

SUBJECT: AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AMENDING MSB 17.67 TO REDUCE THE MINIMUM SETBACK REQUIREMENTS FOR NEW TELECOMMUNICATIONS TOWERS.

AGENDA OF: November 18, 2025

ASSEMBLY ACTION:

AGENDA ACTION REQUESTED: Refer to Planning Commission for 90 days.

Route To	Signatures
Originator	10/15/2025 X Alex S t r a w n Signed by: Alex
Department Director	10/15/2025 X Alex S t r a w n Signed by: Alex
Finance Director	Expired certificate X Cheyenne Heindel Signed by: Cheyenne Heindel
Borough Attorney	Expired certificate X Nicholas Spiropoulos Signed by: Nicholas Spiropoulos
Borough Manager	10/20/2025 X Michael Brown Signed by: Mike Brown
Borough Clerk	10/20/2025 X Brenda J. Henry for Signed by: Brenda Henry

ATTACHMENT (S) : Ordinance Serial No. 25-127 (4 pp)
 MSB 17.67 (15 pp)
 Planning Commission Resolution 25-____ (pp)

SUMMARY STATEMENT: This ordinance is at the request of Assemblymember Fonov.

The proposed ordinance would amend the Matanuska-Susitna Borough Code to allow for reduced setback requirements for new telecommunications towers under specific conditions. Currently, towers must be set back from property lines a distance equal to the height of the tower. The proposed change will permit the setback to be reduced if the tower incorporates an engineered collapse system, such as, a frangible design or breakpoint technology that limits the fall zone. In such cases, the applicant would need to submit a certified statement from a registered

engineer or architect identifying the projected fall zone and the height at which the structure is designed to break. The applicant must show there are no habitable structures within that fall zone on neighboring properties, and the minimum setback cannot be less than 25 feet.

Additionally, the ordinance would add two new definitions to the Borough Code: "frangible design," which refers to a structure designed to fail in a controlled manner, and "fall zone," which is the area where tower components could land in the event of a collapse. These changes aim to modernize tower siting regulations while maintaining safety standards.

The proposed ordinance is consistent with the MSB comprehensive plan.

Matanuska-Susitna Borough Comprehensive Plan

Goal E-3: Create an attractive environment for business investment.

Policy E3-2: Institute appropriate land use guidelines and regulations that reduce land use conflicts and protect residents and businesses.

Goal LU-1: Protect and enhance the public safety, health, and welfare of Borough residents.

Policy LU1-1: Provide for consistent, compatible, effective, and efficient development within the Borough.

RECOMMENDATION OF ADMINISTRATION: Refer to Planning Commission and then introduce and set for public hearing.

CHAPTER 17.67: TALL STRUCTURES INCLUDING TELECOMMUNICATION FACILITIES, WIND ENERGY CONVERSION SYSTEMS, AND OTHER TALL STRUCTURES

Section

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17.67.010 PURPOSE AND INTENT.

(A) The purpose of this chapter is to establish regulations for the siting of telecommunication facilities, wind energy conversion systems (WECS), and other tall structures.

(B) It is the intent of the borough to enable the orderly build-out of wireless telecommunication infrastructure, WECS, and other tall structures while promoting the health, safety, and general welfare of the public by:

- (1) facilitating the organized deployment of wireless telecommunication networks;
- (2) minimizing the overall number of future towers within the borough by encouraging the collocation of telecommunication equipment on existing and future structures;
- (3) encouraging potential applicants for new tall structures to involve citizens early in the process so that concerns can be mitigated prior to application for permits;
- (4) requiring consideration of and compatibility with the goals and objectives of the borough-wide comprehensive plan and other applicable regulations;
- (5) minimizing potential hazards associated with tall structures; and
- (6) encouraging the placement of tall structures in a manner that minimizes the negative effects on the visual and scenic resources of all surrounding properties.

(Ord. 15-016, § 2 (part), 2015)

17.67.020 APPLICABILITY.

(A) This chapter applies to all private and public lands in the borough except within the incorporated city limits of Houston, Palmer, and Wasilla.

