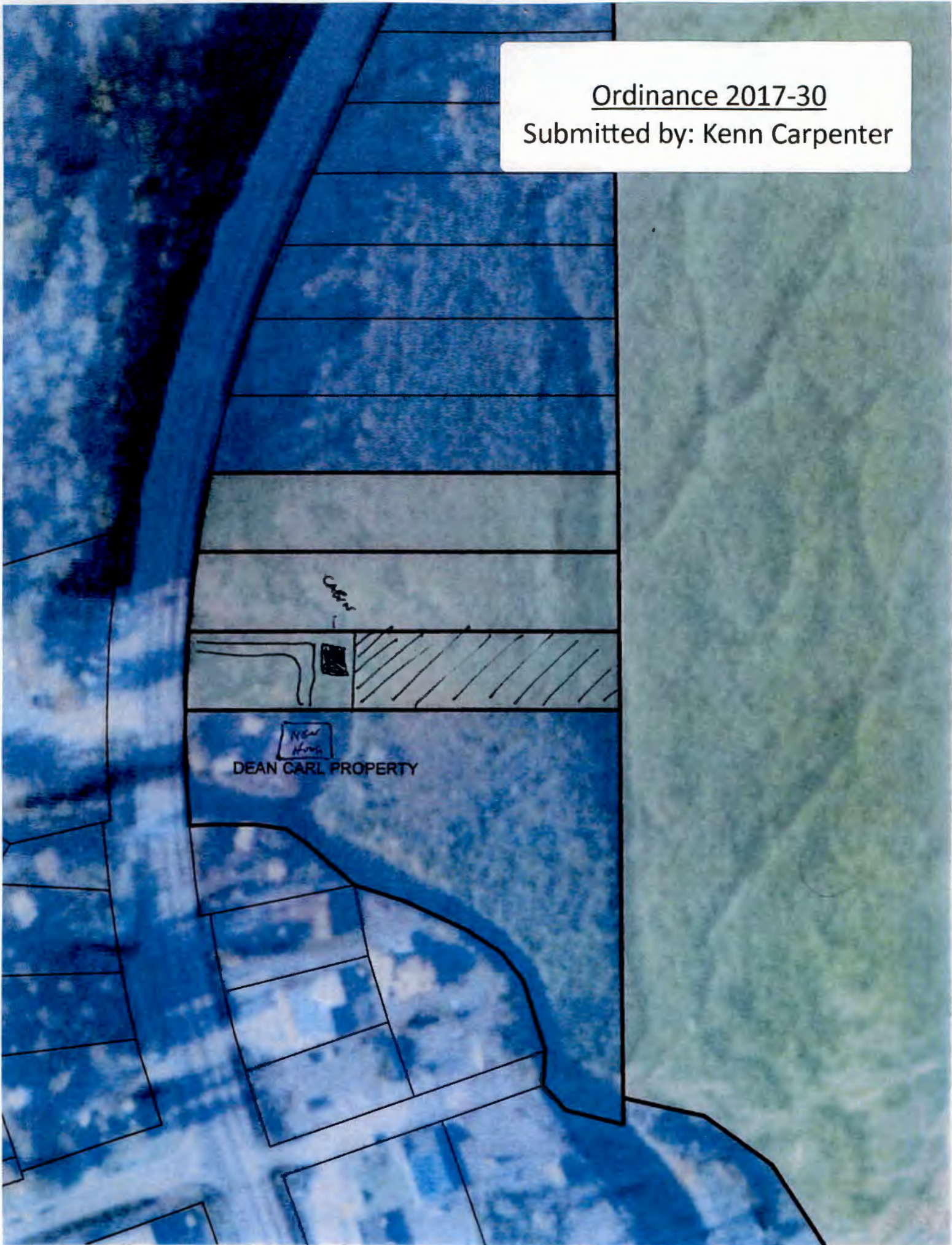


Ordinance 2017-30  
Submitted by: Kenn Carpenter





Ordinance 2017-30



Submitted By:  
K. Carpenter





02017-30

**Grantor's Contact Information**

Name: Dean Carl

Mailing Address:

P.O. Box 1413

Seward, Alaska 99664

Telephone Number:

