



CITY AND BOROUGH OF SITKA

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT

SUPPLEMENTAL APPLICATION FORM

VARIANCE

APPLICATION FOR

- ☐ ZONING VARIANCE – MINOR EXPANSIONS, SMALL STRUCTURES, FENCES, SIGNS
- ☐ ZONING VARIANCE – MAJOR STRUCTURES OR EXPANSIONS
- ☐ PLATTING VARIANCE – WHEN SUBDIVIDING

RATIONALE - Alaska Statute 29.40.040(b)3 states that a variance may not be granted solely to relieve financial hardship or inconvenience. Explain why a variance is required for your project.

POTENTIAL IMPACTS (Please address each item in regard to your proposal)

- **TRAFFIC** _____

- **PARKING** _____

- **NOISE** _____

- **PUBLIC HEALTH AND SAFETY** _____

- **HABITAT** _____

- **PROPERTY VALUE/NEIGHBORHOOD HARMONY** _____

- **COMPREHENSIVE PLAN** _____

Last Name

Date Submitted

Project Address

REQUIRED FINDINGS (Choose ONE applicable type and explain how your project meets these criterion):

Major Zoning Variance (Sitka General Code 22.30.160(D)1)

Required Findings for Variances Involving Major Structures or Expansions. Before any variance is granted, it shall be shown:

- a. That there are special circumstances to the intended use that do not apply generally to the other properties. Special circumstances may include the shape of the parcel, the topography of the lot, the size or dimensions of the parcels, the orientation or placement of existing structures, or other circumstances that are outside the control of the property owner, specifically, _____
_____;
- b. The variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other properties but are denied to this parcel; such uses may include the placement of garages or the expansion of structures that are commonly constructed on other parcels in the vicinity, specifically, _____
_____;
- c. That the granting of such a variance will not be materially detrimental to the public welfare or injurious to the property, nearby parcels or public infrastructure, specifically, _____
_____;
- d. That the granting of such a variance will not adversely affect the comprehensive plan, specifically, (cite section and explain) _____

_____.

Minor Zoning Variance (Sitka General Code 22.30.160(D)2)

Required Findings for Minor Expansions, Small Structures, Fences, and Signs.

- a. The municipality finds that the necessary threshold for granting this variance should be lower than thresholds for variances involving major structures or major expansions, specifically, _____
_____;
- b. The granting of the variance is not injurious to nearby properties or improvements _____
_____;
- c. The granting of the variance furthers an appropriate use of the property, specifically, _____
_____.

Platting Variance (Sitka General Code 21.48.010)

A variance from the requirements of this title may be granted only if the planning commission finds that:

- A. The granting of a platting variance will not be detrimental to the public safety, or welfare, or injurious to adjacent property, specifically, _____
_____.
- B. The tract to be subdivided is of such unusual size and shape or topographical conditions that the strict application of the requirements of this title will result in undue and substantial hardship to the owner of the property, specifically, _____
_____.

ANY ADDITIONAL COMMENTS _____

REVIEWED

By David Longtin at 4:16 pm, Jun 25, 2020

Applicant

Date

Last Name

Date Submitted

Project Address

David Longtin

From: Schuler, Michael K (DOT) <michael.schuler@alaska.gov>
Sent: Monday, March 2, 2020 9:29 AM
To: David Longtin
Subject: Encroachment Permit SIT 19-021
Attachments: SIT 19-021 PDF.pdf

Hi David,

Attached is the encroachment permit for John's signature and notarization. I only need the signature page in return and then I'll fill in the dates, execute it and ship it back to you.

Thanks!