(B) The requirements of this chapter shall supersede requirements of special land use districts within the borough as they pertain to telecommunications towers, except that special land use districts may provide additional regulations for:

- (1) a reduced height at which a permit is required under this chapter;
- (2) vegetative screening and other camouflage techniques;
- (3) the color of tall structures;

- (4) tower type (monopole, lattice, guyed);
 - (5) lighting requirements that are not in conflict with requirements of the Federal Aviation Administration; and
 - (6) increased setbacks.
- (C) This chapter shall apply to all tall structures taller than 85 feet including but not limited to:
- (1) broadcast facilities;
 - (2) telecommunication towers;
 - (3) wind energy conversion systems; and
 - (4) tall structures as defined by MSB 17.125.
- (D) Permits are required prior to construction of all new tall structures except as allowed by MSB 17.67.120, Reconstruction and replacement.
- (E) Permits under this chapter shall not be approved unless the applicant has provided evidence demonstrating that the proposal conforms to the applicable provisions of this chapter.
- (Ord. 15-016, § 2 (part), 2015)

17.67.030 EXEMPTIONS.

- (A) The following items are exempt from the provisions of this chapter:
- (1) church spires, religious icons, and flagpoles displaying official government or religious flags;
 - (2) temporary tall structures, including but not limited to construction cranes which are utilized on active construction projects or other temporary tall structures that are on site less than 30 calendar days total within a consecutive 12-month period and are not intended to routinely reoccur on the same site;
 - (3) temporary telecommunication facilities, upon the declaration of a state of emergency by federal, state, or local government. Such facilities must comply with all federal and state requirements. Temporary telecommunication facilities may be exempt from the provisions of this chapter up to 12 months after the duration of the state of
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emergency. An additional extension, no longer than 12 months, may be granted by the director upon written request and determination that the telecommunication facilities continue to be necessary for post-emergency operations;

(4) temporary telecommunication facilities constructed for the purposes of providing coverage of a special event such as news coverage or sporting event, except that such facilities must comply with all federal and state requirements. Said telecommunication facilities are exempt from the provisions of this chapter up to 15 calendar days prior to the event and an additional 15 calendar days after the duration of the special event;

(5) essential service utilities as defined by MSB 17.05;

(6) tall structures within the boundaries of industrial districts designated by borough code;

(7) lighting support structures less than 185 feet in height that are constructed for the Alaska Department of Transportation, are located within a right-of-way, and are used exclusively for illuminating major arterials and highways;

(8) licensed amateur (ham) radio towers, except that modification or use of such towers for commercial use shall require a conditional use permit in accordance with this chapter;

(9) addition, removal or reorientation of transmission equipment; and

(10) routine maintenance and repair of tall structures and their components.

(Ord. 21-085, § 2, 2021; Ord. 15-016, § 2 (part), 2015)

17.67.040 TYPES OF PERMITS AVAILABLE.

(A) There are three types of permits available for tall structures:

(1) Administrative permit: new tall structures that are greater than 85 feet but less than or equal to 125 feet. The applicant may request that the decision on an administrative permit be made by the planning commission. The request shall be in writing at the time of application and all requirements for a conditional use permit shall be followed.

(2) Conditional use permit: new tall structures greater than 125 feet; or tall structures that exceed the height threshold at which a conditional use permit within a special land use district is required.

- (3) Network improvement permit: allows legally constructed telecommunication towers to be increased in height in accordance with MSB 17.67.110.

(Ord. 15-016, § 2 (part), 2015)

17.67.050 PRE-APPLICATION REQUIREMENTS FOR NEW TALL STRUCTURES THAT REQUIRE A CONDITIONAL USE PERMIT.

(A) Prior to applying for a conditional use permit for a new tall structure, the potential applicant shall hold at least one community meeting:

- (1) The meeting shall be held at the nearest facility where community council meetings are regularly scheduled. If the facility is not available, the nearest available public facility that is capable of seating a minimum of 20 people shall be utilized;
- (2) The meeting shall be held at least 15 calendar days after mailing of the notification;
- (3) The meeting shall not start prior to 5 p.m. and no later than 7 p.m.;
- (4) Notification of the meeting shall, at a minimum, include the following:
 - (a) legal description and map of the general parcel, or parcels, within the coverage area under consideration for the telecommunication facility;
 - (b) description of the proposed development including height, design, lighting, potential access to the site, and proposed service;
 - (c) date, time, and location of informational meeting;
 - (d) contact name, telephone number, and address of applicant; and
 - (e) comment form created by the borough that has a comment submittal deadline and provides options for submitting comments.
- (5) At a minimum, the notification area for the meeting shall include the following:
 - (a) property owners within one-half mile of the parcels under consideration for the proposed tall structure; and
 - (b) the nearest community council and any community council whose boundary is within 1,200 feet of the parcels under consideration for the tall structure.

