



Petersburg Borough

12 South Nordic Drive
Petersburg, AK 99833

Meeting Agenda Borough Assembly Regular Meeting

Monday, October 09, 2023

12:00 PM

Assembly Chambers

You are invited to a Zoom webinar.
When: October 9, 2023 12:00 PM Alaska
Topic: 10.9.2023 Assembly Meeting

Please click the link below to join the webinar:

[https://petersburgak-
gov.zoom.us/j/85664677161?pwd=gfa8DuWsw6TFKui_7wvu001Rtg83Xw.7eq7khxkSUBu10c
N](https://petersburgak.gov.zoom.us/j/85664677161?pwd=gfa8DuWsw6TFKui_7wvu001Rtg83Xw.7eq7khxkSUBu10cN)

Passcode: 405883

Or Telephone: (720) 707-2699 or (253) 205-0468
Webinar ID: 856 6467 7161
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1. **Call To Order/Roll Call**
2. **Voluntary Pledge of Allegiance**
3. **410 Mitkof Highway Dangerous Building Findings of Fact and Order**

A. 410 Mitkof Highway Findings of Fact, Conclusions and Order to Vacate Until Repairs are Completed

At a non-compliance hearing held on Monday, September 18, 2023, the Assembly unanimously determined the structure located at 410 Mitkof Highway meets the definition of a Dangerous Building, as defined under Municipal Code 9.20.010(I) and (J), and directed Borough staff to draft findings of fact and an order to vacate the structure until it is connected to the Borough's sanitary sewer system for consideration and approval.

4. Certification of the 2023 Municipal Election

A. Questioned and Absentee Ballots

Any qualified questioned or absentee ballots received prior to meeting time and post marked on or before October 3, 2023, will be opened and counted.

B. 2023 Certificate of Election

A motion to accept and approve the Certificate of Election, as updated at this meeting, is required to certify the election results. Upon certification of the election, the elected candidates will begin their terms of office.

5. Oath of Office

Clerk Thompson will give the Oath of Office to new Assembly Members.

6. Approval of Minutes

A. September 18, 2023 Assembly Meeting Minutes

7. Public Hearings

8. Amendment and Approval of Meeting Agenda

9. Bid Awards

10. Persons to be Heard Related to Agenda

Persons wishing to share their views on any item on today's agenda may do so at this time.

11. Persons to be Heard Unrelated to Agenda

Persons with views on subjects not on today's agenda may share those views at this time.

12. Boards, Commission and Committee Reports

13. Consent Agenda

14. Report of Other Officers

A. Petersburg Medical Center

PMC CEO Phil Hofstetter will provide a report.

15. Mayor's Report

A. October 9, 2023 Mayor's Report

16. Manager's Report

A. October 9, 2023 Manager's Report

17. Unfinished Business

18. New Business

A. Ordinance #2023-14: An Ordinance Amending the Official Zoning Map for Service Area 1 of the Petersburg Borough to Rezone Lot GL 14 Section 33, Township 58 South, Range 79 East, Copper River Meridian, (Parcel #01-010-600) from Public Use (P-1) to Single-Family Mobile Home (SFMH)

If approved in three readings, Ordinance #2023-14 will rezone Lot GL 14, owned by Skylark Park, LLC, from Public Use to Single-family Mobile Home. Skylark Park, LLC

applied for the zoning amendment, stating the intended use for the property is to subdivide the parcel into lots for placement of manufactured homes. The Planning Commission recommends the rezone request be approved.

B. Resolution #2023-13: A Resolution Authorizing the Application for, and Execution of, a State Revolving Fund Loan

If approved, Resolution #2023-13 will allow the Borough to apply for a loan increase from the Alaska Department of Environmental Conservation's Alaska Clean Water Fund in the amount of \$2,977,177 for the Pump Station 4 Force Main project.

C. Letter to the Alaska Department of Natural Resources Regarding the Alaska Mental Health Trust's Proposed South Mitkof Subdivision

The letter to DNR will explain the Assembly's denial to sign the plat accepting the proposed subdivision's easements and rights-of-way.

19. Communications

A. Correspondence Received Since September 14, 2023

20. Assembly Discussion Items

A. Wastewater Treatment Mandates

Assembly Member Marsh requested a discussion regarding the mandated upgrades to the Borough's wastewater treatment system.

B. Assembly Member Comments

C. Recognitions

21. Adjourn



ORDER TO VACATE DANGEROUS BUILDING UNTIL REPAIRS ARE COMPLETED

(Issued by the Borough Assembly under PMC 9.20.090)

Pursuant to Petersburg Municipal Code (PMC) 9.20.060, of Chapter 9.20 - *Dangerous Buildings*, the Petersburg Borough Assembly conducted a noncompliance hearing on September 18, 2023, during which it heard testimony, and received and reviewed documents, relating to the Report of Noncompliance received from the Borough Building Official/Borough Utility Director relating to the failure of the residential building located at 410 Mitkof Highway to be connected to the borough sanitary sewer system.

Testimony and argument was received from Borough Employee Karl Hagerman (Utility Director), and Ray Wesebaum (Building Official) was available to answer questions via Zoom . Additionally, the owner of the property located at 410 Mitkof, Courtney Johnson, appeared and provided testimony and argument.

By a vote of 7-0, the Assembly determined that the building located at 410 Mitkof Highway in Petersburg, Alaska constitutes a Dangerous Building under the provisions of Chapter 9.20 of the Petersburg Municipal Code. The Assembly hereby adopts the following Findings and Conclusions, and issues the following Order.

FINDINGS

1. Courtney Johnson ("Owner") is the owner of the residential building located at 410 Mitkof Highway in Petersburg, Alaska ("the building" or "the property"). The building is located on a hillside above and adjacent to the Wrangell Narrows.
2. In 2020, borough employees observed a broken sewer pipe and raw sewage on the property. Upon further inspection, it was determined that a) the property had a nonfunctional septic tank, and b) the property is located within 150' of the borough sanitary sewer system, but was not connected to the system as required by borough ordinance. See, Petersburg Municipal Code (PMC) 14.08.080(A).
3. On August 3, 2020, the Borough Utility Director issued a *Notice and Order of Abatement*, directing that the domestic sewer from the building be connected to the Petersburg Borough sanitary sewer system. See, Borough Exhibit A. That *Notice and Order of Abatement* was affirmed upon appeal to the Borough Assembly. See, Borough Exhibit B. The Assembly's Decision on Appeal, dated November 2, 2020, ordered the Owner to abate the nuisance by bringing the property into full compliance with the requirements set out in the *Notice and Order of Abatement* within thirty (30) days.

4. In March of 2021, the Alaska Department of Environmental Conservation (ADEC) issued a Notice of Violation to the property owner, for violation of state domestic wastewater regulations. See, Borough Exhibit D. The Owner has not addressed the violations cited in the ADEC Notice.
5. On August 6, 2021, as the required abatement had not been performed, the borough water service was disconnected. See, Borough Exhibit C.
6. After August of 2021, activity at the building was intermittent and the structure appeared to be largely vacant.
7. In May of 2023, the Borough Utility Director received information that someone was again residing in the building. The Director confirmed this information, and the Borough obtained an administrative search warrant for the premises on June 5, 2023. See, Borough Exhibit E. An inspection of the property was conducted on June 7, 2023.
8. The inspection of the property disclosed that the previously ordered abatement had not occurred. The building is not connected to the borough sanitary sewer system, and an improper outfall line had been installed from the building to a nonworking septic tank, and then from another pipe from the tank running down the hill and onto the beach of Wrangell Narrows.
9. ADEC recommends that a septic tank be pumped every two years at a minimum. The septic tank at the property has likely not been pumped for at least 15 years. Since 2008, neither the Borough nor the private septic pumping company has serviced this septic tank. See, Borough Exhibit B, para. 19.
10. On June 20, 2023, under the provisions of PMC Chapter 9.20, the Borough Building Official/Utility Director issued a *Notice of Dangerous Building*. See, Borough Exhibit F. The *Notice* contained the following determination:

The building is being used as a residence by one or more persons, however the structure is not hooked up to the Borough's sewer system and has no water service due to prior abatement proceedings. The inspection of the property disclosed that an improper outfall line runs from the building to a nonfunctional septic tank and then from the tank down the hill and onto the beach of Wrangell Narrows, resulting in untreated human waste being deposited into public waters.

...

As a result of the continued use and occupancy of the building, the building meets the definition of a dangerous building under the standards of PMC 9.20.010(F) and (I):

F. Those having light, air and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live or may live therein;

...

I. Those which, because of their condition, are unsafe, unsanitary, or dangerous to the health, morals, safety or general welfare of the people of the city; (Exhibit F, pages 1-2, footnotes omitted)

- 11. Attached to the *Notice of Dangerous Building* are photographs showing the septic at the property, with substantial vegetation growing on top and out of the sides. See, Borough Exhibit F, page 8 of 11. The earth and vegetation make the inspection hatches inaccessible. See, Borough Exhibit B, page 3, para. 17.
- 12. The *Notice of Dangerous Building* was sent by electronic mail and certified US mail to the Owner, as well as to the mortgage holders of record. See, Borough Exhibits F, page 11 of 11 and G, page 2 of 3. A separate Notice was also posted on the building. See, Borough Exhibit G, pages 1 and 3.
- 13. The required corrective action set out in the *Notice of Dangerous Building* was as follows:
 - 1. The building must be immediately vacated by all persons until the dangerous condition is fully repaired; and
 - 2. The building must be repaired by properly hooking it up to the Borough sewer and water system within thirty (30) days of the date of this Notice. (Exhibit F, page 2 of 11)
- 14. On July 27, 2023, the Building Official/Utility Director reported to the Assembly that the required corrective action had not been taken. See, Borough Exhibit H. The *Report of Non-Compliance* was sent to the Owner by electronic mail and certified US Mail. See, Exhibit H, page 5 of 5.
- 15. Pursuant to PMC section 9.20.060, the Assembly scheduled a noncompliance hearing for September 18, 2023.
- 16. On August 25, 2023, the *Notice of Noncompliance Hearing* was sent by electronic mail and US mail to the Owner, as well as to the mortgage holders of record. See, Borough Exhibit I.
- 17. On September 18, 2023, the Noncompliance hearing was held before the Assembly. Karl Hagerman, Borough Utility Director, testified and presented documents labeled Exhibit A through J. The property owner, Courtney Johnson, provided testimony. She referred to documents during her testimony, but did not present any to the Assembly.
- 18. At the hearing, the Owner stated, in summary, as follows:

The Owner described how a toilet repair by her brother, and her brother's arrest by a member of the Petersburg Police Department (PPD), resulted in a PPD Officer discovering raw sewage on the property. The Owner stated that she was not personally aware prior to that incident that the building was not connected to the Borough sewer system. She indicated that paperwork she received when she bought the house says it was connected to the Borough's system, but that the owners had passed away so there was no "fact check." She apologized for pumping raw sewage into the ocean. She is a biologist and would never want to do that. She further stated that it is obvious that the building needs to be hooked up to the borough sewer system, and it is going to happen. She is selling the house. The buyer is paying cash and is going to fix the sewer.

The Owner further said she had her dad watch her house while she was working in Florida, to water her plants and make sure no one broke in, and didn't think he used the toilet. She said that she crawled down the hill recently and found a blanket that looked like toilet paper on the beach.

She took pictures of it. She claimed that she hasn't seen raw sewage on the property since the prior incident.

The Owner stated that she received and paid sewer bills from the Borough once she bought the house in 2018. She has her prior sewer bills. She is no longer being billed for sewer. She further stated that she can't afford the cost to hook the building up to the borough sewer system, but she is selling the house and the buyer will come in and talk with the borough and make everything right. She apologized again and said she would never knowingly pump sewage into the ocean. It was never her intention. She stated that she did twice discuss this matter with ADEC, in Juneau, and received tips as to how to fix it.

When asked if she had other witnesses, she stated that her mother was going to call in, and that Sarah Holmgrain was going to email or call in. Her mother, Denise Wicker, called into the meeting, but did not testify. The Owner stated that her mother had intended to testify that she was there in 2020 when her brother was arrested and this issue began, and that she was going "to go in line with everything that is happening." The Borough received no written testimony from Ms. Holmgrain and she did not call into the meeting. The Owner indicated that Ms. Holmgrain, who was involved in the 2018 sale to the Owner, was going to testify that the previous owners told her that the house was hooked up to the borough sewer system. The Owner said that the previous owners "skirted the system". They had 180 days to comply and didn't. Everyone just assumed it was connected.

The Owner stated that she has applied for grants and tried to get loans to fix this. She stated that the federal grants require that the Petersburg Borough apply for them. She said it would have been nice "to have some assistance." The State of Florida helps people replace their septic or hook up to a city system, where possible, by providing \$18,000 to anyone in the state.

- 19. Under the Borough Code, Borough residents are billed for borough sewer after the owners receive a notice to hook up their residence to the borough sanitary sewer system. See, PMC 14.08.080(C).
- 20. The previous owners of 410 Mitkof received a notice to hook up and received monthly borough sewer billings. That carried over to the current owner when she purchased the property.

CONCLUSIONS OF LAW

1. The Borough Assembly has jurisdiction over this matter under Chapter 9.20 of the Petersburg Municipal Code.
2. The *Notice of Dangerous Building* was proper in form and properly posted and served upon the Owner and the mortgage holders of record under PMC 9.20.050(A), (B) and (E).
3. A *Report of Noncompliance* was properly made to the Assembly under PMC 9.20.050(C), a copy of which was sent to the Owner.
4. The *Notice of Noncompliance Hearing* was proper in form and properly served upon the Owner and the mortgage holders of record under PMC 9.20.070.
5. The Noncompliance hearing was properly scheduled, noticed and held, and all interested parties present were provided the opportunity to be heard and to submit documentary evidence.
6. Based upon the testimony and documents submitted, the Assembly finds that the building is a "dangerous building", as defined in PMC 9.20.010, paragraphs (F) and (I).
7. For the reasons stated in the *Report of Noncompliance*, specifically the use of the building as a temporary or permanent residence or otherwise for overnight stays when the building is not connected to the borough sanitary sewer system and human waste is being improperly deposited onto the beach below the building and into the Wrangell Narrows,
 - a. The building's sanitation facilities are inadequate to protect the health, safety and general welfare of human beings who live or may live therein (PMC 9.20.010(F)); and
 - b. The building is unsafe, unsanitary, or dangerous to the health, safety and general welfare of the people of the borough (PMC 9.20.010(I)).

Order

Based upon its finding and conclusions, and pursuant to Borough Code section 9.20.090, the Assembly issues the following order:

IT IS HEREBY ORDERED THAT the building located at 410 Mitkof Highway be immediately vacated, and not used as a temporary or permanent residence or otherwise for overnight stays, unless and until the building is properly connected to the borough sanitary sewer system. The Owner is responsible for compliance with this Order.

IT IS FURTHER ORDERED THAT in the event that the Owner does not comply with the foregoing Order, the Borough may, at its discretion, take all necessary actions to ensure that the building is and remains vacated in compliance with this Order, under authority of PMC 9.20.100. The Borough Building Official and the Borough Utility Director are each authorized to take action on behalf of the Borough to ensure compliance with this Order, and the costs and expense of the same shall be charged to the Owner under authority of PMC 9.20.110.

