law or regulations or unless evidence has been presented that lighting is
85 necessary to ensure the safety of the public. To prevent direct light reflection on other property,
86 tower structure lighting shall be shielded to the extent permitted by the Federal Aviation
87 Administration.

88 *G. Distance from Existing Tower.* A permit for a proposed tower within 1,000 feet of an existing
89 tower shall not be issued unless the applicant certifies that the existing tower does not meet the

90 applicant's structural specifications and the applicant's technical design requirements, or that a
91 collocation agreement could not be obtained.

92 H. *Yard Area Requirements.* Yards shall be a distance equal to at least 50 percent of the height
93 of the tower from a lot line. The planning and zoning commission may modify this requirement if
94 the tower and equipment will be adequately screened to mitigate its visual impact and no safety
95 hazards are presented.

96 I. *Height.* The permitted height of a proposed tower shall be no higher than technically required
97 to satisfy the specific purpose of the tower and will consider the impact on the surrounding uses.

98 J. *Zoning District Standards.* Nothing in this section alters the requirements for visibility, fencing,
99 screening, landscaping, parking, access, lot size, exterior illumination, sign, storage, or other
100 general zoning district regulations, except yard and height requirements, of any specific zone.
101 Yard and height requirements in this section shall apply.

102 K. *Design Drawings and Specifications.* A permit shall be conditioned to require the applicant to
103 submit design drawings and specifications stamped by a registered professional in the state of
104 Alaska certifying compliance with the building code of the authority having jurisdiction.

105 L. *Compliance with Other Laws.* A proposed tower must comply with all local, state, and federal
106 laws.

107 M. A report from a structural engineer registered in the state of Alaska showing that the tower
108 will contain only equipment meeting FCC rules, the tower antenna capacity by type and number,
109 and a certification that the tower is designed to withstand winds in accordance with ANSI/EIA/TIA
110 222 (latest revision) standards.

111 **Effective Date:** This ordinance takes effect at midnight on the day of adoption of this ordinance.
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113 **ADOPTED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH**
114 **THIS TWENTY FIRST DAY OF APRIL, 2022.**

115
116 KODIAK ISLAND BOROUGH

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118 
119 _____
120 William Roberts, Mayor

117
118 ATTEST:
119 
120 _____
121 Nova M. Javier, MMC, Borough Clerk

122
123 **VOTES:**

124 Ayes: Arndt, Delgado, Smith, Turner, and Williams.

125 Noes:

