

*Record in the Petersburg Recording District*

## **SPECIAL USE PERMIT**

This **SPECIAL USE PERMIT**, issued by the Petersburg Borough, Alaska, PO Box 329, Petersburg, Alaska 99833 ("the Borough"), will allow Aaron and Jodi Severson, PO Box 507, Petersburg, Alaska 99833 ("Permittee") to install and maintain a driveway on the **NOSEEUM STREET RIGHT OF WAY AT PEARL F. STREET, as depicted in Exhibit A, to provide access for development of Parcel #01-011-428, Lot 7 of Block 285, Severson Addition Subdivision, Plat #74-726; and**

Whereas, the Planning Commission, on December 8, 2015, recommended the approval of a Special Use Permit to construct and maintain a driveway on the Noseeum Street right-of-way at Pearl F. Street, to provide access for development of Parcel #01-011-428, Lot 7 of Block 285, Severson Addition Subdivision, Plat #74-726, upon the following terms and conditions:

- 1) The Permittee agrees a copy of this Special Use Permit shall be duly recorded in the Petersburg Recording District, the cost of which shall be borne by the Permittee.
- 2) The Permittee shall indemnify and save harmless the Borough from and against any and all losses, damages, liabilities, expenses, claims and demands of whatsoever character, whether or not due to the Borough's negligence, direct or indirect, resulting from the Permittee's construction, maintenance and use of the permitted driveway, or the use or entry upon the permitted driveway by any other person or entity.
- 3) No future claim of title is granted to the Permittee to that portion of the Noseeum Street right-of-way at Pearl F. Street on which the driveway is constructed.
- 4) The Permittee agrees to be wholly responsible for the construction, installation and maintenance of the driveway and acknowledges the Borough has no responsibility whatsoever for construction, installation, maintenance, upkeep or repair of the driveway. Permittee further agrees to abide by following specific conditions:
  - a. Permittee must provide copy of Army Corps of Engineers permit prior to filling wetlands at the site, if deemed necessary by the Corps.

- b. Applicant should ensure project doesn't impact local drainage and should install a drainage culvert (minimum diameter 12") if it is determined water will pool on either side of driveway.
  - c. Applicant understands that as part of the snow removal, the borough may plow snow up to their driveway and may push snow into the right of way past their driveway. Notwithstanding these activities, this remains a private driveway and the borough has no responsibility to plow or maintain a private driveway.
  - d. Applicant understands that if a developer decides to develop property in the vicinity, the developer will be required to supply a public roadway and utilities to serve their prospective lots, as required under municipal code. This would likely obliterate the applicant's driveway fill and they should expect no reimbursement for any portion of their driveway that may be removed as part of permanent road/utility construction.
- 5) The Permittee acknowledges that in the event the Borough proceeds with the development of the Noseeum Street right of way at Pearl F. Street, the Permittee shall remove, at its own expense, any improvements constructed by authority of this Permit, as deemed necessary by the Borough, and that the Permittee may be assessed for construction and/or installation of Borough owned improvements in addition to other assessments as may be required by the Borough.
- 6) The Permittee shall not hold exclusive rights to use all or any portion of the Noseeum Street right-of-way, and the Noseeum Street right-of-way shall remain open to public access regardless of improvements made by the Permittee.
- 7) If the Permittee keeps, observes, and performs all of the terms and conditions of this Permit, the Permittee and the Permittee's successors in title may peaceably and quietly hold and enjoy the premises for an indefinite term, provided however, that the Borough reserves the right to terminate this Permit, upon one (1) year written notice of intent to terminate. Upon termination of this Permit, the Permittee shall return the premises to the Borough in its original condition or as otherwise may be agreed.
- 8) The Permittee acknowledges that violation of any condition of this permit shall result in the revocation of the permit, and further use of the property shall constitute a violation of the municipal code and shall be punishable accordingly.
- 9) The Permittee acknowledges that this permit shall expire unless the privileges granted are utilized within one year after the granting of the special use permit. Any permittee holding an un-expired permit may apply for an extension of the time within which the Permittee may commence work under that permit when the permittee is unable to commence work within the time required by the municipal code. The Borough Assembly may extend the time for action by the Permittee for a period not exceeding one year upon written request by the Permittee showing that circumstances beyond the control of the Permittee have prevented action from

10) The Permittee acknowledges that the Borough Assembly may, in writing, suspend or revoke a permit issued under the provisions of the municipal code whenever a permit is issued in error or on the basis of incorrect information supplied, or in violation of any ordinance or regulation or any provisions of the municipal code.

PERMITTEE: \_\_\_\_\_

THIS IS TO CERTIFY that on this \_\_\_\_ day of \_\_\_\_\_, 2015, before the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared \_\_\_\_\_ to me known to be the person or persons described in \_\_\_\_\_ and who executed the above and foregoing instrument, and acknowledged to me that he, she or they signed the same freely and voluntarily for the uses and purposes therein mentioned.

(SEAL)

**PETERSBURG BOROUGH, ALASKA:**

BOROUGH MANAGER

BOROUGH CLERK

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

STATE OF ALASKA

)

) ss.

FIRST JUDICIAL DISTRICT

)

THIS IS TO CERTIFY that on this \_\_\_\_ day of \_\_\_\_\_, 2015, before the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared \_\_\_\_\_ and \_\_\_\_\_ to me known to be the Borough Manager and Borough Clerk of the Petersburg Borough, respectively, and acknowledged to me that they have the authority to execute this instrument on behalf of the Petersburg Borough for the uses and purposes therein mentioned..

\_\_\_\_\_  
Notary Public in and for the State of Alaska residing at  
Petersburg, Alaska.

My commission expires \_\_\_\_\_.

(SEAL)

*Return to:*

*Borough Clerk  
Petersburg Borough  
PO Box 329  
Petersburg, Alaska 99833*