Dated: _____

By: _____
Mark Jensen, Mayor

Certificate of Service:

This Decision was distributed by Debra K. Thompson, Borough Clerk, on October 10, 2023 to the following:

Via email and certified US Mail:

Courtney Johnson
PO Box 1904
Petersburg, AK 99833
cjohnson5047@gmail.com

Courtney Johnson
13713 Hwy 57
Vanceleave, MS 39565

and

Via certified US Mail:

Alaska Housing Finance Corporation, holder/beneficial owner
PO Box 101020
Anchorage, AK 99510

and

Via email and certified US Mail:

First Bank, lending institution/originator
Loan Servicing
Attn: Heather Borch
2030 Sea Level Drive, Suite 200
Ketchikan, AK 99901
Heather.Borch@firstbankak.com

Debra K. Thompson, Borough Clerk

Notice: This is notification of a Final Decision of the Borough Assembly. This Decision may be appealed by an aggrieved person to the Superior Court, State of Alaska, First Judicial District, within thirty (30) days of the date of mailing, in accordance with the applicable rules of court.



NOTICE AND ORDER OF ABATEMENT

DATE OF NOTICE: August 3, 2020

Property Address: 410 Mitkof Highway

Legal Description: Lot Portion GL 7, Section 10, T59S, R79E.

Parcel ID: 01-084-155

Owner/Responsible Party:

Courtney Johnson

Mailing Address: PO Box 1904 , Petersburg, AK 99833

Contact from the Petersburg Police Department regarding photo evidence of the above property revealed the following code violation(s) as defined by the Petersburg Municipal Code: 14.08.020, 14.08.080 and 9.16.030(B)2

The premises are found to constitute a nuisance and a immediate threat to the public health, safety or welfare or to the environment and therefore subject to abatement. If the nuisance is not corrected by taking the described corrective action by the date specified, the borough may without further prior notice enforce this order and abate the condition under PMC 9.16.070(A)2.

Description of Violations:

Violation of PMC 14.08.020(A) & (B) – Unlawful sewage – Disposal methods designated

Violation of PMC 14.08.080(A) – When connection to public sewer is required

Violation of PMC 9.16.030(B)2 – Nuisance – Unlawful enumeration

Description of Nuisance: Raw sewage, including human excrement, is being discharged from the household onto the hillside and beach of Wrangell Narrows without treatment. There exists a sanitary sewer service lateral pipe which the home must connect to per Municipal Code.

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Corrective Action Required to Abate the Nuisance:

- 1. Area in which the spill is occurring is accessible to the public and domestic pets. The contaminated area must be clearly marked and cordoned off to restrict access.**
- 2. The domestic sewer from the household must be connected to the Petersburg Borough sanitary sewer collection system by way of excavation and plumbing of the household sewer to the existing sewer service lateral. Map showing approximate location of the sewer service lateral is attached.**
- 3. Sewer connection must be completed by a licensed construction contractor (excavation), which must be inspected by the Borough prior to any backfill of the connection point.**
- 4. Site of illegal discharge must be cleansed per DEC Cleanup Guidelines for domestic wastewater spills (enclosed). Access to the area must be restricted for at least 24 hours after the site has been cleansed.**

As the property owner or the person creating, permitting or maintaining the nuisance, you are directed to abate the nuisance by taking the above described corrective action **by no later than 5:00 pm on August 18, 2020.**

If the required corrective action is not taken and the nuisance abated on or before the date and time stated above, the Petersburg Borough may, at its option, disconnect water service under 14.04.130 and/or undertake abatement of the nuisance under PMC 9.16.070(A)2, the cost and expense of either/both shall be charged to you. The borough may also impose civil penalties of \$500/day or seek criminal fines as well as administrative fees against you.

Any person having record title or legal interest in the premises may appeal this notice and order to the Borough Assembly by filing a written appeal with the Borough Clerk's office, on an appeal form provided by the Clerk's office, within 15 days from the date of service of this notice in accordance with section 9.16.080 of the Petersburg Municipal Code. Failure to properly and timely file an appeal shall constitute a waiver of all rights to contest this notice and order.

As this violation constitutes an immediate threat to the public health, we encourage you to act quickly to remedy this situation and are waiving the requirement to obtain a plumbing permit prior to commencement of work.

Please contact me at the phone number below with any questions.

ISSUED BY Karl Hagerman  ON August 3, 2020
PHONE: 907-772-5421 EMAIL: khagerman@petersburgak.gov
Cell Phone: 907-518-4559

Copies of Section 14.08.020, 14.08.080, 14.04.130 and Chapter 9.16 of the Municipal Code are enclosed. Additionally, guidelines from the State of Alaska Department of Environmental Conservation pertaining to the proper way to cleanup a domestic wastewater spill and a map showing you the location of the sanitary sewer lateral pipe where you must connect, are also enclosed.

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14.08.020 - Unlawful sewage—Disposal methods designated.

- A. No person shall place, deposit or permit to be deposited in an unsanitary manner upon public or private property within the borough, or in any area under the jurisdiction of the borough, any human or animal excretion, garbage or other objectionable waste.
- B. No person shall discharge into any natural outlet within the borough, or in any area under the jurisdiction of the borough, any sanitary sewage, industrial waste or other polluted water, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.
- C. Except as provided in this chapter, no person shall construct or maintain any privy, septic tank, cesspool or other facility intended or used for the disposal of sewage.

(Ord. No. 2018-07, § 3, 3-5-2018)

14.08.080 - When connection to public sewer is required.

- A. In the best interest of the health and welfare of the residents of the borough, the owner of all houses, buildings or other structures designated or used for human occupancy, employment, recreation or other purpose, situated within the borough, and abutting on any street, alley or right-of-way in which there is located a sanitary sewer of the borough, are required, at their expense, to connect all toilet and wastewater facilities directly with the proper sewer in accordance with the provisions of this chapter within 180 days after official notice to do so; provided, that such sewer is within one hundred fifty feet of the property line.
- B. Any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned, all residual waste shall be pumped from the tank and the tank shall be filled with suitable material, such as sand.
- C. In the event a property owner fails to connect to the sanitary sewer system after an official notice deadline is reached, the property owner will be assessed the normal applicable monthly sewer base charges until the connection is complete. The Alaska Department of Environmental Conservation will be notified of the situation.

(Ord. No. 2018-07, § 3, 3-5-2018)

Chapter 9.16 - NUISANCES

9.16.010 - Purpose and scope.

- A. The purpose of this chapter is to ensure that nuisances are prevented, discontinued, and abated in a timely manner and do not reoccur. Other chapters of the Petersburg Borough Municipal Code address nuisances as well. Various municipal departments are responsible for regulating nuisances, depending upon the type or location of the nuisance. The provisions in this chapter, including the description of the various types of nuisances, procedures for prevention, discontinuation, inspection, enforcement, appeal, and abatement, as well as the appeal and remedies sections, are not exclusive or a limitation on municipal departments in addressing nuisances.
- B. Application of this chapter is limited to Service Area 1 of the Borough.

(Ord. No. 2015-03, § 3, 4-6-2015)

9.16.020 - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates different:

"Abate" means to act to stop an activity and/or to repair, replace, remove, or otherwise remedy a condition, when such activity or condition constitutes a violation of this code or a borough regulation, by such means and in such a manner and to such an extent as the applicable department director, enforcement officer, or other authorized official determines is necessary in the interest of the general health, safety, and welfare of the community. For the purposes of this chapter, the verbs "abate" and "correct" shall be interchangeable and have the same meaning.

"Building" includes any structure, generally with walls and a roof, used for human habitation, occupancy or use.

"Code enforcement officer" or "enforcement officer" means the borough's code enforcement officer(s); the building official; the fire marshal or his or her designee; the chief of the Petersburg police department or his or her designee; the director of the community development department or his or her designee; the director of the public works department or his or her designee; or any other person or persons assigned or directed by the borough manager or his or her designee to enforce the regulations of this chapter.

"Costs" means, but is not limited to, include, but are not limited to, the cost of 1) preparation, mailing and service of notices required hereunder, 2) issuance of requisite specifications and abatement contracts, 3) conduct and performance of inspections and the abatement work, 4) any administrative overhead for

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inspection of the property or abatement work performed, and 5) attorney fees incurred in the abatement process.

"Equipment" means goods used or bought for use primarily in a business.

"Nuisance" means any act or creation which is injurious to the public health or safety, which prevents or obstructs the free and comfortable enjoyment of life and property, causes a detrimental effect on nearby property values, or is dangerous to surrounding property.

"Person responsible for the violation" means any of the following: a person who has titled ownership or legal control of the property or structure that is subject to the regulation; an occupant or other person in control of the property or structure that is subject to the regulation; a developer, builder, business operator, or owner who is developing, building, or operating a business on the property or in a structure that is subject to the regulation; a mortgagee that has filed an action in foreclosure on the property that is subject to the regulation, based on breach or default of the mortgage agreement, until title to the property is transferred to a third party; a mortgagee of property that is subject to the regulation and has not been occupied by the owner, the owner's tenant, or a person having the owner's permission to occupy the premises for a period of at least 90 days; or any person who created, caused, participated in, or has allowed a violation to occur.

"Premises" means any land, including any tract, lot or parcel of land, or easement or right-of-way, and any structures thereon.

"Structure" means anything built, constructed, or erected, including buildings.

"Junk" or *"salvage"* means any abandoned, broken, used, worn out, wrecked, scrapped, partially or fully dismantled or discarded tangible material, including vehicles or watercraft of all kinds, or any combination of materials or items including appliances, chemicals, building materials, equipment or parts thereof, fiber, machinery, metal, scrap metal, rags, rubber, paper, plastics, lumber or wood, that cannot without further alteration and reconditioning be used for their original purposes.

(Ord. No. 2015-03, § 3, 4-6-2015.)

9.16.030 - Unlawful; enumeration.

- A. It is unlawful for any person to create, permit or maintain the existence of any nuisance.
- B. Nuisances include, but are not limited to, the following:
 - 1. The deposit, existence or presence in or on any premises of any accumulation of garbage, refuse, manure or animal or vegetable matter which produces a foul, decaying, malodorous or offensive odor, or which serves or constitutes a potential breeding ground or harborage for insects or rodents; .C

- 2. The deposit, existence or presence in or on any premises of any human excrement or

waste;

- 3. Attractive nuisances dangerous to children in the form of abandoned buildings, abandoned or broken equipment, hazardous pools or ponds or excavations, neglected machinery or abandoned refrigerators, freezers, or other major appliance;
 - 4. The keeping or maintenance in any area on private property, which is clearly visible from a public street, sidewalk, park or other public area, any accumulation, collection or untidy storage of junk, salvage, or trash, including discarded or unused items, or any condition determined to be unhealthy by a code enforcement officer, or an unsightly condition after written complaint from three or more residents within the neighborhood or general vicinity of the condition;
 - 5. Any building or structure set up, erected, built, moved or maintained or any use of property contrary to the provisions of Title 19.
- C. Failure to timely correct nuisances involving a structure may result in the structure becoming or being declared a dangerous building, under the provisions of chapter 9.20 of this Code. If a structure meets the definition of a dangerous building in chapter 9.20, the borough building official may, but is not required to first attempt to abate the nuisance under the provisions of this chapter.
- D. The following chapters of this code also prohibit or restrict other conditions, which are deemed to be nuisances:
- 1. Abandoned or Junked Vehicles, PMC 11.16.
 - 2. Dangerous Building, PMC 9.20.
 - 3. Littering, PMC 9.12.

(Ord. No. 2015-03, § 3, 4-6-2015)

9.16.040 - Abatement—Standards to be followed.

The code enforcement official, and the assembly if an appeal is taken, shall order the means best calculated to abate wholly the nuisance with the least costs of abatement; and demolition shall not be ordered if repair, vacancy, or removal may accomplish the abatement.

(Ord. No. 2015-03, § 3, 4-6-2015)

9.16.050 - Abatement—Notice and order.

- A. Unless a nuisance has created a situation which requires summary abatement, the code enforcement officer may issue an abatement notice and order and serve it in the manner described in this section upon the record owners of the affected property, and, if different from the record owners, the person creating, permitting or maintaining the nuisance and any non-owner occupant of the affected property. The notice and order shall contain:

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1. The street address and legal description sufficient for identification of the affected premises;
 2. The statement that the code enforcement officer has found the premises affected with a nuisance, with a brief and concise description of the nuisance;
 3. A statement of the action required to be taken, as determined by the code enforcement officer, to abate the nuisance, and an order directing such action to be taken;
 4. A statement advising that if any required abatement is not commenced or completed within the time specified, i) the code enforcement officer may proceed to cause the necessary work to be done and charge the cost thereof against the premises, its owner and/or, if applicable, the person creating, permitting or maintaining the nuisance, and ii) civil penalties and/or fines, and administrative fees may be imposed; and
 5. A statement advising that any person having record title or legal interest in the premises may appeal from the notice and order of any action of the code enforcement officer by filing with the borough clerk, within fifteen days from the date of service of such notice and order, an appeal in writing in accordance with the appeal procedure as provided in section 09.16.070, and that failure to appeal will constitute a waiver of all right to contest the order.
- B. The abatement notice and order and any amended or supplemental notice and order shall be posted on the premises affected by the nuisance and served upon the persons set about in paragraph A above either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to the person at that person's last known address. Service by certified mail in the manner herein provided shall be deemed effective on the date of mailing.
- C. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this chapter. The inability or failure of the code enforcement officer to serve any person required to be served shall not invalidate any proceedings herein as to any other person duly served.

(Ord. No. 2015-03, § 3, 4-6-2015)

9.16.060 - Abatement—Extension of time.

Upon receipt of a request from a person required to conform to the abatement order, and agreement in writing by such person that the person will comply with the order if allowed additional time, the code enforcement officer may grant an extension of time within which to abate the nuisance if the code enforcement officer determines that such an extension of time will not create or perpetuate a situation dangerous to life or property.

(Ord. No. 2015-03, § 3, 4-6-2015)

11.c
1.b.iii.4

9.16.070 - Abatement—Enforcement of order.

- A. The creation or maintenance of a nuisance is prohibited, and whenever a nuisance is deemed to exist within the borough, it may be abated in either the manner set out in this chapter, or under a different applicable procedure set out in the borough code.
1. *Voluntary correction.* When the borough determines that a nuisance exists and prior to the issuance of an abatement notice and order, a code enforcement officer may attempt to secure the voluntary correction of a violation by attempting to contact the person responsible for the violation, explaining the violation, and requesting correction within the time specified. The borough may also enter into a written voluntary correction agreement with any person causing, allowing, or participating in the violation, including the property owner.
 2. *Abatement by borough.* The borough may perform the abatement required upon noncompliance with the terms of a written voluntary correction agreement, an unappealed notice and order, or a final decision of the assembly. The borough may utilize borough employees or a private contractor under borough direction to accomplish the abatement. The borough, its employees and agents using lawful means are expressly authorized to enter upon the property of the violator for such purposes. Nothing in this chapter shall prohibit the borough from pursuing abatement of a violation pursuant to any other laws of the state of Alaska or the borough.
 3. *Summary abatement.* Whenever any nuisance causes an immediate threat to the public health, safety or welfare or to the environment, the borough may summarily and without prior notice abate the condition. Except for the requirement of notice, all abatement proceedings provided for in this chapter apply to a nuisance summarily abated, including the recovery of the costs of the summary abatement. No notice is required for abatement of a nuisance occurring on the public streets and rights-of-way, or other borough property.