Michael K. Schuler

Property Management Officer
Dept. of Transportation and Public Facilities
Southcoast Region Right of Way Section
P.O. Box 112506
Juneau AK. 99811

(907) 465-4499



**STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
Division of Statewide Design & Engineering Services
Right-of-Way**

ENCROACHMENT PERMIT

ENCROACHMENT PERMIT NO. SIT 19-021

THIS PERMIT is issued and effective on this day of March, 2020 at Sitka, Alaska, by the **STATE OF ALASKA, DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES, SOUTHCOST REGION RIGHT-OF-WAY**, whose mailing address is **PO Box 112506 Juneau, Alaska 99811-2506**, acting through its Commissioner and referred to as the “State”, and the **CITY AND BOROUGH OF SITKA**, referred to as “Permittee,” whose mailing address is **100 Lincoln Street, Sitka, AK. 99835**

Permittee may occupy the following described right-of-way and is referred to hereinafter as the “Permitted Area”:

An unsurveyed portion of state right of way adjacent to Sawmill Cove Industrial Park Re-subdivision No. 2, Lot 17 and Lot 18, with the physical address of 4658 Sawmill Creek Road in the Sitka Recording District, First Judicial District, State of Alaska.

This permit is subject to the provisions of Alaska Administrative Code, Title 17, Chapter 010, and the following general and special conditions:

1. **Allowed Use:** The permitted area is to be used for a chain-link fence, storage of materials, maintenance for access around the building (to be constructed outside the State Right of Way), and no other purpose.
2. **Annual Fee:** There is no annual fee for this permit.

Fee Determination

The Permittee must pay fair market value or a \$100 annual fee for the use of the land, whichever amount is greater. The Permittee is responsible for costs incurred for hiring a State certified appraiser for the preparation of a Narrative Appraisal Report, if an appraisal is required.

3. **Term:** Permittee may occupy the permitted area for a term (not to exceed five years) commencing on **March __, 2020**, and ending on **March __, 2025** unless sooner revoked as provided herein. Before the expiration of said term, and before subsequent term anniversary dates, Permittee may request, in writing, renewal of this Permit for an additional term. Permittee must pay a nonrefundable \$100 reapplication fee each time a request is filed to renew or modify this Permit.
4. **Compliance with Laws:** Permittee shall comply with all laws, ordinances, regulations, and administrative agency and/or court orders, including those relating to health, safety, noise, environmental protection, waste disposal, hazardous or toxic materials, and water and air quality. No fuel, hazardous or combustible substances are to be stored in the Permit area. Should Permittee's use of the permitted area cause any discharge, leak, spill, emission, or pollution release of any type to occur at any time during this occupancy, Permittee shall immediately notify the State and the appropriate federal, state, and local authorities. Permittee shall act immediately to contain and/or absorb the release, repair any damage, and clean up the release area, and to restore the permitted area to compliance with all applicable state, federal, or local laws or regulations. Permittee shall be held liable for any and all costs incurred by the State to dispose of cleanup materials or to clean up the permitted area unless otherwise agreed to, in writing, by both parties.
5. **Corps of Engineers Authorization:** Before any filling activities take place within the right-of-way, or on the property adjacent to the right-of-way affected by this permit, please contact the U.S. Army Corps of Engineers (USACE) to see if any further authorization is required. Placement of fill material in waters of the U.S., including wetlands and streams, requires prior authorization in most cases. You can reach the USACE at

Anchorage: (907) 753-2712, Fax: (907) 753-5567 Toll Free 1-800-478-2712
Fairbanks: (907) 474-2166, Fax: (907) 474-2164
Juneau: (907) 790-4490, Fax: (907) 790-4499
Kenai: (907) 283-3519, Fax: (907) 283-3981

The website is <http://www.poa.usace.army.mil/reg>
6. **Indemnification:** Permittee shall indemnify, defend and hold harmless the State, and its officers, employees, and contractors, from any claim resulting from injury, loss, or damage to any person or personal property resulting from Permittee's use of the permitted area.
7. **Waiver of Claims:** Permittee waives any claim or right of action Permittee may have against the State in the event of damage to property, and injury to or death of any person in the permitted area that arises because of the design, construction, maintenance, management, or operation of a highway in the right of way containing the permitted area.

