



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

ENCROACHMENT PERMIT
(Short Form)

ENCROACHMENT PERMIT NO.

THIS PERMIT is issued and effective this day of , 2 at , Alaska, by the State of Alaska, Department of Transportation and Public Facilities, Region Right-of-Way, whose mailing address is , acting through its Commissioner and referred to as the "State", and , referred to as "Permittee," whose mailing address is: .

Permittee may occupy the following described right-of-way, which is shown on the attached drawing, and is referred to hereinafter as the "permitted area:"

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 , and for no other purpose.
2. **Annual Fee:** Permittee will pay in advance and without notice, an annual fee in the amount of \$. The first year fee will be due on the effective date of this Permit. Thereafter, subsequent annual fees are due January 1st of each successive year of the term of the Permit. Any additional fees are specified in Special Conditions noted below. All payments required by this Permit must be made with a check or money order. A late fee of \$50 will become due and payable after January 10th of each year, during the term of this Permit. Permittee will be considered in default if payment is not received by January 15th of each year, during the term of this Permit. Permittee shall pay the State a \$25 service charge on all checks returned for nonsufficient funds.

All payments shall be sent to DOT&PF, Finance Section, P.O. Box 196900, Anchorage, Alaska, 99519-6900. Checks must be payable to the State of Alaska. Interest, at the legal rate provided for in AS 45.45.010, shall accrue on any delinquent payment from its due date until payment is made in full.
3. **Term:** Permittee may occupy the permitted area for a term (not to exceed five years) commencing on / /2 and ending on / /2 , 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. **Use by the State:** The issuance of this Permit notwithstanding, the permitted area's primary use is for transportation purposes. The State may revoke this permit (as stated below), and/or enter the permitted area at any time, without notice, for emergency use, or for the planning, design, construction, inspection, or maintenance of existing or future transportation facilities. Any such use of the permitted area will in no way invoke the protections provided under 23 USC Section 138 (Preservation of Parklands).
5. **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.

6. **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>

7. **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.
8. **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.
9. **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.
10. **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.
11. **Assignment:** Permittee may not assign or transfer this permit.
12. **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.
13. **Loss of Business:** The State is not responsible for loss of business.
14. **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.
15. **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.
16. **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.

17. **SPECIAL CONDITIONS:**

- a) .
- b) .
- c) .
- d) .
- e) .
- f) .

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

ALASKA DEPARTMENT OF
TRANSPORTATION AND PUBLIC FACILITIES

PERMITTEE

By: _____ By: _____

Regional Director
Region

Concurrence of Federal Highway Administration per letter dated / /2
(Required if right-of-way was acquired for a Federal-aid highway.)

ACKNOWLEDGMENT OF DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

STATE OF ALASKA)
 : ss.
JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me / /2 , by
, Regional Director of Region.

Notary Public for Alaska
My Commission Expires: _____

ACKNOWLEDGMENT OF PERMITTEE

STATE OF ALASKA)
 : ss.
JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me / /2 , by

Notary Public for Alaska
My Commission Expires: _____