(B) A written report summarizing the results of the community meeting shall be prepared that includes the following information:

- (1) dates and locations of all meetings where citizens were invited to discuss the potential applicant's proposal;
- (2) content, dates mailed, and numbers of mailings, including letters, meeting notices, newsletters, and other publications;
- (3) sign-in sheet(s) used at the meeting, that includes places for names, addresses, phone numbers, and other contact information such as email addresses;
- (4) a list of residents, property owners, and interested parties who have requested in writing that they be kept informed of the proposed development through notices, newsletters, or other written materials;
- (5) the number of people who attended meetings;
- (6) copies of written comments received at the meeting;
- (7) a certificate of mailing identifying all who were notified of the meeting; and
- (8) a written summary that addresses the following:
 - (a) the substance of the public's written concerns, issues, and problems;
 - (b) how the applicant has addressed, or intends to address, concerns, issues, and problems expressed during the process; and
 - (c) concerns, issues, and problems the applicant has not addressed or does not intend to address and why.

(Ord. 15-016, § 2 (part), 2015)

17.67.060 GENERAL PERMIT PROCESS FOR ADMINISTRATIVE AND CONDITIONAL USE PERMITS.

(A) Incomplete Applications. For all permits under this chapter, the director may reject any application that fails to meet the requirements of this chapter. The rejection shall be issued, in writing, within 15 calendar days of receipt of an application under this chapter and shall state the deficient items.

(1) Notification. Upon determination of a complete application, the director shall notify surrounding property owners in accordance with MSB 17.03, except that:

(a) The notification area will be one-half mile;

(b) If applicable, the notification shall include all individuals who were notified of or submitted comments at the community meeting required by MSB 17.67.050.

(B) Determination. In granting or denying a permit for a new tall structure, written findings of fact and determinations of law shall be issued and shall include conditions as deemed appropriate to protect the public health, safety or general welfare.

(C) Conditions of Approval. Conditions set by the commission for a conditional use permit or by the director for administrative permits may include but are not limited to the following:

(1) height limitations;

(2) increased height or structural capacity of a proposed tower to accommodate future collocation;

(3) mitigation of drainage concerns;

(4) tower type (monopole, lattice, guyed);

(5) color;

(6) landscaping;

(7) parking;

(8) screening;

(9) signage;

(10) lighting to be installed and maintained in accordance with Federal Aviation Administration AC 70/7460-1; or

(11) setbacks greater than that required by MSB 17.55.

(D) Process Time Frame. For conditional use permits reviewed by the commission:

(1) A public hearing shall be held by the commission within 60 calendar days of receipt of a complete application;

(2) The commission shall render a decision within 30 calendar days from the close of public hearing.

(E) For an administrative permit reviewed by the director, a decision granting or denying the permit shall be made within 60 calendar days of receipt of a complete application.

(Ord. 15-016, § 2 (part), 2015)

17.67.070 GENERAL APPLICATION REQUIREMENTS FOR ADMINISTRATIVE AND CONDITIONAL USE PERMITS.

(A) An application for a conditional use or administrative permit to construct a new tall structure may be initiated by a property owner or the owner's authorized agent and shall include:

- (1) completed application form provided by the department and signed by the property owner or authorized agent;
- (2) design drawings for the proposed tall structure, drawn to scale, and certified by a registered engineer or architect;
- (3) fee in the amount designated in MSB 17.99;
- (4) citizen participation report in accordance with MSB 17.67.050(B);
- (5) a certified site plan;
- (6) copy of a determination of no hazard to air navigation from the Federal Aviation Administration; and
- (7) if breakpoint technology is intended to be utilized, a written statement specifying the height at which the engineered structural weakness will be located.

(Ord. 15-016, § 2 (part), 2015)

17.67.080 STANDARDS FOR APPROVAL OF NEW TALL STRUCTURES.

(A) A permit for a new tall structure may only be approved if it meets the requirements of this section in addition to any other applicable standards required by this chapter.

(B) In granting or denying a permit, the commission or director shall make findings on whether the applicant has demonstrated that:

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- (1) To the extent that is technically feasible and potentially available, the location of the tall structure is such that its negative effects on the visual and scenic resources of all surrounding properties have been minimized;
- (2) Visibility of the tall structure from public parks, trails recognized within adopted borough plans, and water bodies has been minimized to the extent that is technically feasible and potentially available;
- (3) The tall structure will not interfere with the approaches to any existing airport or airfield that are identified in the borough's regional aviation system plan or by the Alaska State Aviation System Plan; and
- (4) Granting the permit will not be harmful to the public health, safety, convenience, and welfare.