8. **Reimbursement of Costs:** Permittee shall reimburse the State for all costs and expenses incurred by the State, including attorney's fees, in any action brought by the State to recover any delinquent fees, or for the breach of any terms or conditions contained in this Permit, or to recover possession of the permitted area.
9. **Non-discrimination:** No person, on the basis of race, religion, color, national origin, age, or sex, shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in that person's use of the permitted area.
10. **Assignment:** Permittee may not assign or transfer this permit.
11. **Revocation:** This Permit is not a property right but a temporary authorization, revocable by the State. The State may revoke this permit in its sole discretion and upon 30 days written notice unless a shorter period is agreed to herein by Permittee. Said notice will be sent to Permittee's last known mailing address. Permittee shall have no right of action against the State. Upon the expiration or revocation of this Permit, Permittee shall remove all encroachments and restore the permitted area to a clean and safe condition. This Permit may be also revoked based upon a written determination by the Federal Highway Administration that federal funding requirements applicable to outdoor advertising have been violated.
12. **Loss of Business:** The State is not responsible for loss of business.
13. **No Relocation Benefits:** Issuance of this Permit does not entitle Permittee to a payment of just compensation or relocation benefits under AS 34.60 if Permit is revoked, Permittee elects not to renew, or the State denies Permittee's request for renewal.
14. **Cancellation by Permittee:** Permittee may cancel this Permit by providing written notice to the State at the above address. Permittee is not entitled to a refund of any fees or expenses related to the revocation or cancellation of this Permit.
15. **Abandonment by Permittee:** Upon abandonment by Permittee of the permitted area, Permittee's rights under this Permit will immediately terminate, but Permittee's obligations will survive until fulfilled.
16. **SPECIAL STIPULATIONS: DOT&PF**

IN WITNESS WHEREOF the parties hereto have set their hands and seals the day and year in this Permit first above written.

PERMITTEE

By: _____
JOHN LEACH
Municipal Administrator

STATE OF ALASKA)
 : ss.
FIRST JUDICIAL DISTRICT)

Notary Public for Alaska
My Commission Expires:

STATE OF ALASKA)
 : ss.
FIRST JUDICIAL DISTRICT)

Notary Public for Alaska
My Commission Expires:

Title 17 -- Chapter 10
Excerpts Relating to Encroachment Permits

17 AAC 10.010. ENCROACHMENTS. An encroachment may be installed within a highway right-of-way if the encroachment has been permitted by the department under this chapter.

17 AAC 10.011. TYPES OF ENCROACHMENTS AUTHORIZED. (a) The department may issue at no cost an encroachment permit for use of a highway right-of-way by a municipality, state agency, or federal agency, subject to any conditions imposed under 17 AAC 10.014, if the municipality or agency is not acting in a business capacity. The permit will be issued on a form that the department prescribes. Permitted uses include

- (1) flags of states or nations;
- (2) decorative banners; and
- (3) signs, without logos or names of sponsors, that are intended to inform motorists that they are entering a municipality, community, or state.

(b) The department may issue an encroachment permit for the use of a highway right-of-way by a private person, or by a government agency acting in a business capacity, to an owner or lessee of land contiguous to the highway right-of-way where the owner or lessee's primary activity occurs, if the use complies with the requirements of 17 AAC 10.012, and the use is allowed under (c) of this section. The department may impose permit conditions under 17 AAC 10.014. An encroachment permit issued under this subsection is valid for a term of no more than five years for a specific use. The department may renew the permit for additional subsequent terms of no more than five years each. The permit will be issued on a form that the department prescribes. A permit applicant must pay a \$100 nonrefundable application fee. In addition, the permittee must pay economic rent established under 17 AAC 10.013, or \$100 annually, for the use of the land, whichever amount is greater. A permittee must pay a nonrefundable \$100 reapplication fee each time the permittee files a request to renew the permit. Upon renewal of the permit, the permittee must pay economic rent, as established under 17 AAC 10.013 as of the date of extension, or \$100 annually, whichever amount is greater. The department may revoke an encroachment permit before the end of its term, after notice issued to the permittee at least 30 days before the date of revocation. The issuance of a permit under AS 19.25, or this chapter does not entitle the permittee to a payment of just compensation or relocation benefits under AS 34.60, if a permit is revoked or a request for renewal is denied.