(Ord. No. 2015-03, § 3, 4-6-2015)

9.16.080 - Abatement—Appeal to assembly.

- A. Any person having record title or legal interest in premises which are the subject of an abatement notice and order may appeal from that notice and order by filing a written appeal to the assembly with the office of the borough clerk, within fifteen days from the date of service of such notice and order.
- B. As soon as practicable after receiving the written appeal, the assembly shall fix a date, time and place for the hearing of the appeal by the assembly. Such date shall be not less than ten days nor more than sixty days from the date the appeal was filed with the borough clerk. Written notice of the hearing shall be given to each appellant by the borough clerk, either by

1.b.iii.5

causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at appellant's address shown on the appeal.

- C. Failure of a person to file an appeal in accordance with the provisions of this section shall constitute a waiver of that person's right to the assembly hearing and of any adjudication of the notice and order, or any portion thereof.
- D. Only those matters or issues specifically raised by the appellant shall be considered in the hearing on the appeal.
- E. Enforcement of any notice and order of the code enforcement officer issued under this chapter shall be stayed during the pendency of an appeal therefrom which was properly and timely filed. Such a stay does not prevent the code enforcement officer from taking abatement action if the nuisance subsequently becomes subject to summary abatement.
- F. The hearing shall be conducted informally, and may be governed by such rules and procedures as the assembly may choose. At the hearing, the appellant may appear in person or by agent or attorney, and offer documents and testimony, of appellant or other witnesses, in support of the appeal. The code enforcement officer, or their designee, shall appear at the hearing and may offer documents and testimony, of the official or other witnesses, in support of the abatement notice and order. Both the code enforcement officer and the appellant may cross-examine witnesses, under reasonable time limits adopted by the presiding assembly member. The presiding assembly member may administer oaths, and a record shall be kept of the proceedings by the borough clerk.
- G. The assembly, after the hearing, shall issue a written final decision on the appeal, including findings of fact. If it affirms that a nuisance subject to abatement exists, the decision shall also contain an order based upon its findings, directing the abatement within such time period and upon such terms and conditions as it may prescribe. The decision shall be given to each appellant by the borough clerk, either by causing a copy to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at appellant's address shown on the appeal.
- H. If the person who requests a hearing to contest notice and order then fails to appear at the scheduled hearing after having been given notice in the manner provided for by this chapter, the person shall be deemed to have waived the right to appear and present testimony and evidence in support of the appeal. The assembly shall proceed to hear testimony and receive evidence from the code enforcement officer and shall issue a written final decision on the appeal based upon the record before it, including findings of fact as required under section 9.16.080(G).

(Ord. No. 2015-03, § 3, 4-6-2015.)

1.b.iii.6

The final decision of the assembly issued under this section above may be appealed to the Superior Court, First Judicial District, State of Alaska, within 30 days of the date the decision was issued and in accordance with applicable Court Rules. For purposes of this section, the date of issuance is the date upon which the decision was mailed or delivered to the appellant. Failure to file the notice of appeal in the manner and time specified shall forfeit any right to appeal.

(Ord. No. 2015-03, § 3, 4-6-2015)

9.16.100 - Recovery of costs.

- A. The borough shall bill its costs, including incidental expenses, of pursuing code compliance and/or of abating a violation to the person responsible for the violation and/or against the subject property. Such costs shall become due and payable 30 days after the date of the bill.
- B. The borough manager or designee may in his or her discretion waive in whole or part the assessment of any costs upon a showing that abatement has occurred or is no longer necessary. Any challenge to the amount of the abatement costs must be made within 14 days of issuance of the bill and shall be heard by the borough manager in an informal hearing. The borough manager shall make a written determination as to whether or not the borough's costs were accurate and necessary for accomplishing the abatement.
- C. The costs and expenses may be recovered by the borough in a civil action or by any other permitted method, including use of a collection agency or the exercise of any lien rights possessed by the borough.

(Ord. No. 2015-03, § 3, 4-6-2015)

9.16.110 - Inspections and right of entry.

The code enforcement officer is authorized to enter on or into premises and structures, and conduct inspections thereof, in order to enforce the provisions of this chapter, including in circumstances where the official has reasonable cause to believe that a nuisance exists in any structure or on any premises subject to this code. The official may enter and inspect such structure or premises at any reasonable time in performance of the official's enforcement activities under this chapter; provided, however, that where the Constitution of the United States or the State of Alaska requires that the official obtain an administrative search warrant before entering onto premises and making an inspection, the official shall not make the inspection until authorized to do so by a search warrant issued by a court of competent jurisdiction. If the code enforcement officer is a borough official other than the chief of police, then a peace officer shall accompany the abatement official in any entry and inspection conducted under a search warrant.

(Ord. No. 2015-03, § 3, 4-6-2015)

1.b.iii.7

9.16.120 - Violations and remedies.

- A. A person who violates a provision of this chapter shall be guilty of a violation, and shall be subject to a fine as provided in chapter 1.16 of the Borough Code.
- B. The remedies provided for in this chapter shall be cumulative. In addition to other remedies or procedures provided in the chapter, a nuisance may be restrained, enjoined or otherwise abated by the borough in a civil action. The code enforcement officer may also assess civil penalties, in an amount up to One Hundred Dollars (\$100) per day, for any violation of this chapter; the amount of any such penalty may be set out in the notice and order, or by separate assessment.
- C. Each and every day that a person fails to comply beyond a date fixed for compliance shall constitute a separate offense.

(Ord. No. 2015-03, § 3, 4-6-2015.)

14.04.130 - Unsafe facilities.

The borough may refuse to furnish water and may immediately disconnect services to any premises where plumbing facilities, appliances or equipment using water are dangerous, unsafe or not in conformity with federal, state or local laws and regulations.

(Ord. No. 2018-06, § 3, 3-5-2018)



1.c.1

1.b.iii.3





Alaska Department of Environmental Conservation
DIVISION OF WATER

INDOOR AND OUTDOOR CLEANUP PROCEDURES FOR DOMESTIC WASTEWATER SPILLS

Indoor cleanup guidelines for domestic wastewater spills.

Cleanup guidelines for domestic wastewater spills that occur inside of a building

If sewage is on nonabsorbent floor material like tile, vinyl, concrete or other nonabsorbent surfaces, cleanup of the visible water and semi-solid material should be accomplished using a vacuum or mop and by using the proper concentrations of sanitizers to disinfect. Make sure that the sanitizer is of proper concentration and that all affected areas are thoroughly sanitized.

If the sewage is on an absorbent floor material, such as carpet, the material that has absorbed the sewage should be vacuumed to remove as much of the waste as possible.

Do not mix cleaning and disinfecting products or chemicals. Cleaning products can react with one another to produce toxic vapor or liquid substances.

The following is a list of common sanitizers:

- Chlorine: For chlorine solutions, the chlorine concentration should be in the range of 50 to 1000 parts per million (ppm) or milligrams per liter (mg/l) for disinfecting surfaces of appliances and food preparation areas and 200 ppm (mg/l) for walls and floors. You can verify the chlorine concentration by using test paper available at food supply warehouses or chemical supply companies.
- As a rule of thumb, add 3/4 cup Clorox Bleach to one gallon of water. Only use bleach that has "sanitizes" or "kills germs" on the label.
- Alternative disinfectants: Other disinfectants, which include iodine and quaternary solutions, must be used according to the manufacturer's specifications / recommendations if used for disinfecting sewage spills.

Please note: Using chlorine or alternate disinfectants on absorbent materials (such as carpet) may cause damage to the material and loss of color may occur.

1.d.1

Because it is difficult to adequately sanitize carpet, carpet pad and absorbent flooring materials, ADEC recommends that saturated flooring materials be removed and disposed of at a permitted solid waste disposal facility.

Remember, access to the spill area must be restricted until 24 hours after cleanup has been completed so as to minimize any threat to public health or the environment.



Outdoor cleanup guidelines for domestic wastewater spills

The following are recommended procedures for cleaning up untreated or inadequately treated sewage, spilled to the ground surface.

1. In all conditions:
 - A. If the area in which the spill occurred is accessible to the public or domestic pets, the contaminated area must be clearly marked or cordoned off to restrict access.
 - B. Protective clothing (at a minimum, rubber or latex gloves and rubber boots) should be worn when cleaning up a sewage spill. (Dispose of gloves and wash rubber boots when leaving spill site). Keep children and interested bystanders away from cleanup activities.
 - C. Please note that hydrated lime is a caustic material and can be dangerous to handle and apply. Lime should only be used or applied by people experienced in using this material.
 - D. Do not mix cleaning and disinfecting products or chemicals. Cleaning products can react with one another to produce toxic vapor or liquid substances.
2. In non-freezing conditions, when sewage is a mixture of liquid and solid material, the following steps should be taken:
 - A. If the spilled material can't be recovered using hand tools, a commercial vacuum or pump truck should be called to remove all visible liquid and solid material.
 - B. When the area is visibly clean, either a mixed chlorine water solution (using Clorox or an equal bleach) or hydrated lime should be applied to the spill area to disinfect. To make a 5 percent chlorine solution, add 3/4 cup Clorox bleach to one gallon of water. You can verify the chlorine concentration by using test paper available at food supply warehouses or chemical supply companies. Only use bleach that has "sanitizes" or "kills germs" on the label.
 - C. If the spill occurred in a heavily populated area and odor may be an issue or within 100 feet of surface water, hydrated lime should be applied to the area in place of chlorine bleach. Enough hydrated lime should be applied to raise the pH to at least 12. By raising the pH to 12 for at least one-hour, the area will be disinfected. You can test the pH by using litmus paper obtained at a chemical supply facility. Because lime is a caustic material, access to the area treated with lime must be restricted during the disinfection period.
 - D. After the spill area has been cleansed (24 hours after the chlorine solution or hydrated lime has been applied), the barriers may be removed and access to the area restored.
3. In freezing or frozen conditions.
 - A. An attempt should be made to clean up the spill before it becomes completely frozen.
 - B. If possible, the frozen sewage should be removed down to the natural ground surface (or at least one inch below the spilled sewage if on thicker ice) and the recovered material disposed of properly. This could require that approval be obtained from the local government for disposal in a permitted landfill. An acceptable alternative solution is to stock pile the frozen sewage in an approved lined containment area until conditions are more favorable for transport and disposal. (Because each spill site and situation is different, please contact you local ADEC office for recommendations regarding constructing an acceptable containment area.) If the material thaws, the liquid must be properly handled

and disposed of at a permitted wastewater treatment and disposal facility. Keep in mind that frozen and / or that sewage may still contain active, harmful bacteria, cysts and viruses.

- C. When the area is visibly clean, either a mixed chlorine water solution (using Clorox or an equal bleach) or hydrated lime should be spread across the spill area to disinfect. You can verify the chlorine concentration by using test paper available at food supply warehouses or chemical supply companies.
- D. If the spill occurred in a heavily populated area and odor may be an issue or within 100 feet of surface water, hydrated lime should be applied to the spill area in place of chlorine bleach. The hydrated lime will raise the pH to 12, which will disinfect the area. By raising the pH to 12 for at least one-hour, the area will be disinfected. You can test the pH by using litmus paper obtained at a chemical supply facility. Because lime is a caustic material, access to the area treated with lime must be restricted during the disinfection period.
- E. When the spill area has been cleansed (24 hours after the chlorine solution or hydrate lime has been spread), the barriers can be removed and access to the area restored.

Remember, access to the spill area must be restricted until 24 hours after cleanup has been completed, so as to minimize any threat to public health or the environment.

For more information or if you have questions regarding State of Alaska Wastewater Regulations 18 AAC contact your [local DEC office](#).



Department of Environmental Conservation

Mailing Address: P.O. Box 111800

Juneau, Alaska 99811

Location: 410 Willoughby Avenue, Juneau

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Decision on Appeal of Courtney Johnson from Notice and Order of Abatement

The Petersburg Borough Assembly conducted a hearing on October 20, 2020, during which it heard testimony and argument, and received and reviewed documents, relating to the Appeal of Courtney Johnson from an August 3, 2020 *Notice and Order of Abatement* issued by Utility Director Karl Hagerman. The *Notice and Order of Abatement* related to the failure of the residence located at 410 Mitkof Highway to be connected to the borough sewer system and the presence of raw sewage at the property, constituting a nuisance.

Testimony and argument was received from Appellant, Courtney Johnson and from Borough Employees Karl Hagerman (Utility Director), Justin Haley (Wastewater Operations Supervisor), Joe Bertagnoli (Building Official), and Petersburg Police Department Officer Louis Waechter. The written Record on Appeal ("ROA") before the Assembly consists of 40 pages.

In accordance with Petersburg Municipal Code (PMC) 9.16.080G, the Assembly hereby adopts the following Written Decision.

FINDINGS OF FACT

1. Courtney Johnson ("Owner") is the owner of the residence located at 410 Mitkof Highway ("the residence" or "the property"). (ROA page 32¹)
2. The residence is located on a hillside above and adjacent to a body of water referred to as the Wrangell Narrows. (Testimony of Karl Hagerman)
3. The residence is located within 150' of the borough sewer system, but is not connected to the system. (Testimony of Karl Hagerman; ROA page 22)
4. The prior owners of the property received notification requiring connection of the residence to the borough sewer system. (Testimony of Karl Hagerman)
5. On July 24, 2020, Officers Waechter and Popp of the Petersburg Police Department went to the residence in search of a third party on an active felony warrant. Owner gave the Officers permission to search the residence. (Testimony of Officer Waechter)
6. While at the property, Officer Waechter saw raw sewage and toilet paper on the ground, next to what appeared to be a broken sewer pipe, directly off the back deck of the residence. (Testimony

¹ Some pages of the Record on Appeal have two page numbers. The references herein are to the typed numbers located at the bottom right of each page.

of Officer Waechter) Officer Waechter took photographs and forwarded the photographs to the Borough Building Official and to the Wastewater Department. (Testimony of Officer Waechter and Karl Hagerman; ROA pages 17-18, 38)

7. Upon receipt of the photographs, Utility Director Karl Hagerman ("Hagerman") made attempts to contact the Owner at the telephone numbers which had been provided to the utility. All of the numbers known to the utility were either disconnected or not working, and he was not able to reach her. (Testimony of Karl Hagerman)

8. On August 3, 2020, Hagerman issued a *Notice and Order of Abatement*. (Testimony of Karl Hagerman; ROA pages 4-22)

9. On August 3, 2020, the *Notice and Order of Abatement* was posted at the front door of the property, and sent to the Owner by regular and certified mail. (Testimony of Hagerman; ROA pages 23-24)

10. The description of the violations of the Petersburg Municipal Code set out in the *Notice and Order of Abatement* were as follows (ROA page 4):

PMC 14.08.020A and B (Sewer Utility) - Unlawful sewage - Disposal methods designated.

PMC 14.08.080A (Sewer Utility) - When connection to public sewer is required.

PMC 9.16.030B(2) (Nuisances) - Unlawful; enumeration.