907-362-3611

**Grantee's Contact Information**

Kenai Peninsula Borough

144 N. Binkley Street

Soldotna, Alaska 99669

(907) 262-4441

**TEMPORARY USAGE PERMIT**

The GRANTOR, Dean Carl, whose address is 11848 Seward Hwy, Seward, Alaska, gives to the GRANTEE, Kenai Peninsula Borough, a Municipal Corporation, on behalf of the Seward/ Bear Creek Flood Service Area, whose address is 144 N. Binkley Street, Soldotna, Alaska 99669, its agents, employees, contractors, or subcontractors permission to enter upon all that portion of the following described tract of land:

14406002 - T 2N R 2W SEC 27 SEWARD MERIDIAN SW 0000022 MCBRIDE SUB LOT 1

Purpose:

This permission is given for the purpose of heavy equipment to access the grantor's property, remove gravel and other debris from the Clear Creek channel, restore the western embankment of Clear Creek, including the placement of armored rock to mitigate area flood damage.

Other Provisions:

This work is to be performed within the scope of permits obtained by the Grantee governing excavation and/ or other work on said property. Excavated material will be distributed reasonably evenly along creek banks.

Either party may cancel this temporary usage permit with 15 days' written notice. In any case this temporary usage permit shall terminate on December 31, 2021.

Grantor understands, agrees and accepts that Grantee makes no representation or warranty as to the efficacy or effectiveness of work performed on Property in preventing future flooding damage to Grantor's property or the property of others.

**Grantee Agrees to the Following:**

1. To secure all necessary permitting prior to excavation of materials from streambeds.

2. Except for claims arising out of the Grantor's sole negligence or willful misconduct, the Grantee shall indemnify, defend, save, and hold the Grantor harmless from any and all claims, lawsuits or liability, including costs and attorney's fees allegedly arising from loss, damage, injury, or death to persons or property, whether tangible or intangible, occurring in the course of the Grantee's work performed pursuant to the temporary usage permit. This indemnification shall terminate concurrently with the termination of the temporary usage permit and is subject to the appropriation and availability of funds by the Kenai Peninsula Borough Assembly.
3. The Grantee's agreement to indemnify, defend, save and hold harmless the Grantor as stated above does not in any way shape or form constitute a waiver of any defense, affirmative defense, or claim of immunity that it may raise on its own behalf, or on the behalf of others. There shall be no third-party beneficiaries of this Permit, and this Permit shall not be deemed to create, confer or evidence any rights or remedies whatsoever on any third party.

By signing this Temporary Usage Permit, the Grantor or the Grantor's authorized agent or representative represents that he or she is fully authorized to give permission to the Grantee to enter said property to conduct the activities described above.

GRANTOR:

Dean Carl  
Dean Carl

Dated: 8-10-17

GRANTEE:

Mike Navarre  
Mike Navarre, Mayor

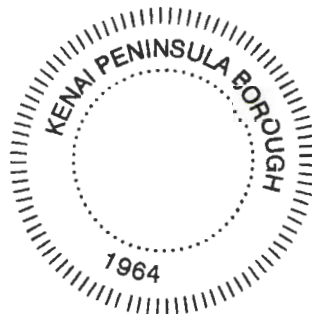
Dated: Oct 26 2017

ATTEST:

Josie Blankenship  
Borough Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY BY:

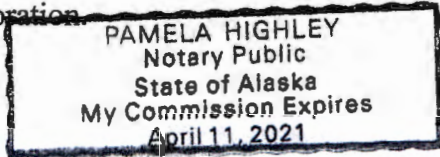
[Signature]  
Borough Attorney



Grantee's notary

STATE OF ALASKA                     )  
   ) ss.  
THIRD JUDICIAL DISTRICT         )

The foregoing instrument was acknowledged before me this 26<sup>th</sup> day of October 2017, by Garry Persily Sr, Mayor of the Kenai Peninsula Borough, an Alaska municipal corporation, for the corporation on behalf of the corporation.

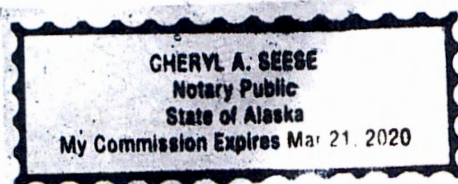


Pamela Highley  
Notary Public for State of Alaska  
My Commission Expires: 4-11-2021

Grantor's notary

STATE OF ALASKA                     )  
   ) ss.  
THIRD JUDICIAL DISTRICT         )

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of August 2017, by Deen Carl.



Cheryl A. Seese  
Notary Public for State of Alaska  
My Commission Expires: 3/21/2020