(c) An encroachment permit issued under (b) of this section allows any lawful use except the following:

- (1) any permanent structure located partially or completely in the right-of-way;
- (2) water and sewer facilities that the department has not permitted under 17 AAC 15;
- (3) a tank of any size;
- (4) fueling facilities;
- (5) repealed 3/1/2002;
- (6) a use not in the best interest of the state; and
- (7) a land use on a highway right-of-way that allows development on contiguous land that would not otherwise be possible without the use of the highway right-of-way.

(d) The land area described in the encroachment permit may not be used to meet minimum requirements for a contiguous land use under applicable municipal land use standards or under regulations adopted by the Department of Environmental Conservation. The contiguous land use must meet those minimum requirements without regard to the land contained within the encroachment permit.

The use of the land described in the encroachment permit must be an accessory use to the contiguous land use.

(e) After the completion of construction of a highway, the department may, subject to 17 AAC 10.014, issue at no cost an encroachment permit in the form of a beautification permit to a government agency, a municipality, an individual, or a non-profit organization to allow planting of trees, shrubs, grasses, or flowers, and any structures necessary to support the plants, that do not endanger motorists, bicyclists, or pedestrians within the highway right-of-way. A beautification permit will be issued on a form that the department prescribes. The department may attach to a beautification permit any condition that is necessary to protect the integrity and safety of a highway's design, and to protect the traveling public or the persons planting trees, shrubs, grasses, and flowers within the highway right-of-way. The department may remove trees, shrubs, grasses, or flowers planted in a highway right-of-way, or structures supporting the plants, under a beautification permit that become a hazard to the traveling public, interfere with a highway's maintenance or operation, interfere with construction on a highway, or threaten to damage a highway embankment.

(f) The department may issue an encroachment permit on a form it prescribes, at no cost to a government agency for the installation in highway rest stops or pullouts of commemorative plaques, historical or interpretive markers, and informational signs. The plaques, markers, and signs may be permitted only if they cannot be read from the highway.

(g) The provisions of this section do not apply to driveway permits issued under 17 AAC 10.020, utility permits issued under 17 AAC 15, or the installation of mail boxes, including newspaper boxes, within a highway right-of-way.

(h) The department may issue under (b) of this section an encroachment permit for an existing structure or a portion of that structure or for existing water or sewer facilities for which the department has not issued a utility permit issued under 17 AAC 15, if

- (1) the encroachment does not present a risk to the health or safety of the public;
- (2) the construction of the encroachment occurred in good faith; and
- (3) the denial of the permit would create a hardship for the owner of the encroachment.

17 AAC 10.012. APPROVAL REQUIREMENTS FOR ENCROACHMENTS. The department will, in its discretion, grant an encroachment permit under 17 AAC 10.011, if the department determines that

- (1) the integrity and safety of the highway is not compromised;
- (2) the issuance of the permit will not cause a break in access control for the highway;
- (3) the land will not be necessary for a highway construction project during the initial term of the permit; and
- (4) issuing the permit is in the best interest of the state.

17 AAC 10.013. ESTABLISHING ECONOMIC RENT. For purposes of 17 AAC 10.011(b), the department will establish economic rent for a right-of-way held in fee simple by the use of commonly accepted real estate appraisal techniques. For rights-of-way held as easements, the consideration for the issuance of the permit is 90 percent of the economic rent established under this section for a right-of-way held in fee simple. A permittee shall reimburse the department for appraisal costs incurred to determine economic rent.

17 AAC 10.014. ADDITIONAL CONDITIONS UPON ENCROACHMENT PERMITS. The department will, in its discretion, impose conditions upon encroachment permits necessary to protect the traveling public, the safety and integrity of a highway's design, the public interest, and the best interests of the state.