11. The description of the nuisances contained in the *Notice and Order of Abatement* were as follows (ROA page 4):

Raw sewage, including human excrement, is being discharged from the household onto the hillside and beach of Wrangell Narrows without treatment. There exists a sanitary sewer service lateral pipe which the home must connect to per Municipal Code.

12. The required corrective action to abate the nuisance, as set out in the *Notice and Order of Abatement*, was as follows (ROA page 5):

1. Area in which the spill is occurring is accessible to the public and domestic pets. The contaminated area must be clearly marked and cordoned off to restrict access.
2. The domestic sewer from the household must be connected to the Petersburg Borough sanitary sewer collection system by way of excavation and plumbing of the household sewer to the existing sewer service lateral. Map showing approximate location of the sewer service lateral is attached.
3. Sewer connection must be completed by a licensed construction contractor (excavation), which must be inspected by the Borough prior to any backfill of the connection point.
4. Site of illegal discharge must be cleansed per DEC Cleanup Guidelines for domestic wastewater spills (enclosed). Access to the area must be restricted for at least 24 hours after the site has been cleansed.

13. The *Notice and Order of Abatement* directed the nuisance to be abated by no later than 5:00 p.m. on August 18, 2020. (ROA page 5)
14. On August 18, 2020, Owner filed with the Borough Clerk a Notice of Appeal from the provisions of the *Notice and Order of Abatement*. (ROA pages 31-32)
15. Following the filing of the Notice of Appeal, an inspection of the site was scheduled with the Owner. (Testimony of Karl Hagerman)
16. On August 24, 2020, an inspection of the property was conducted by Joe Bertagnoli, Borough Building Official, Justin Haley, Borough Wastewater Operations Supervisor, and other Borough Officials. (Testimony of Justin Haley and Joe Bertagnoli) Both Joe Bertagnoli and Justin Haley prepared reports of the inspection. (ROA pages 25-26) Photographs were taken by Joe Bertagnoli during the inspection. (ROA pages 27-29)
17. The inspection disclosed that Owner and another individual had reconnected the residence to the septic tank, via a corrugated plastic pipe laying on the ground, and had run a new outfall line from the septic tank to a nearby stream which ran directly into the ocean, the original outfall line being unusable. The top of the septic tank was covered with earth and vegetation, making the inspection hatches inaccessible. (Testimony of Justin Haley and Joe Bertagnoli; ROA pages 25-29)
18. The Owner was advised at that time that the work performed was not acceptable in that the materials used were not in accordance with Borough Code, the outfall into the stream was a code and regulatory violation, and the residence needed to be connected to the borough sewer system. (Testimony of Justin Haley and Joe Bertagnoli; ROA pages 25-26)
19. The Alaska Department of Environmental Conservation (ADEC) recommends that septic tanks be pumped every two years at a minimum. (ROA page 25). The septic tank at the property has not been pumped for many years. Since 2008, neither the Borough nor the private septic pumping company has serviced this septic tank. (Testimony of Justin Haley; ROA page 25)
20. On August 25, 2020, Justin Haley spoke with ADEC official Raymond Zimmer. Mr. Zimmer advised that while marine discharges from septic systems were previously acceptable, secondary treatment and disinfection is now required, and that compliance with the current regulations is required when an owner performs repair or component replacement on an existing system. (ROA page 30)
21. It is probable that the septic system at the property is not functioning properly. The septic tank had earth and vegetation growth on it, and did not appear to have been accessed in many years. (Testimony of Justin Haley; ROA pages 25, 28)
22. On October 9, 2020, the Notice of Hearing on Appeal was served on the Owner by hand delivery. (ROA pages 33-39) Documents to be utilized by the Borough officials at the hearing were provided to Owner. (ROA pages 3-30, 40)
23. On October 20, 2020, the hearing on Owner's appeal was held before the Assembly. Witnesses were sworn in by the Borough Clerk prior to giving testimony. The Owner and the Utility Director were provided the opportunity to testify, and to call and question witnesses and present documents.

24. At the hearing and in her Notice of Appeal, Owner stated, in summary, as follows: (i) Officer Waechter should not have taken photographs of the sewage spill, (ii) she was not aware that the residence was not connected to the borough sewer system when she purchased the residence in 2018, and she has been charged for borough sewer service, (iii) the septic system at the residence is operational and now in use, (iv) the Borough is responsible for the cost of connecting the residence to the borough sewer system since "there should have been a Certificate of Occupancy issued by local government" when she purchased the home (ROA page 32) and it was the Borough's responsibility to ensure that the sewer system connection had been previously made, and (v) the appeal hearing was not timely held within sixty days of her filing the appeal, as required by the Borough Code.

CONCLUSIONS OF LAW

- 1. The *Notice and Order of Abatement* was proper in form and properly posted and served upon the Owner under PMC 9.16.050B. Actual receipt of the document is demonstrated by the filing of the Notice of Appeal by the Owner.
- 2. The Owner's August 18, 2020 Notice of Appeal was timely and properly filed under PMC 9.16.080A.
- 3. PMC 14.08.080A requires that the owner of a residence situated within the Borough, within 180 days after official notice to do so, connect the toilet and wastewater facilities of the residence to the borough sewer system if such sewer system is within 150' of the property line.
- 4. Following such connection, PMC 14.08.080B requires that the septic tank be abandoned, all waste be pumped from it, and that it be filled with sand or other suitable material.
- 5. The failure of the residence located at 410 Mitkof Highway to be connected to the borough sewer system, and the Owner's continued use of the septic tank, constitutes violations of PMC 14.08.080A and B.
- 6. Officer Waechter was on the property on July 24, 2020 with the permission of the Owner, and the photographs he took were forwarded to the proper Borough Officials.
- 7. Under PMC 9.16.030, the deposit or presence of human excrement on the ground constitutes an unlawful nuisance. The photographs taken by PPD Officer Waechter on July 24, 2020 demonstrate the presence of a nuisance on the property in that human excrement was deposited on the ground due to an open pipe from the residence. The Owner does not dispute the accuracy of the photographs.
- 8. The plumbing work performed by the Owner, as reflected in the August 24, 2020 inspection, is not in compliance with the building or plumbing codes adopted in Borough Code in regard to the materials used or the manner of connection. Additionally, the outfall pipe is improperly routed to a stream, which flows into the ocean, constituting, at a minimum, a violation of PMC 14.08.020B and 18 AAC 72.050. Accordingly, the current plumbing facilities at the residence are unsafe and not in conformity with the law, and create an unlawful nuisance on the property.
- 9. The Owner's claim on appeal that the Borough is responsible for the cost of connecting the residence to the borough sewer system is not supported by the Borough Code. PMC 14.08.080A

states that the connection shall be at the expense of the owner. Further, the Borough does not issue a "Certificate of Occupancy", or undertake to verify code compliance, when a house is sold within the Borough.

- 10. Under PMC 14.08.080C, following the official notice, the property owner is charged for borough sewer service even if the owner has failed to complete the required connection.
- 11. Whether the Owner was aware, or should have been aware, of the lack of connection from the residence to the borough sewer system at the time she purchased the residence is not relevant for purposes of this appeal. The Owner is the party responsible under PMC 14.08.080A to comply with the connection requirements, and lack of knowledge of the applicable state of facts does not excuse compliance.
- 12. The Notice of the Hearing on Appeal was served upon the Owner in accordance with PMC 9.16.080B.
- 13. The Appeal Hearing was timely held under PMC 9.16.080B, which requires that a hearing be held no less than ten days, nor more than sixty days, from the date the appeal was filed with the Borough Clerk. The sixtieth day fell on a weekend (October 17, 2020), and the hearing was held on the next following business day (October 20, 2020).

Accordingly, the appeal filed by the Owner from the Utility Director's August 3, 2020 *Notice and Order of Abatement* is hereby DENIED, and the existence of a nuisance is AFFIRMED. The Owner is ordered to abate the nuisance by bringing the property into full compliance with the requirements set out in the *Notice and Order of Abatement*, no later than thirty (30) days from the date of the Borough Clerk's distribution of this Decision. If the required corrective action is not taken, and timely and proper abatement does not occur, the Utility Director is authorized to take action on behalf of the Borough as set out in the *Notice and Order of Abatement*, including without limitation (1) disconnecting water service to the residence under PMC 14.04.130, (2) undertaking abatement under PMC 9.16.070A(2), the cost and expense of which is to be charged to the Owner, and/or (3) imposing civil penalties and/or seeking criminal fines.

In accordance with PMC section 9.16.090, this Decision may be appealed to the Superior Court, First Judicial District, for the State of Alaska within 30 days of the date of the Clerk's distribution.

November 2, 2020



Mark Jensen, Mayor

Certificate of Service:

This Decision was distributed by Debra K. Thompson, Borough Clerk, on November 4, 2020, by US Mail and email to the following: Courtney Johnson, PO Box 1904, Petersburg, Alaska 99833; cjohnson5047@gmail.com.



NOTICE OF DISCONNECTION OF WATER SERVICE

Date: July 23, 2021

Property Address and Legal Description: 410 Mitkof Highway/ Lot Portion GL 7, Section 10, T59S, R79E

Owner/Responsible Party: Courtney Johnson

Mailing Address: PO Box 1904, Petersburg, AK 99833

Dear Ms. Johnson:

This is in furtherance of the August 3, 2020 Notice of Abatement issued by the Borough regarding the sewer facilities located on the above-referenced property. Following completion of the extensive abatement hearing and appeal proceedings, the home located on the property remains unconnected to the municipal sewer system, with unsafe and improper sewer facilities.

Accordingly, this letter is to provide formal notice to you that, pursuant to PMC 14.04.130, the municipal water service to this parcel will be disconnected on August 6, 2021 if connection to the municipal sewer system is not made by that time. Municipal water service will remain disconnected until the unsafe and improper sewer facilities are corrected and the parcel is connected to the municipal sewer system.

In order to connect the parcel to the municipal sewer system, you are required under PMC 14.08.200 to obtain a plumbing permit prior to commencement of work. If an application for a permit is received from you, we will work to expedite issuance as much as possible.

Please note that during the initial period of disconnect, you will not be charged the monthly fee for sewer service in order to provide you time to make the required connection, however the sewer service base charge will recommence ninety (90) days following disconnect, regardless of whether you have actually connected to the municipal system, pursuant to PMC 14.08.080C.

Please contact me if you have any questions.

Karl Hagerman
Utility Director
Email: khagerman@petersburgak.gov
Telephone: 907-772-5421

Certificate of Service:

On July 23, 2021, sent by US Mail, both regular and certified, to Courtney Johnson at the address set out above, and posted on parcel.



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Environmental
Conservation

DIVISION OF WATER
Anchorage

555 Cordova Street
Anchorage, AK 99501
Main: 907.269.6285
Fax: 907.334.2415
www.dec.alaska.gov

3/12/2021

NOTICE OF VIOLATION

Failure to Comply with regulations at 18 AAC 83 – Alaska Pollutant Discharge Elimination System

Attn: Courtney Johnson
410 Mitkof Highway
Petersburg, AK, 99833

Enforcement Tracking Number. 20-R0528-40-0001

Dear Ms. Johnson,

The Department of Environmental Conservation (DEC or the Department) alleges that beginning on or about August 24, 2020 in Petersburg, Alaska, Ms. Johnson did unlawfully fail to comply with the wastewater regulations of the State of Alaska.

The Department is in possession of the attached photographs and information provided by the Petersburg Borough depicting an unlawful discharge of domestic wastewater from your residence located at 410 Mitkof Highway to surface waters of the United States.

- 1) "Photograph 3" on page 31 of 42 of the attached October 20, 2020 Appeal Hearing Packet, taken August 24, 2020, taken by Joe Bertagnoli of the Petersburg Borough, depicts a discharge of domestic wastewater from a pipe connected to the septic system to a fresh surface water drainage. DEC does not possess a record of approval under 18 AAC 72 for the discharge in question.
 - a. AS 46.03.100(a) and 18 AAC 72.010(a) state that a person may not construct, modify or operate a sewage system that results in the disposal of waste material onto the land or into the waters of the state without prior authorization from the Department.

Exhibit B

To address the violation(s) described above, the Department requires that you provide a response in writing to the following items no later than **3/26/2021**:

- a. Submit to DEC a copy of documentation of approval from DEC of the septic system under 18 AAC 72.200 to Raymond Zimmer and Melinda Smodey no later than Friday, **3/26/2021** by 5:00 PM Alaska time. If you do not possess documentation of approval from DEC of the septic system under 18 AAC 72.200, please respond as such.
- b. DEC is aware of the Petersburg Borough’s request that you connect your septic system to the Borough’s sanitary sewer collection system. If you choose to connect your septic tank to the Petersburg Borough’s sanitary sewer collection system, DEC approval under 18 AAC 72.200 is not required because the septic tank would not discharge to lands or waters and therefore require approval under 18 AAC 72. If this is your selected outcome, submit documentation to DEC to establish that this action was performed no later than **Friday, May 14, 2021** at 5:00 PM Alaska Time.
- c. Currently, you have a septic system that has not received DEC Engineering Review and Approval under 18 AAC 72. If your selected outcome is to maintain a septic tank on your property, DEC requires that you submit engineering plans required to obtain DEC approval of the existing septic tank. The DEC approval process consists of you hiring a professional engineer registered in the state of Alaska to develop engineered plans of the system and submit them for DEC approval consistent with the process laid out in regulations at 18 AAC 72.200. This also requires submittal of the required processing fee under 18 AAC 72.205. Your DEC contact related to questions about this septic tank engineering plan submission is Raymond Zimmer, Raymond.zimmer@alaska.gov, 907-465-5167. DEC requires that you submit complete plans and the plan processing fee no later than **Friday, May 14, 2021** at 5:00 PM Alaska Time.

Additional information can be found on the Department’s website at: <https://dec.alaska.gov/water/wastewater/engineering/>

Deliverables can be submitted via email:

Attention:
Melinda Smodey
Melinda.smodey@alaska.gov
907.269.7564


Penalties for violation of State statutes and regulations can be quite serious. In a civil action, a person who violates or causes or permits to be violated a provision of AS 46.03 and/or 18 ACC 83, may be liable to the State for Substantial monetary damages under AS 46.03.760. Depending on the nature of the violation, you may also be liable for the State’s response costs under AS 46.03.822, for spill penalties under AS 46.03.758-759, for administrative penalties under AS 46.03.761, or for other kinds of damages or penalties under other statutes.

In a criminal violation, a person who acts with criminal negligence may be guilty of a Class A misdemeanor. AS 46.03.790. Upon conviction, a defendant who is not an organization may be

sentenced to pay a fine not exceeding \$10,000.00 and/or sentenced to a definite term of imprisonment of not more than one year. Upon conviction, a defendant that is an organization may be sentenced to pay a fine not exceeding the greater of \$500,000.00 or an amount which is three times the pecuniary damage or loss caused by the defendant to another or property of another. AS 12.55.035; each day of violation may be considered a separate violation. Alaska laws allow the State to pursue both civil and criminal actions concurrently.

Nothing in this notice shall be construed as a waiver of the State’s authority or as an agreement on the part of the State to forego judicial or administrative enforcement of the above-described violation(s) or to seek recovery of damages, cost and penalties as prescribed by law. In addition, nothing herein shall be construed as a waiver of enforcement for past, present, or future violations not specifically set forth herein.