(Ord. 15-016, § 2 (part), 2015)

17.67.090 OPERATION STANDARDS FOR NEW TALL STRUCTURES.

(A) The following setback requirements shall apply to all new telecommunications towers regulated under this chapter:

- (1) The equipment compound shall meet minimum setback distances from all property lines in accordance with MSB 17.55.
- (2) Minimum setback for the tower base shall be a distance equal to the height of the tower.
 - (a) The commission, or director if it is an administrative permit, may reduce the setback to a distance less than the height of the tower, if the applicant demonstrates there is no risk to public health, safety, or welfare of adjacent property owners.
- (3) Setbacks shall be determined from the dimensions of the entire lot, even though the tower may be located on lease areas within the lot.

(B) For all tall structures regulated under this chapter, adequate vehicle parking shall be provided on the subject property, outside of public use easements and rights-of-way, to enable emergency vehicle access.

- (1) No more than two spaces per provider shall be required.

(C) The following requirements apply to all new and existing telecommunication towers and wind energy conversion systems regulated under this chapter:

(1) The following signage shall be visibly posted at the equipment compound:

(a) informational signs for the purpose of identifying the tower such as the antenna structure registration number required by the Federal Communications Commission, as well as the party responsible for the operation and maintenance of the facility;

(b) If more than 220 volts are necessary for the operation of the facility, warning signs shall be located at the base of the facility and shall display in large, bold, high contrast letters the following: "HIGH VOLTAGE – DANGER"; and

(c) a 24-hour emergency contact number.

(2) A fence or wall not less than six feet in height with a secured gate shall be maintained around the base of the tower.

(Ord. 15-016, § 2 (part), 2015)

17.67.100 ADDITIONAL OPERATION STANDARDS FOR WIND ENERGY CONVERSION SYSTEMS.

(A) In addition to the operation standards for new tall structures required by MSB 17.67.090, the following standards shall apply to wind energy conversion systems (WECS):

(1) WECS shall be equipped with an automatic overspeed control device designed to protect the system from sustaining structural failure such as splintered or thrown blades and the overturning or breaking of towers due to an uncontrolled condition brought on by high winds; and

(2) WECS shall have a manually operable method that assures the WECS can be brought to a safe condition in high winds. Acceptable methods include mechanical or hydraulic brakes or tailvane deflection systems which turn the rotor out of the wind.

(Ord. 15-016, § 2 (part), 2015)

17.67.110 NETWORK IMPROVEMENT PERMIT.

(A) A network improvement permit allows legally constructed telecommunication towers to be replaced or modified in a manner that increases the overall height of the existing tower in

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accordance with this section.

(B) A network improvement permit does not require notification to surrounding property owners.

(C) The base of a replacement tower may be located no farther than 50 feet from the base of the original tower. The original tower shall be removed within 90 calendar days upon completion of construction of the replacement tower.

(D) More than one network improvement permit may be obtained. However, the cumulative increase in overall height may not exceed the following:

(1) up to 20 feet for telecommunications towers that are located outside of special land use districts. If the existing tower exceeds 200 feet, it can be increased by up to 10 percent of the height of the existing tower;

(2) Within a special land use district, height increase under this section is limited to a cumulative increase of 10 percent of the existing facility unless the applicant demonstrates that the additional height, not to exceed 20 feet, is necessary for installation of one additional antenna array.

(E) Application for a network improvement permit shall include the following:

(1) application form signed by the property owner or authorized agent;

(2) a description of the proposed modifications to the telecommunication tower, including a description of the height, type, and lighting of the new or modified structure and the existing structure;

(3) a certified site plan for purposes of setback verification; and

(4) design drawings for the proposed modified or new structure, drawn to scale, and certified by a registered engineer or architect.

(F) In granting a network improvement permit, the director shall make the following findings:

(1) that the proposed development conforms to setback requirements of MSB 17.55;

(2) that the telecommunication tower being extended was lawfully constructed at the time of application for a network improvement permit; and

(3) that the proposed modification does not violate permit conditions of any valid permits that have been issued to the existing facility; provided, that the condition being

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violated does not limit height of the structure.

(G) A network improvement permit shall be approved within 60 calendar days from the time of application if it meets the requirements of this section.

(H) Telecommunication towers granted a permit under this section shall conform with the operation standards described by MSB 17.67.090(C).

(I) Replacement or modification of a telecommunication tower that is in accordance with this section is not subject to application or pre-application requirements required for a new tower under this chapter.

(Ord. 15-016, § 2 (part), 2015)

17.67.120 RECONSTRUCTION AND REPLACEMENT.

(A) This section only applies to structures that are legally permitted or have obtained pre-existing legal nonconforming status.

(B) The property owner shall be responsible for all aspects of the operation, improvements, development, and maintenance of the site in compliance with the terms and conditions of the permit and all applicable local, state, and federal requirements.

