

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2025-17

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA AUTHORIZING THE ADMINISTRATOR TO CONTRACT WITH THE STATE OF ALASKA OFFICE OF ADMINISTRATIVE HEARINGS RE: APPEAL OF PLANNING AND ZONING COMMISSION’S DECISION ON CELL TOWER VARIANCE (P&Z NO. VAR 25-01)

1. **CLASSIFICATION.** This ordinance is not of a permanent nature and is not intended to become a part of the Sitka General Code (SGC).

2. **SEVERABILITY.** If any provision of this ordinance or any application to any person or circumstance is held invalid, the remainder of this ordinance and application to any person or circumstance shall not be affected.

3. **PURPOSE.** The purpose of this ordinance is to authorize the Administrator to contract with the State of Alaska Office of Administrative Hearings (“OAH”) to serve as Board of Adjustment due to a majority of the sitting Assembly recusing themselves from serving as the Board of Adjustment because of conflicts of interest and/or ex parte communications and/or actual or apparent bias.

4. **ENACTMENT.** NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka, upon finding as follows:

(1) The Assembly does not meet the quorum requirements to act as the Board of Adjustment in this matter because a majority of the Assembly members have recused themselves due to conflicts of interest and/or ex parte communications and/or actual or apparent bias.

(2) The Sitka General Code does not have any provisions for delegating the Assembly’s powers to serve as the Board of Adjustment.

(3) It is in the interest of justice and the parties’ due process rights that an appropriate body hears the appeal of the Planning and Zoning Commission’s denial of a variance for a cell tower requested by Tlingit and Haida, Tidal Network, (P&Z No. VAR 25-01) by referring this matter to the Office of Administrative Hearings.

(4) Per AS 44.64.055 the Office of Administrative Hearings is an appropriate body and may contract with municipalities to hear appeals.

Thereby, the authority of the Assembly to act as the Board of Adjustment for hearing the appeal of VAR 25-01 is delegated to the Office of Administrative Hearings.

48 **5. EFFECTIVE DATE.** This ordinance shall become effective on the day after the
49 date of its passage.

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51 **PASSED, APPROVED, AND ADOPTED** by the Assembly of the City and
52 Borough of Sitka, Alaska, this 8th day of July, 2025.

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Steven Eisenbeisz, Mayor

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59 ATTEST:

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63 Sara Peterson, MMC

64 Municipal Clerk

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66 1st reading: 6/24/2025

67 2nd reading: 7/8/2025

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69 Sponsor: Administrator

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