If you have additional questions, I may be contacted at (907) 269-7564, or via e-mail: melinda.smodey@alaska.gov. Thank you for your cooperation and assistance in protecting public health and the environment.

Sincerely,


Melinda Smodey, Enforcement Officer
Credential No. R-0332

Check One:
 Personally Served
 Sent by Certified Mail

on the 12th day of March, 2021

Enclosure: Attachment 1: October 20, 2020 Appeal Hearing Packet

cc:
DEC.Water.Enforcement@alaska.gov
Tiffany Larson, DEC
Gene McCabe, DEC
Tonya Bear, DEC
Raymond Zimmer, DEC
Karl Hagerman, Petersburg Borough



NOTICE AND ORDER OF ABATEMENT

DATE OF NOTICE: August 3, 2020

Property Address: 410 Mitkof Highway

Legal Description: Lot Portion GL 7, Section 10, T59S, R79E.

Parcel ID: 01-084-155

Owner/Responsible Party:

Courtney Johnson

Mailing Address: PO Box 1904 , Petersburg, AK 99833

Contact from the Petersburg Police Department regarding photo evidence of the above property revealed the following code violation(s) as defined by the Petersburg Municipal Code: 14.08.020, 14.08.080 and 9.16.030(B)2

The premises are found to constitute a nuisance and a immediate threat to the public health, safety or welfare or to the environment and therefore subject to abatement. If the nuisance is not corrected by taking the described corrective action by the date specified, the borough may without further prior notice enforce this order and abate the condition under PMC 9.16.070(A)2.

Description of Violations:

Violation of PMC 14.08.020(A) & (B) – Unlawful sewage – Disposal methods designated

Violation of PMC 14.08.080(A) – When connection to public sewer is required

Violation of PMC 9.16.030(B)2 – Nuisance – Unlawful enumeration

Description of Nuisance: Raw sewage, including human excrement, is being discharged from the household onto the hillside and beach of Wrangell Narrows without treatment. There exists a sanitary sewer service lateral pipe which the home must connect to per Municipal Code.

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Corrective Action Required to Abate the Nuisance:

- 1. Area in which the spill is occurring is accessible to the public and domestic pets. The contaminated area must be clearly marked and cordoned off to restrict access.**
- 2. The domestic sewer from the household must be connected to the Petersburg Borough sanitary sewer collection system by way of excavation and plumbing of the household sewer to the existing sewer service lateral. Map showing approximate location of the sewer service lateral is attached.**
- 3. Sewer connection must be completed by a licensed construction contractor (excavation), which must be inspected by the Borough prior to any backfill of the connection point.**
- 4. Site of illegal discharge must be cleansed per DEC Cleanup Guidelines for domestic wastewater spills (enclosed). Access to the area must be restricted for at least 24 hours after the site has been cleansed.**

As the property owner or the person creating, permitting or maintaining the nuisance, you are directed to abate the nuisance by taking the above described corrective action **by no later than 5:00 pm on August 18, 2020.**

If the required corrective action is not taken and the nuisance abated on or before the date and time stated above, the Petersburg Borough may, at its option, disconnect water service under 14.04.130 and/or undertake abatement of the nuisance under PMC 9.16.070(A)2, the cost and expense of either/both shall be charged to you. The borough may also impose civil penalties of \$500/day or seek criminal fines as well as administrative fees against you.

Any person having record title or legal interest in the premises may appeal this notice and order to the Borough Assembly by filing a written appeal with the Borough Clerk's office, on an appeal form provided by the Clerk's office, within 15 days from the date of service of this notice in accordance with section 9.16.080 of the Petersburg Municipal Code. Failure to properly and timely file an appeal shall constitute a waiver of all rights to contest this notice and order.

As this violation constitutes an immediate threat to the public health, we encourage you to act quickly to remedy this situation and are waiving the requirement to obtain a plumbing permit prior to commencement of work.

Please contact me at the phone number below with any questions.

ISSUED BY Karl Hagerman  ON August 3, 2020
PHONE: 907-772-5421 EMAIL: khagerman@petersburgak.gov
Cell Phone: 907-518-4559

Copies of Section 14.08.020, 14.08.080, 14.04.130 and Chapter 9.16 of the Municipal Code are enclosed. Additionally, guidelines from the State of Alaska Department of Environmental Conservation pertaining to the proper way to cleanup a domestic wastewater spill and a map showing you the location of the sanitary sewer lateral pipe where you must connect, are also enclosed.

14.08.020 - Unlawful sewage—Disposal methods designated.

- A. No person shall place, deposit or permit to be deposited in an unsanitary manner upon public or private property within the borough, or in any area under the jurisdiction of the borough, any human or animal excretion, garbage or other objectionable waste.
- B. No person shall discharge into any natural outlet within the borough, or in any area under the jurisdiction of the borough, any sanitary sewage, industrial waste or other polluted water, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.
- C. Except as provided in this chapter, no person shall construct or maintain any privy, septic tank, cesspool or other facility intended or used for the disposal of sewage.

(Ord. No. 2018-07, § 3, 3-5-2018)

14.08.080 - When connection to public sewer is required.

- A. In the best interest of the health and welfare of the residents of the borough, the owner of all houses, buildings or other structures designated or used for human occupancy, employment, recreation or other purpose, situated within the borough, and abutting on any street, alley or right-of-way in which there is located a sanitary sewer of the borough, are required, at their expense, to connect all toilet and wastewater facilities directly with the proper sewer in accordance with the provisions of this chapter within 180 days after official notice to do so; provided, that such sewer is within one hundred fifty feet of the property line.
- B. Any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned, all residual waste shall be pumped from the tank and the tank shall be filled with suitable material, such as sand.
- C. In the event a property owner fails to connect to the sanitary sewer system after an official notice deadline is reached, the property owner will be assessed the normal applicable monthly sewer base charges until the connection is complete. The Alaska Department of Environmental Conservation will be notified of the situation.

(Ord. No. 2018-07, § 3, 3-5-2018)

Chapter 9.16 - NUISANCES

9.16.010 - Purpose and scope.

- A. The purpose of this chapter is to ensure that nuisances are prevented, discontinued, and abated in a timely manner and do not reoccur. Other chapters of the Petersburg Borough Municipal Code address nuisances as well. Various municipal departments are responsible for regulating nuisances, depending upon the type or location of the nuisance. The provisions in this chapter, including the description of the various types of nuisances, procedures for prevention, discontinuation, inspection, enforcement, appeal, and abatement, as well as the appeal and remedies sections, are not exclusive or a limitation on municipal departments in addressing nuisances.
- B. Application of this chapter is limited to Service Area 1 of the Borough.

(Ord. No. 2015-03, § 3, 4-6-2015)

9.16.020 - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates different:

"Abate" means to act to stop an activity and/or to repair, replace, remove, or otherwise remedy a condition, when such activity or condition constitutes a violation of this code or a borough regulation, by such means and in such a manner and to such an extent as the applicable department director, enforcement officer, or other authorized official determines is necessary in the interest of the general health, safety, and welfare of the community. For the purposes of this chapter, the verbs "abate" and "correct" shall be interchangeable and have the same meaning.

"Building" includes any structure, generally with walls and a roof, used for human habitation, occupancy or use.

"Code enforcement officer" or "enforcement officer" means the borough's code enforcement officer(s); the building official; the fire marshal or his or her designee; the chief of the Petersburg police department or his or her designee; the director of the community development department or his or her designee; the director of the public works department or his or her designee; or any other person or persons assigned or directed by the borough manager or his or her designee to enforce the regulations of this chapter.

"Costs" means, but is not limited to, include, but are not limited to, the cost of 1) preparation, mailing and service of notices required hereunder, 2) issuance of requisite specifications and abatement contracts, 3) conduct and performance of inspections and the abatement work, 4) any administrative overhead for

inspection of the property or abatement work performed, and 5) attorney fees incurred in the abatement process.

"Equipment" means goods used or bought for use primarily in a business.

"Nuisance" means any act or creation which is injurious to the public health or safety, which prevents or obstructs the free and comfortable enjoyment of life and property, causes a detrimental effect on nearby property values, or is dangerous to surrounding property.

"Person responsible for the violation" means any of the following: a person who has titled ownership or legal control of the property or structure that is subject to the regulation; an occupant or other person in control of the property or structure that is subject to the regulation; a developer, builder, business operator, or owner who is developing, building, or operating a business on the property or in a structure that is subject to the regulation; a mortgagee that has filed an action in foreclosure on the property that is subject to the regulation, based on breach or default of the mortgage agreement, until title to the property is transferred to a third party; a mortgagee of property that is subject to the regulation and has not been occupied by the owner, the owner's tenant, or a person having the owner's permission to occupy the premises for a period of at least 90 days; or any person who created, caused, participated in, or has allowed a violation to occur.

"Premises" means any land, including any tract, lot or parcel of land, or easement or right-of-way, and any structures thereon.

"Structure" means anything built, constructed, or erected, including buildings.

"Junk" or "salvage" means any abandoned, broken, used, worn out, wrecked, scrapped, partially or fully dismantled or discarded tangible material, including vehicles or watercraft of all kinds, or any combination of materials or items including appliances, chemicals, building materials, equipment or parts thereof, fiber, machinery, metal, scrap metal, rags, rubber, paper, plastics, lumber or wood, that cannot without further alteration and reconditioning be used for their original purposes.

(Ord. No. 2015-03, § 3, 4-6-2015)

9.16.030 - Unlawful; enumeration.

- A. It is unlawful for any person to create, permit or maintain the existence of any nuisance.
- B. Nuisances include, but are not limited to, the following:
 1. The deposit, existence or presence in or on any premises of any accumulation of garbage, refuse, manure or animal or vegetable matter which produces a foul, decaying, malodorous or offensive odor, or which serves or constitutes a potential breeding ground or harborage for insects or rodents;
 2. The deposit, existence or presence in or on any premises of any human excrement or

waste;

3. Attractive nuisances dangerous to children in the form of abandoned buildings, abandoned or broken equipment, hazardous pools or ponds or excavations, neglected machinery or abandoned refrigerators, freezers, or other major appliance;
 4. The keeping or maintenance in any area on private property, which is clearly visible from a public street, sidewalk, park or other public area, any accumulation, collection or untidy storage of junk, salvage, or trash, including discarded or unused items, or any condition determined to be unhealthy by a code enforcement officer, or an unsightly condition after written complaint from three or more residents within the neighborhood or general vicinity of the condition;
 5. Any building or structure set up, erected, built, moved or maintained or any use of property contrary to the provisions of Title 19.
- C. Failure to timely correct nuisances involving a structure may result in the structure becoming or being declared a dangerous building, under the provisions of chapter 9.20 of this Code. If a structure meets the definition of a dangerous building in chapter 9.20, the borough building official may, but is not required to first attempt to abate the nuisance under the provisions of this chapter.
- D. The following chapters of this code also prohibit or restrict other conditions, which are deemed to be nuisances:
1. Abandoned or Junked Vehicles, PMC 11.16.
 2. Dangerous Building, PMC 9.20.
 3. Littering, PMC 9.12.

(Ord. No. 2015-03, § 3, 4-6-2015.)

9.16.040 - Abatement—Standards to be followed.

The code enforcement official, and the assembly if an appeal is taken, shall order the means best calculated to abate wholly the nuisance with the least costs of abatement; and demolition shall not be ordered if repair, vacancy, or removal may accomplish the abatement.

(Ord. No. 2015-03, § 3, 4-6-2015.)

9.16.050 - Abatement—Notice and order.

- A. Unless a nuisance has created a situation which requires summary abatement, the code enforcement officer may issue an abatement notice and order and serve it in the manner described in this section upon the record owners of the affected property, and, if different from the record owners, the person creating, permitting or maintaining the nuisance and any non-owner occupant of the affected property. The notice and order shall contain:

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1. The street address and legal description sufficient for identification of the affected premises;
 2. The statement that the code enforcement officer has found the premises affected with a nuisance, with a brief and concise description of the nuisance;
 3. A statement of the action required to be taken, as determined by the code enforcement officer, to abate the nuisance, and an order directing such action to be taken;
 4. A statement advising that if any required abatement is not commenced or completed within the time specified, i) the code enforcement officer may proceed to cause the necessary work to be done and charge the cost thereof against the premises, its owner and/or, if applicable, the person creating, permitting or maintaining the nuisance, and ii) civil penalties and/or fines, and administrative fees may be imposed; and
 5. A statement advising that any person having record title or legal interest in the premises may appeal from the notice and order of any action of the code enforcement officer by filing with the borough clerk, within fifteen days from the date of service of such notice and order, an appeal in writing in accordance with the appeal procedure as provided in section 09.16.070, and that failure to appeal will constitute a waiver of all right to contest the order.
- B. The abatement notice and order and any amended or supplemental notice and order shall be posted on the premises affected by the nuisance and served upon the persons set about in paragraph A above either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to the person at that person's last known address. Service by certified mail in the manner herein provided shall be deemed effective on the date of mailing.
- C. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this chapter. The inability or failure of the code enforcement officer to serve any person required to be served shall not invalidate any proceedings herein as to any other person duly served.

(Ord. No. 2015-03, § 3, 4-6-2015)

9.16.060 - Abatement—Extension of time.

Upon receipt of a request from a person required to conform to the abatement order, and agreement in writing by such person that the person will comply with the order if allowed additional time, the code enforcement officer may grant an extension of time within which to abate the nuisance if the code enforcement officer determines that such an extension of time will not create or perpetuate a situation dangerous to life or property.

(Ord. No. 2015-03, § 3, 4-6-2015)

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9.16.070 - Abatement—Enforcement of order.

- A. The creation or maintenance of a nuisance is prohibited, and whenever a nuisance is deemed to exist within the borough, it may be abated in either the manner set out in this chapter, or under a different applicable procedure set out in the borough code.
1. *Voluntary correction.* When the borough determines that a nuisance exists and prior to the issuance of an abatement notice and order, a code enforcement officer may attempt to secure the voluntary correction of a violation by attempting to contact the person responsible for the violation, explaining the violation, and requesting correction within the time specified. The borough may also enter into a written voluntary correction agreement with any person causing, allowing, or participating in the violation, including the property owner.
 2. *Abatement by borough.* The borough may perform the abatement required upon noncompliance with the terms of a written voluntary correction agreement, an unappealed notice and order, or a final decision of the assembly. The borough may utilize borough employees or a private contractor under borough direction to accomplish the abatement. The borough, its employees and agents using lawful means are expressly authorized to enter upon the property of the violator for such purposes. Nothing in this chapter shall prohibit the borough from pursuing abatement of a violation pursuant to any other laws of the state of Alaska or the borough.
 3. *Summary abatement.* Whenever any nuisance causes an immediate threat to the public health, safety or welfare or to the environment, the borough may summarily and without prior notice abate the condition. Except for the requirement of notice, all abatement proceedings provided for in this chapter apply to a nuisance summarily abated, including the recovery of the costs of the summary abatement. No notice is required for abatement of a nuisance occurring on the public streets and rights-of-way, or other borough property.

(Ord. No. 2015-03, § 3, 4-6-2015.)

9.16.080 - Abatement—Appeal to assembly.