(C) Tall structures may be replaced or reconstructed in order to improve the structural integrity of the tall structure or in the case of accidental damage or collapse.

(1) Reconstruction or replacement shall not:

- (a) increase lighting;
- (b) change the type of lighting;
- (c) change the tower type;
- (d) change the location of the tall structure; or
- (e) increase the height of a tall structure.

(2) In the case of accidental damage or collapse, if reconstruction or replacement has not commenced within one year of the date of the damage, the structure is considered to be abandoned and is subject to MSB 17.67.130, Abandonment.

- (3) Reconstruction or replacement shall conform with requirements or conditions of a previously granted permit or pre-existing legal nonconforming determination.

(Ord. 15-016, § 2 (part), 2015)

17.67.130 ABANDONMENT.

(A) Any tower that is not operated for a continuous 12-month period shall be considered abandoned. In such circumstances, the following shall apply:

- (1) Tall structures shall be removed within 90 calendar days of abandonment at the owner's expense.
- (2) An applicant wishing to extend the time for removal or to initiate reactivation shall submit a letter to the department stating the reason for such extension. The director may extend the time for removal or reactivation up to 90 additional calendar days upon a showing of good cause.

(Ord. 15-016, § 2 (part), 2015)

17.67.140 TRANSFER OF A CONDITIONAL USE PERMIT.

Except as otherwise specified by code, or conditions placed by the commission or director, the privileges and requirements of a permit issued under this chapter shall run with the land.

(Ord. 15-016, § 2 (part), 2015)

17.67.200 NONCONFORMING USES.

(A) Within the borough there may be tall structures which have commenced construction or are in existence as of the effective date of this chapter. Such structures which were lawful before the effective date of this chapter, but which would otherwise be prohibited, regulated or restricted under this chapter, are allowed to continue but shall not be increased in height except as provided in this chapter.

- (1) Structures which have commenced construction as of the date of adoption of this chapter are allowed to be constructed. The height of the structures one year after the date of adoption of this chapter shall be considered the final height of the structure. Such structures may only be expanded in accordance with a permit under this chapter.

(2) Existing or proposed structures which have been granted a conditional use permit under MSB 17.60 are considered to have pre-existing legal nonconforming status and are allowed to continue in accordance with the requirements of the permit but shall not be increased in height except as provided in this chapter.

(3) Structures which are existing as of the date of adoption of this chapter are eligible for pre-existing legal nonconforming status under this chapter.

(4) All telecommunications towers greater than 85 feet shall comply with operations standards required by MSB 17.67.090(C).

(B) Nonconforming tall structures which have commenced construction or are in existence as of the date of this chapter are eligible for pre-existing legal nonconforming status upon submittal of the following:

(1) name, title, and contact numbers of the landowner, applicant, and persons in charge of the operation;

(2) height of structure;

(3) legal description and borough tax account number of the subject parcel;

(4) a certified site plan;

(5) documentation of all signage within the equipment compound;

(6) documentation demonstrating that the structure was in existence or had commenced construction prior to the date of adoption of this chapter; and

(7) a nonrefundable fee as prescribed under MSB 17.99.

(C) Within 15 calendar days of submittal, the director shall issue a determination of incompleteness if the application fails to meet the requirements of this chapter. Rejection of the application for pre-existing legal nonconforming status shall be in writing and shall state the deficient items. Once the deficiencies are corrected, the application shall be accepted as complete.

(D) Pre-existing legal nonconforming status will be determined based on the following:

(1) whether the applicant has demonstrated that the development was constructed legally under the applicable code provisions at the time, if any;

(2) whether the development meets standards in MSB 17.67.090(C).

17.67.300 VIOLATIONS, ENFORCEMENT, AND PENALTIES.

- (A) Remedies, enforcement actions, and penalties shall be consistent with the terms and provisions of MSB 1.45.
- (B) In addition to other applicable penalties, failure to correct the violation of code, after reasonable notice, may result in revocation of the permit.
- (C) Complaints received by the borough of violations of state or federal law will be forwarded to the appropriate agency for enforcement.
- (D) Authorized representatives of the borough shall be allowed to inspect the site and related records at reasonable times for the purpose of monitoring compliance with all permit conditions.
- (E) The permittee shall assist and cooperate with authorized inspections upon reasonable notice from the borough.

(Ord. 15-016, § 2 (part), 2015)

17.67.400 APPEAL PROCEDURE.

The provisions of MSB 15.39 govern appeals from a decision of the commission or the director, except for appeals from decisions on a network improvement permit. Decisions on a network improvement permit shall be appealed to a court of competent jurisdiction.

(Ord. 15-016, § 2 (part), 2015)