- A. Any person having record title or legal interest in premises which are the subject of an abatement notice and order may appeal from that notice and order by filing a written appeal to the assembly with the office of the borough clerk, within fifteen days from the date of service of such notice and order.
- B. As soon as practicable after receiving the written appeal, the assembly shall fix a date, time and place for the hearing of the appeal by the assembly. Such date shall be not less than ten days nor more than sixty days from the date the appeal was filed with the borough clerk. Written notice of the hearing shall be given to each appellant by the borough clerk, either by

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- causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at appellant's address shown on the appeal.
- C. Failure of a person to file an appeal in accordance with the provisions of this section shall constitute a waiver of that person's right to the assembly hearing and of any adjudication of the notice and order, or any portion thereof.
 - D. Only those matters or issues specifically raised by the appellant shall be considered in the hearing on the appeal.
 - E. Enforcement of any notice and order of the code enforcement officer issued under this chapter shall be stayed during the pendency of an appeal therefrom which was properly and timely filed. Such a stay does not prevent the code enforcement officer from taking abatement action if the nuisance subsequently becomes subject to summary abatement.
 - F. The hearing shall be conducted informally, and may be governed by such rules and procedures as the assembly may choose. At the hearing, the appellant may appear in person or by agent or attorney, and offer documents and testimony, of appellant or other witnesses, in support of the appeal. The code enforcement officer, or their designee, shall appear at the hearing and may offer documents and testimony, of the official or other witnesses, in support of the abatement notice and order. Both the code enforcement officer and the appellant may cross-examine witnesses, under reasonable time limits adopted by the presiding assembly member. The presiding assembly member may administer oaths, and a record shall be kept of the proceedings by the borough clerk.
 - G. The assembly, after the hearing, shall issue a written final decision on the appeal, including findings of fact. If it affirms that a nuisance subject to abatement exists, the decision shall also contain an order based upon its findings, directing the abatement within such time period and upon such terms and conditions as it may prescribe. The decision shall be given to each appellant by the borough clerk, either by causing a copy to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at appellant's address shown on the appeal.
 - H. If the person who requests a hearing to contest notice and order then fails to appear at the scheduled hearing after having been given notice in the manner provided for by this chapter, the person shall be deemed to have waived the right to appear and present testimony and evidence in support of the appeal. The assembly shall proceed to hear testimony and receive evidence from the code enforcement officer and shall issue a written final decision on the appeal based upon the record before it, including findings of fact as required under section 9.16.080(G).

(Ord. No. 2015-03, § 3, 4-6-2015)

9.16.090 - Appeal to superior court.

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The final decision of the assembly issued under this section above may be appealed to the Superior Court, First Judicial District, State of Alaska, within 30 days of the date the decision was issued and in accordance with applicable Court Rules. For purposes of this section, the date of issuance is the date upon which the decision was mailed or delivered to the appellant. Failure to file the notice of appeal in the manner and time specified shall forfeit any right to appeal.

(Ord. No. 2015-03, § 3, 4-6-2015)

9.16.100 - Recovery of costs.

- A. The borough shall bill its costs, including incidental expenses, of pursuing code compliance and/or of abating a violation to the person responsible for the violation and/or against the subject property. Such costs shall become due and payable 30 days after the date of the bill.
- B. The borough manager or designee may in his or her discretion waive in whole or part the assessment of any costs upon a showing that abatement has occurred or is no longer necessary. Any challenge to the amount of the abatement costs must be made within 14 days of issuance of the bill and shall be heard by the borough manager in an informal hearing. The borough manager shall make a written determination as to whether or not the borough's costs were accurate and necessary for accomplishing the abatement.
- C. The costs and expenses may be recovered by the borough in a civil action or by any other permitted method, including use of a collection agency or the exercise of any lien rights possessed by the borough.

(Ord. No. 2015-03, § 3, 4-6-2015)

9.16.110 - Inspections and right of entry.

The code enforcement officer is authorized to enter on or into premises and structures, and conduct inspections thereof, in order to enforce the provisions of this chapter, including in circumstances where the official has reasonable cause to believe that a nuisance exists in any structure or on any premises subject to this code. The official may enter and inspect such structure or premises at any reasonable time in performance of the official's enforcement activities under this chapter; provided, however, that where the Constitution of the United States or the State of Alaska requires that the official obtain an administrative search warrant before entering onto premises and making an inspection, the official shall not make the inspection until authorized to do so by a search warrant issued by a court of competent jurisdiction. If the code enforcement officer is a borough official other than the chief of police, then a peace officer shall accompany the abatement official in any entry and inspection conducted under a search warrant.

(Ord. No. 2015-03, § 3, 4-6-2015)

9.16.120 - Violations and remedies.

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- A. A person who violates a provision of this chapter shall be guilty of a violation, and shall be subject to a fine as provided in chapter 1.16 of the Borough Code.
- B. The remedies provided for in this chapter shall be cumulative. In addition to other remedies or procedures provided in the chapter, a nuisance may be restrained, enjoined or otherwise abated by the borough in a civil action. The code enforcement officer may also assess civil penalties, in an amount up to One Hundred Dollars (\$100) per day, for any violation of this chapter; the amount of any such penalty may be set out in the notice and order, or by separate assessment.
- C. Each and every day that a person fails to comply beyond a date fixed for compliance shall constitute a separate offense.

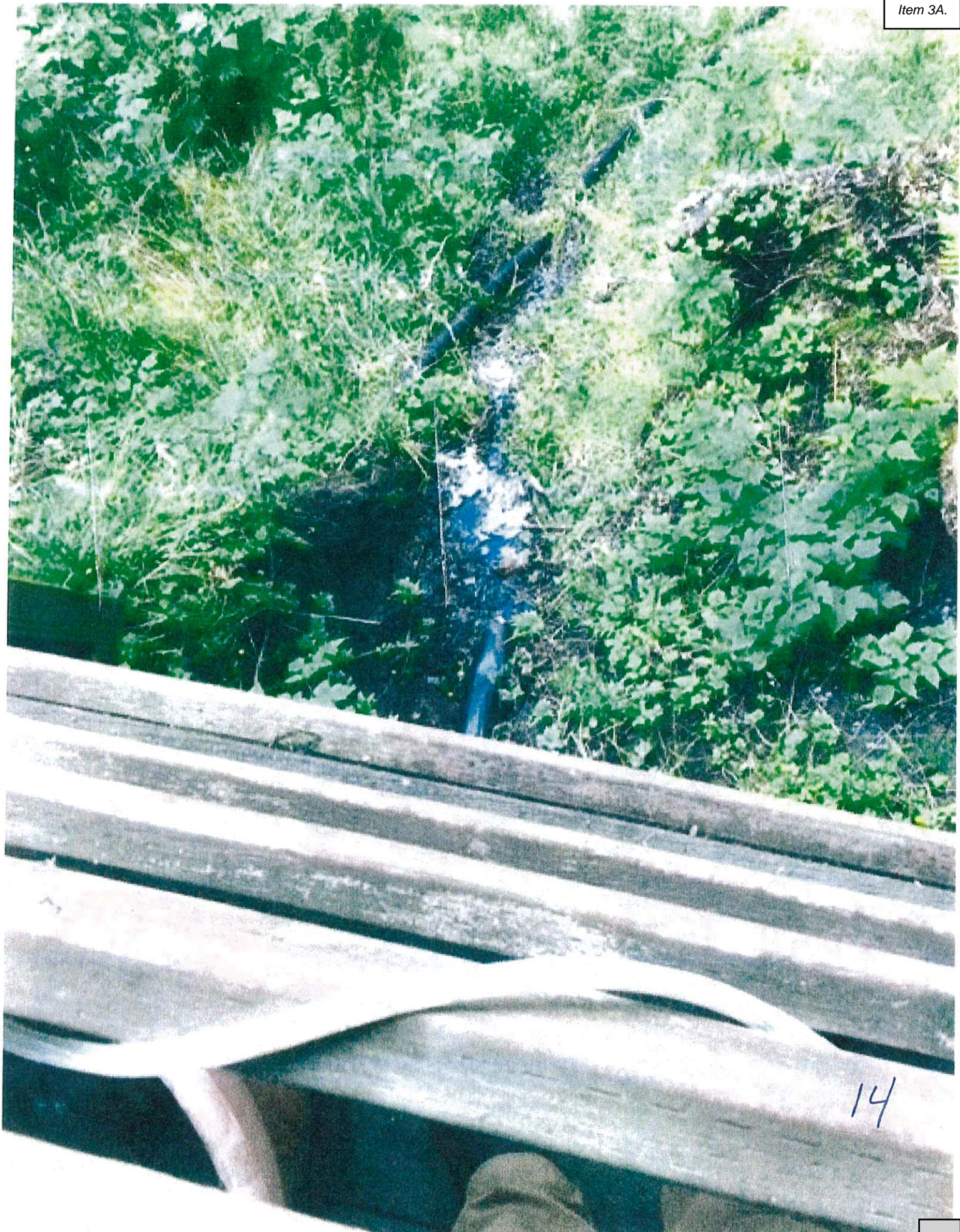
(Ord. No. 2015-03, § 3, 4-6-2015)

14.04.130 - Unsafe facilities.

The borough may refuse to furnish water and may immediately disconnect services to any premises where plumbing facilities, appliances or equipment using water are dangerous, unsafe or not in conformity with federal, state or local laws and regulations.

(Ord. No. 2018-06, § 3, 3-5-2018)

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INDOOR AND OUTDOOR CLEANUP PROCEDURES FOR DOMESTIC WASTEWATER SPILLS

Indoor cleanup guidelines for domestic wastewater spills.

Cleanup guidelines for domestic wastewater spills that occur inside of a building

If sewage is on nonabsorbent floor material like tile, vinyl, concrete or other nonabsorbent surfaces, cleanup of the visible water and semi-solid material should be accomplished using a vacuum or mop and by using the proper concentrations of sanitizers to disinfect. Make sure that the sanitizer is of proper concentration and that all affected areas are thoroughly sanitized.

If the sewage is on an absorbent floor material, such as carpet, the material that has absorbed the sewage should be vacuumed to remove as much of the waste as possible.

Do not mix cleaning and disinfecting products or chemicals. Cleaning products can react with one another to produce toxic vapor or liquid substances.

The following is a list of common sanitizers:

- Chlorine: For chlorine solutions, the chlorine concentration should be in the range of 50 to 1000 parts per million (ppm) or milligrams per liter (mg/l) for disinfecting surfaces of appliances and food preparation areas and 200 ppm (mg/l) for walls and floors. You can verify the chlorine concentration by using test paper available at food supply warehouses or chemical supply companies.
- As a rule of thumb, add 3/4 cup Clorox Bleach to one gallon of water. Only use bleach that has "sanitizes" or "kills germs" on the label.
- Alternative disinfectants: Other disinfectants, which include iodine and quaternary solutions, must be used according to the manufacturer's specifications / recommendations if used for disinfecting sewage spills.

Please note: Using chlorine or alternate disinfectants on absorbent materials (such as carpet) may cause damage to the material and loss of color may occur.

Because it is difficult to adequately sanitize carpet, carpet pad and absorbent flooring materials, ADEC recommends that saturated flooring materials be removed and disposed of at a permitted solid waste disposal facility.

Remember, access to the spill area must be restricted until 24 hours after cleanup has been completed so as to minimize any threat to public health or the environment.

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Outdoor cleanup guidelines for domestic wastewater spills

The following are recommended procedures for cleaning up untreated or inadequately treated sewage, spilled to the ground surface.

1. In all conditions:
 - A. If the area in which the spill occurred is accessible to the public or domestic pets, the contaminated area must be clearly marked or cordoned off to restrict access.
 - B. Protective clothing (at a minimum, rubber or latex gloves and rubber boots) should be worn when cleaning up a sewage spill. (Dispose of gloves and wash rubber boots when leaving spill site). Keep children and interested bystanders away from cleanup activities.
 - C. Please note that hydrated lime is a caustic material and can be dangerous to handle and apply. Lime should only be used or applied by people experienced in using this material.
 - D. Do not mix cleaning and disinfecting products or chemicals. Cleaning products can react with one another to produce toxic vapor or liquid substances.
2. In non-freezing conditions, when sewage is a mixture of liquid and solid material, the following steps should be taken:
 - A. If the spilled material can't be recovered using hand tools, a commercial vacuum or pump truck should be called to remove all visible liquid and solid material.
 - B. When the area is visibly clean, either a mixed chlorine water solution (using Clorox or an equal bleach) or hydrated lime should be applied to the spill area to disinfect. To make a 5 percent chlorine solution, add 3/4 cup Clorox bleach to one gallon of water. You can verify the chlorine concentration by using test paper available at food supply warehouses or chemical supply companies. Only use bleach that has "sanitizes" or "kills germs" on the label.
 - C. If the spill occurred in a heavily populated area and odor may be an issue or within 100 feet of surface water, hydrated lime should be applied to the area in place of chlorine bleach. Enough hydrated lime should be applied to raise the pH to at least 12. By raising the pH to 12 for at least one-hour, the area will be disinfected. You can test the pH by using litmus paper obtained at a chemical supply facility. Because lime is a caustic material, access to the area treated with lime must be restricted during the disinfection period.
 - D. After the spill area has been cleansed (24 hours after the chlorine solution or hydrated lime has been applied), the barriers may be removed and access to the area restored.
3. In freezing or frozen conditions.
 - A. An attempt should be made to clean up the spill before it becomes completely frozen.
 - B. If possible, the frozen sewage should be removed down to the natural ground surface (or at least one inch below the spilled sewage if on thicker ice) and the recovered material disposed of properly. This could require that approval be obtained from the local government for disposal in a permitted landfill. An acceptable alternative solution is to stock pile the frozen sewage in an approved lined containment area until conditions are more favorable for transport and disposal. (Because each spill site and situation is different, please contact you local ADEC office for recommendations regarding constructing an acceptable containment area.) If the material thaws, the liquid must be properly handled

and disposed of at a permitted wastewater treatment and disposal facility. Keep in mind that frozen and / or thawed sewage may still contain active, harmful bacteria, cysts and viruses.

- C. When the area is visibly clean, either a mixed chlorine water solution (using Clorox or an equal bleach) or hydrated lime should be spread across the spill area to disinfect. You can verify the chlorine concentration by using test paper available at food supply warehouses or chemical supply companies.
- D. If the spill occurred in a heavily populated area and odor may be an issue or within 100 feet of surface water, hydrated lime should be applied to the spill area in place of chlorine bleach. The hydrated lime will raise the pH to 12, which will disinfect the area. By raising the pH to 12 for at least one-hour, the area will be disinfected. You can test the pH by using litmus paper obtained at a chemical supply facility. Because lime is a caustic material, access to the area treated with lime must be restricted during the disinfection period.
- E. When the spill area has been cleansed (24 hours after the chlorine solution or hydrate lime has been spread), the barriers can be removed and access to the area restored.

Remember, access to the spill area must be restricted until 24 hours after cleanup has been completed, so as to minimize any threat to public health or the environment.

For more information or if you have questions regarding State of Alaska Wastewater Regulations 18 AAC contact your local DEC office.

↑

2005-30

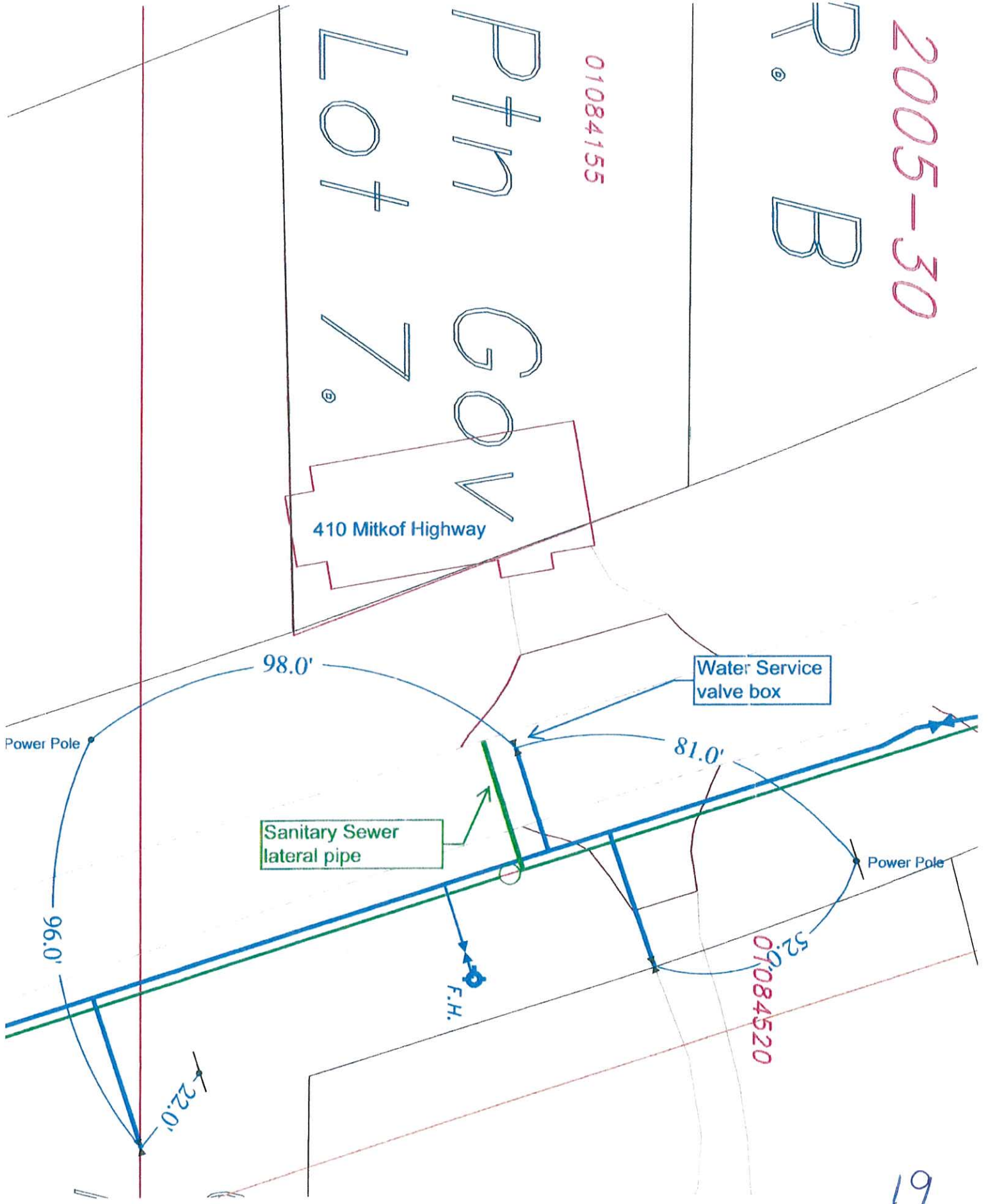
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01084155

Lot 7
Pt'n
GOV



410 Mitkof Highway



Water Service valve box

Sanitary Sewer lateral pipe

F.H.

01084520

19

Photo of 410 Mitkof Highway showing Notice and Order of Abatement packet on front door 8/3/2020



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CERTIFIED MAIL® RECEIPT
Domestic Mail Only**

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OFFICIAL USE

Certified Mail Fee	\$	
Extra Services & Fees (check box, add fee as appropriate)		
<input type="checkbox"/> Return Receipt (hardcopy)	\$	
<input type="checkbox"/> Return Receipt (electronic)	\$	
<input type="checkbox"/> Certified Mail Restricted Delivery	\$	
<input type="checkbox"/> Adult Signature Required	\$	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$	
Postage	\$	
Total Postage and Fees	\$	
Sent To	NEW K. HANSEN	
Street and Apt. No. or PO Box No.	COURTNEY JOHANSON	
City, State, ZIP+4®	PO BOX 19014 41011 AK	
	Petrolia AK 99833	

Postmark
Here 2020

PS Form 3800, April 2015 PSN 7530-02 000-9037 See Reverse for Instructions

7018 1300 0385 0704



21

From: Justin Haley <jhaley@petersburgak.gov>
Sent: Tuesday, August 25, 2020 10:10 AM
To: Stephen Giesbrecht <sgiesbrecht@petersburgak.gov>; Joe Bertagnoli <jbertagnoli@petersburgak.gov>
Cc: Debra Thompson <dthompson@petersburgak.gov>; Liz Cabrera <lcabrera@petersburgak.gov>; Chris Cotta <ccotta@petersburgak.gov>; Karl Hagerman <khagerman@petersburgak.gov>
Subject: RE: Courtney Johnson property

Good Morning Steve,

We met with the owner and her friend that was helping to fix the problems. They explained that they had reconnected the house to the septic tank and run a new outfall line from the septic tank to a nearby stream. It was made clear that the outfall was not consistent with any regulations and that needed to be addressed.

We made our way around to the water side of the house and found that they had reestablished a connection between the house and septic tank as they had stated but had used a corrugated plastic pipe that is not approved for sewer. The line was laying on the ground with no cover. It was made clear that the materials used were not acceptable and that the lines needed to be buried to protect them from damage.

The original outfall that appeared to have been install in accordance with ADEC regulations was found to be completely unusable which is why they installed the new outfall to the nearby stream. It was again pointed out that materials used are not approved for this purpose, that lines need to be buried for protection and that the outfall to the stream is a clear violation of regulations.

The top of septic tank was covered in earth and vegetation that made the inspection hatches not accessible. Do to the placement of the tank, the amount and size of the vegetation present it is unlikely that the septic tank has received any maintenance in many years. I spoke to the Rick Anderson from Stinker Septic Pumping. He has been pumping septic tanks in Petersburg for the last few years and has not pumped this one. The wastewater department did septic pumping starting in about 2008 but discontinued that service once Rick started up. We never pump the septic tank either. ADEC recommends pumping septic tanks every 2 years at a minimum.

It was discussed that the steps taken so far need to be viewed as temporary fix and that they still need to connect to the Borough sewer and that a residential pump station would likely be required to do so. They responded that since the previous owner didn't connect when sewer became available and the borough allowed them to stay connected to the septic tank that if the borough wanted them to connect to the sewer it was the borough's responsibility to pay for it. There was considerably more said by the owner but it was difficult to follow so I have basically clarified their stance to the best of my ability.

Thanks,
Justin Haley
Wastewater Operations Supervisor
Petersburg Borough
PO Box 329
Petersburg, Alaska 99833
Phone (907) 772-3787
Fax (907) 772-2186
jhaley@petersburgak.gov

22

August 24, 2020

Site visit at 410 Mitkof Highway-Courtney Johnson residence

I did an on-site visit with Justin Haley and Dennis Jones of Wastewater Department, along with Chief Kerr and Officer Louis Waechter of the Petersburg Police Department.

We were there to look at the sewer system hook ups which had been observed previously to be failing and spilling raw sewage over the embankment and running down the hill towards the ocean. The previously observed pipe failure had been reconnected with a new pipe which ran down the hill to the septic tank. It was observed that there was a new pipe running from the outfall of the septic tank to the nearby creek which runs directly to the ocean. The pipe under the house appears to be cast iron and then it transitions to 4" ABS before transitioning to the 3" corrugated pipe with some sort of fitting or just bonded with duct tape. It was hard to make out if there was a coupling under the tape.

This entire use of materials is against building codes for materials used. It is against code to downsize any drainage pipe in the direction of flow. It is also against code to use corrugated pipe for sanitary drainage. The piping also needs to be protected from damage. They stated that this was only temporary to fix the leakage problem until the permanent solution was done. I did not go to the septic tank down the hill but from the looks of it I can only assume that it has never been serviced.

I have attached some photos of the piping and septic tank.(the septic tank is under that clod of earth with the chair bottom on top of it) The outfall into the creek can be seen on one picture and the reduced pipe next to the house can be seen on the other photo.

Joe Bertagnoli

Building Official
Petersburg Borough
P.O. Box 329
Petersburg AK 99833
907-772-5410
907-518-0494 (cell)
907-772-3759 (fax)
jbortagnoli@petersburgak.gov

Photo documentation of site inspection of 410 Mitkof Highway on August 24, 2020

Photo 1



Photo showing connection from original piping to new corrugated drainpipe.

- Connection made with duct tape.
- Corrugated pipe not rated for installation.
- All piping unburied and not protected.

24

Photo 2 410 Mitkof Highway August 24, 2020 Joe Bertagnoli



Photo showing piping route and connections to septic tank.

- All piping unburied and not protected.
- Corrugated piping not rated for the installation.
- Septic tank buried in soil and inaccessible to pump out and maintain.

25

Photo 3 410 Mltkof Highway August 24, 2020 Joe Bertagnoli



Photo showing discharge of corrugated pipe to a surface water drainage adjacent to beach of Wrangell Narrows.

- Corrugated pipe not rated for installation.
- All pipe unburied and unprotected.
- Discharge of septic system directly to receiving waters of the State of Alaska.

From: Justin Haley <jhaley@petersburgak.gov>
Sent: Tuesday, August 25, 2020 11:28 AM
To: Debra Thompson <dthompson@petersburgak.gov>; Stephen Giesbrecht <sgiesbrecht@petersburgak.gov>; Joe Bertagnoli <jbertagnoli@petersburgak.gov>
Cc: Liz Cabrera <lcabrera@petersburgak.gov>; Chris Cotta <ccotta@petersburgak.gov>; Karl Hagerman <khagerman@petersburgak.gov>
Subject: RE: Courtney Johnson property

I spoke to Raymond Zimmer with ADEC. He directed me to 18 AAC 72.050 (a) (1) which requires secondary treatment and disinfection to discharge domestic wastewater to the waters of the United States. He said that marine discharges from septic systems was previously acceptable but when an owner needs to repair or replace existing system components they must comply with current regulations. He also stated that whenever a community system is available the owner is advised to connect to it. Cost to bring current system into compliance with state regulation would likely exceed the cost to connect to borough sewer by a considerable amount.

Hope this helps.

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PETERSBURG BOROUGH
APPEAL FORM FOR NOTICE AND ORDER OF ABATEMENT

THIS FORM IS TO BE USED ONLY FOR FILING AN APPEAL OF A NOTICE AND ORDER OF ABATEMENT
PURSUANT TO SECTION 9.16.080 OF THE MUNICIPAL CODE

Name of Appellant: Courtney Johnson

Mailing Address: PO Box 1904 410 Mitkof Hwy
PSB AK 99833

Telephone Number: 907 500 4067

Date of Abatement Order: 08/03/2020

Describe below why you feel the Notice and Order of Abatement was issued in error. If necessary, you may attach additional pages.

Please see attached documents in reference to said notice and order of Abatement. I am appealing these accusations and request to be heard in front of counsel, with legal representation.

An appeal of a decision must be filed with the borough clerk within 15 calendar days of the date the Notice and Order of Abatement was issued. Please attach a copy of the decision which is being appealed.

Signature of Appellant: Courtney Johnson

Date: 08/16/2020

Title of sianatorv if Appellant is an entitv:

08/18/2020

To Whom it May Concern,

I am the owner of the residence at 4.1 mile of Mitkof Hwy. This letter is written today to appeal the Borough's Notice and Order of Abatement, dated August 3rd, 2020 and request that I have more time to access this grave situation at hand. I am a proud homeowner and want to be in compliance with all required Ordinances. There are currently 4 children under the age of 11 living in the top level of the home with their mother, and I pray we can all work together in order to find the right channels and avenues to correct this sewage issue at hand.

It is unclear who the responsible parties are for these sewage accusations, but I was unaware that I was breaking any Wastewater Codes. When I bought this house in 2018, there should have been a Certificate of Occupancy issued by local government, stating that the residency was in compliance to local regulations and approved to reside in dwelling. I did not receive notification from any entity, stating there were major legal issues that needed to be addressed or I could be evicted from my home. It seems that the Wastewater Department, First Bank of Alaska, and previous owners should have addressed this problem years ago, when the roads were laid and city sewage hookups were installed. My house is currently connected to the City's water hookup, so it would be assumed that the sewage requirements had also been met. I am very sorry we are now here in this situation, but I would love to correct this issue, with the City's advice and knowledge.

According to the Borough Code of Ordinances, Ordinance 14.08.020 states that no person shall construct or maintain a septic tank. I did not think it was legally possible to be on a septic tank in 2020, when it is required to be hooked up to public sewage, as stated in Ordinance 14.08.080. Section A of 14.08.080 states that the owners of the residency are required to connect directly with proper sewer within 180 days after official notice was delivered. This project happened 10-20 years ago. I assumed the City was maintaining their Code of Ordinances and following the proper channels to report this negligence to the Alaska Department of Environmental Conservation and owners. I bought this property from First Bank, as an Estate Sale, due to the previous owners both being deceased. I bought it with the understanding that everything was in appliance with local mandates and requirements. I am still piecing together the history of the home and such permits concerning sewage installations.

As stated in 9.16.030, it is unlawful for any person to create, permit, or maintain the existence of claimed nuisance. I did not have the knowledge that I was doing anything unlawful, since 5 City Workers and an Officer of the Law came to my residency and performed a thorough inspection of my hillside and sewage situation. They, in fact, verified that it was a false accusation and there were no problems to be reported. I was cleared of all accusations. According to the 4th Amendment and the Borough's Ordinance 9.16.110, it states that I have protection against unlawful searches and that a court appointed search warrant has to be presented at the time of the search. Nothing like this happened. This Notice of Abatement was not signature verified and documented to be delivered by an Officer of the Law nor by any City Official, so I am requesting an extension for time, in order to properly tackle these issues.

It is stated in the Alaska Right of Privacy Amendment, Amendment 3, that I have rights as a citizen of the United States of America, to privacy and that shall not be infringed. This accusation by the police department was not performed under a search warrant. They entered my premises unlawfully and submitted a grave and detrimental accusation outside of their authority, and this is illegal. I deserve to be treated with respect and some sort of professionalism. I am innocent and want a chance to be heard. I am willing to fix any issues there are with my residency, but I need time and more knowledge of the situation at hand.

Thank you for your time,

Courtney Johnson

Courtney Johnson



NOTICE OF APPEAL HEARING ON NOTICE AND ORDER OF ABATEMENT

PROPERTY ADDRESS: 410 Mitkof Highway
Lot Portion GL 7, Section 10, T59S, R79E

OWNER/RESPONSIBLE PARTY: Courtney Johnson
PO Box 1904
Petersburg, AK 99833

DATE/TIME OF HEARING: October 20, 2020, 5:00 p.m.

Dear Ms. Johnson:

On August 3, 2020, you were served with a Notice and Order of Abatement regarding the household sewer system serving the above-described premises and ordered to take corrective action by August 18, 2020 to abate the nuisance. A copy of that notice is enclosed, which contained the following determination:

The premises are found to constitute a nuisance and an immediate threat to the public health, safety or welfare or to the environment and is therefore subject to abatement. If the nuisance is not corrected by taking the described corrective action by the date specified, the borough may without further prior notice enforce this order and abate the condition under PMC 9.16.070(A)2.

Description of the nuisance: raw sewage, including human excrement, is being discharged from the household onto the hillside and beach of Wrangell Narrows without treatment. There exists a sanitary sewer service lateral pipe which the home must connect to per Municipal Code.

Pursuant to your August 18, 2020 appeal from the Notice and Order of Abatement and PMC section 9.16.080, you are hereby given notice that the hearing on your appeal is scheduled for **Tuesday, October 20, 2020 at 5:00 p.m.** before the Petersburg Borough Assembly. The hearing will be held via videoconference system (Zoom) due to COVID-19 in-person attendance restrictions.

The hearing shall be conducted informally. At the hearing, you may be assisted by a representative or attorney, and offer documents and provide testimony, of both yourself or

other witnesses. The Borough Utility Director and other borough employees are expected to offer testimony, written documents and photographs concerning the household’s sewer system and its condition. You will be provided the opportunity to ask questions of witnesses, as will the Utility Director or any member of the Assembly. Testimony and cross-examination of witnesses will be conducted under reasonable time limits adopted by the Assembly. Oaths shall be administered to persons who wish to testify, and a record shall be kept of the proceedings by the Borough Clerk. The Utility Director will mail or email to you, under separate cover, a copy of the documents which the Director will present to the Assembly at that hearing. If you will also have documents to present to the Assembly, please provide two copies of those documents to the borough clerk's office by 4:30 p.m. on Wednesday, October 14, 2020, so that they may be included in the packet which is provided to the Assembly prior to the hearing.

Following the hearing, the Assembly will make a written decision on the appeal, including findings of fact. If the Assembly affirms the Notice and Order of Abatement, the Assembly will issue an order directing the abatement within a specified time period and upon such terms and conditions as the Assembly may determine. A copy of that written decision will be mailed or delivered to you.

Failure to appear at the hearing will waive your right to offer testimony and present testimony and evidence to the Assembly regarding the issues presented in your appeal, and the Assembly shall proceed to make findings of facts and issue its order based upon the evidence or testimony before it.

Prior to the hearing, I will send you via email an invite to the Zoom meeting, by which you will be able to click and connect to the meeting. If you are unable to attend via videoconferencing, please contact me no later than 4:30 p.m. Wednesday, October 14, 2020 so that alternative arrangements can be made to schedule your participation by teleconference.

If you have any questions regarding this notice of hearing, please feel free to contact me in writing at dthompson@petersburgak.gov.

Respectfully,



Debra K. Thompson, Borough Clerk
on behalf of the Petersburg Borough Assembly

DATE OF THIS NOTICE: October 9, 2020



NOTICE AND ORDER OF ABATEMENT

DATE OF NOTICE: August 3, 2020

Property Address: 410 Mitkof Highway

Legal Description: Lot Portion GL 7, Section 10, T59S, R79E.

Parcel ID: 01-084-155

Owner/Responsible Party:

Courtney Johnson

Mailing Address: PO Box 1904 , Petersburg, AK 99833

Contact from the Petersburg Police Department regarding photo evidence of the above property revealed the following code violation(s) as defined by the Petersburg Municipal Code: 14.08.020, 14.08.080 and 9.16.030(B)2

The premises are found to constitute a nuisance and a immediate threat to the public health, safety or welfare or to the environment and therefore subject to abatement. If the nuisance is not corrected by taking the described corrective action by the date specified, the borough may without further prior notice enforce this order and abate the condition under PMC 9.16.070(A)2.

Description of Violations:

Violation of PMC 14.08.020(A) & (B) – Unlawful sewage – Disposal methods designated

Violation of PMC 14.08.080(A) – When connection to public sewer is required

Violation of PMC 9.16.030(B)2 – Nuisance – Unlawful enumeration

Description of Nuisance: Raw sewage, including human excrement, is being discharged from the household onto the hillside and beach of Wrangell Narrows without treatment. There exists a sanitary sewer service lateral pipe which the home must connect to per Municipal Code.

Wastewater Department

PO Box 329, Petersburg, AK 99833 – Phone (907)772-4521

www.petersburgak.gov

Corrective Action Required to Abate the Nuisance:

- 1. Area in which the spill is occurring is accessible to the public and domestic pets. The contaminated area must be clearly marked and cordoned off to restrict access.**
- 2. The domestic sewer from the household must be connected to the Petersburg Borough sanitary sewer collection system by way of excavation and plumbing of the household sewer to the existing sewer service lateral. Map showing approximate location of the sewer service lateral is attached.**
- 3. Sewer connection must be completed by a licensed construction contractor (excavation) and residential plumber (household plumbing to public sewer) licensed by the State of Alaska. Plumber shall provide written statement to the Borough attesting connection work was completed in accordance with adopted building code.**
- 4. Site of illegal discharge must be cleansed per DEC Cleanup Guidelines for domestic wastewater spills (enclosed). Access to the area must be restricted for at least 24 hours after the site has been cleansed.**

As the property owner or the person creating, permitting or maintaining the nuisance, you are directed to abate the nuisance by taking the above described corrective action **by no later than 5:00 pm on August 18, 2020.**

If the required corrective action is not taken and the nuisance abated on or before the date and time stated above, the Petersburg Borough may, at its option, disconnect water service under 14.04.130 and/or undertake abatement of the nuisance under PMC 9.16.070(A)2, the cost and expense of either/both shall be charged to you. The borough may also impose civil penalties of \$500/day or seek criminal fines as well as administrative fees against you.

Any person having record title or legal interest in the premises may appeal this notice and order to the Borough Assembly by filing a written appeal with the Borough Clerk’s office, on an appeal form provided by the Clerk’s office, within 15 days from the date of service of this notice in accordance with section 9.16.080 of the Petersburg Municipal Code. Failure to

properly and timely file an appeal shall constitute a waiver of all rights to contest this notice and order.

As this violation constitutes an immediate threat to the public health, we encourage you to act quickly to remedy this situation and are waiving the requirement to obtain a plumbing permit prior to commencement of work.

Please contact me at the phone number below with any questions.

ISSUED BY Karl Hagerman  ON August 3, 2020
PHONE: 907-772-5421 EMAIL: khagerman@petersburgak.gov
Cell Phone: 907-518-4559

Copies of Section 14.08.020, 14.08.080, 14.04.130 and Chapter 9.16 of the Municipal Code are enclosed. Additionally, guidelines from the State of Alaska Department of Environmental Conservation pertaining to the proper way to cleanup a domestic wastewater spill and a map showing you the location of the sanitary sewer lateral pipe where you must connect, are also enclosed.



AFFIDAVIT OF MAILING AND OF POSTING PROPERTY

Re: Notice of Appeal Hearing Regarding Notice and Order of Abatement

Property Address: 410 Mitkof Highway
Petersburg, Alaska 99833

Borough Parcel ID No.: 01.084.155

I, Louis Waechter, a Police Officer of the Petersburg Borough, being duly sworn, affirm and state as follows:

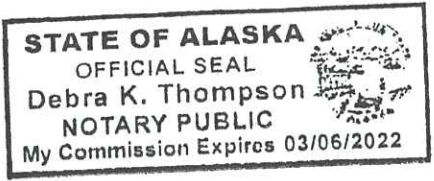
4. On October 9, 2020, I caused a true and correct copy of the attached Notice of Appeal Hearing, in a sealed envelope to be hand delivered to Courtney Johnson.

L. Waechter WAECHTER
Signature

10/09/2020
Date

Police Officer
Title

SUBSCRIBED AND SWORN to or affirmed before me at Petersburg, Alaska, on this 9th day of October, 2020.



Debra K. Thompson
Notary Public in and for the State of Alaska
My Commission Expires: 3/6/2022

Debra Thompson

From: Debra Thompson
Sent: Friday, October 16, 2020 12:17 PM
To: Courtney Johnson
Subject: Utility Director's Documents for October 20, 2020 Appeal Hearing
Attachments: Borough Utility Director Documents for Appeal Hearing.PDF

Hi Courtney,

Please find attached a copy of the documents the Borough Utility Director will be presenting to the Assembly during your Appeal Hearing scheduled for 5:00 p.m. on Tuesday, October 20, 2020. The hearing will be conducted via the Zoom videoconferencing service. I will email you an invite to the hearing separately before the end of the day today.

Please let me know if you have any questions.

Thank you,
Debbie

Debra K. Thompson, CMC
Borough Clerk/Human Resources Manager

Petersburg Borough
907-772-5405



FILED in the Trial Courts
State of Alaska
First Judicial District at Petersburg
JUN 05 2023

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IN THE DISTRICT COURT FOR THE STATE OF ALASKA
FIRST JUDICIAL DISTRICT IN PETERSBURG

In re Real Property located at
410 Mitkof Highway, Petersburg, Alaska

Administrative Search Warrant
1PE-23 - 4 SW

ADMINISTRATIVE SEARCH WARRANT

The Petersburg Borough having requested an administrative search warrant authorizing entry onto the real property and structures located at 410 Mitkof Highway, Petersburg, Alaska ("the premises"), and the Borough having established probable cause for the issuance of this Administrative Search Warrant, the Petersburg Borough is hereby authorized to have its employees enter onto and into the premises for inspection purposes, consistent with the following conditions:

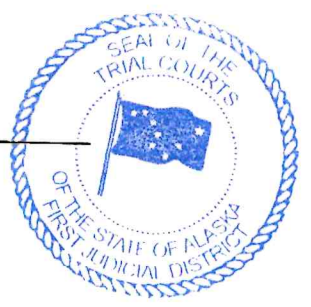
1. The inspection is for enforcement of Petersburg Municipal Code Title 9, Chapters 16 (*Nuisances*) and 20 (*Dangerous Buildings*). The purpose of this inspection is to determine whether code and regulatory violations exist in regard to the improper disposal of human waste.
2. The inspection is authorized for the entire real property located at 410 Mitkof Highway in Petersburg, Alaska, including all real property and structures.
3. The Petersburg Borough is prohibited from searching or inspecting personal property, other than any sanitary facility fixtures.

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- 4. The Petersburg Borough may open any closed door, but the Petersburg Borough is prohibited from forcible entry except as may be necessary to enter into a structure or sanitary facility.
- 5. This warrant shall be valid until 6/9, 2023, at 5:00 pm.
- 6. The warrant must be executed and returned to the court by 6/13 2023.
- 7. The warrant is only valid between 8:00 a.m. and 8:00 p.m., Alaska time.
- 8. Any person who willfully refuses to permit an inspection pursuant to this warrant shall be guilty of a violation under PMC 09.16.120(A) and any other applicable statute or ordinance.

DATED: 6/5/2023

K. H. H. H.
~~Magistrate Judge~~
 Superior Court Judge



Building Official Return

This warrant was executed on the ___ day of May, 2023, by inspection of the premises herein described.

 Ray Wesebaum
 Petersburg Borough Building Official
 Dated: _____



June 20, 2023

Via email and certified US Mail:

Courtney Johnson
PO Box 1904
Petersburg, AK 99833
cjohnson5047@gmail.com

and

Via certified US Mail:

Alaska Housing Finance Corporation, holder/beneficial owner
PO Box 101020
Anchorage, AK 99510

Via email and certified US Mail:

First Bank, lending institution/originator
Loan Servicing
Attn: Heather Borch
2030 Sea Level Drive, Suite 200
Ketchikan, AK 99901
Heather.Borch@firstbankak.com

NOTICE OF DANGEROUS BUILDING - 410 Mitkof Highway

Dear Ms. Johnson:

Pursuant to Petersburg Municipal Code (PMC) 09.20.040, and a June 7, 2023 inspection conducted under the authority of an Administrative Search Warrant at the property located at 410 Mitkof Highway, Petersburg, Alaska ("the property"), this is to provide notice to you that the Borough Utility Director and Borough Building Official have determined that the housing structure located at the property ("the building") is a dangerous building within the standards set forth in PMC 9.20.010. A copy of PMC Chapter 9.20 is enclosed herewith.

The building is being used as a residence by one or more persons, however the structure is not hooked up to the Borough's sewer system and has no water service due to prior abatement proceedings. The inspection of the property disclosed that an improper outfall line runs from the

building to a nonfunctional septic tank¹ and then from the tank down the hill and onto the beach of Wrangell Narrows, resulting in untreated human waste being deposited into public waters.² See, attached photographs taken during the inspection.

This situation was the subject of a previous Notice and Order of Abatement dated August 3, 2020, and no abatement has occurred, in that the building remains unconnected to the Borough sewer system.

As a result of the continued use and occupancy of the building, the building meets the definition of a dangerous building under the standards of PMC 9.20.010(F) and (I):

F. Those having light, air and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live or may live therein;

I. Those which, because of their condition, are unsafe, unsanitary, or dangerous to the health, morals, safety or general welfare of the people of the city; (PMC 9.20.010)

Therefore, you are hereby notified as follows:

1. The building must be immediately vacated by all persons until the dangerous condition is fully repaired; and

2. The building must be repaired by properly hooking it up to the Borough sewer and water system within thirty (30) days of the date of this Notice.

Please note that the required notice under PMC 9.20.050 has been posted onto the building.

¹ The top and sides of the septic tank are covered with earth and extensive vegetation, making the inspection hatches inaccessible. The septic tank has not been pumped in many years and does not appear to be functional.

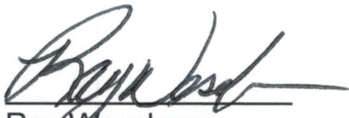
² This constitutes a violation of PMC 14.08.020, *Unlawful sewage - Disposal methods designated*, paragraphs A and B:

A. No person shall place, deposit or permit to be deposited in an unsanitary manner upon public or private property within the borough, or in any area under the jurisdiction of the borough, any human or animal excretion, garbage or other objectionable waste.

B. No person shall discharge into any natural outlet within the borough, or in any area under the jurisdiction of the borough, any sanitary sewage, industrial waste or other polluted water, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

In regard to Alaska Housing Finance Corporation and First Bank, please note that a holder of a mortgage or deed of trust, or any other person or entity having an interest in the building, may, at its own risk, conduct the necessary repairs or have such work performed. See, PMC 9.20.050(A)(3).

Please contact us if you have any questions.



Ray Wesebaum
Building Official



Karl Hagerman
Utility Director

Enclosures - PMC Chapter 9.20
Inspection photographs

Cc: Linda Wahl
Borough Manager
Borough Attorney

















CERTIFICATE OF SERVICE

The undersigned affirms that on the 20th day of June, 2023, he served the Notice of Dangerous Building on the following:

Via email and certified US Mail:

Courtney Johnson
PO Box 1904
Petersburg, AK 99833
cjohnson5047@gmail.com

and

Via certified US Mail:

Alaska Housing Finance Corporation, holder/beneficial owner
PO Box 101020
Anchorage, AK 99510

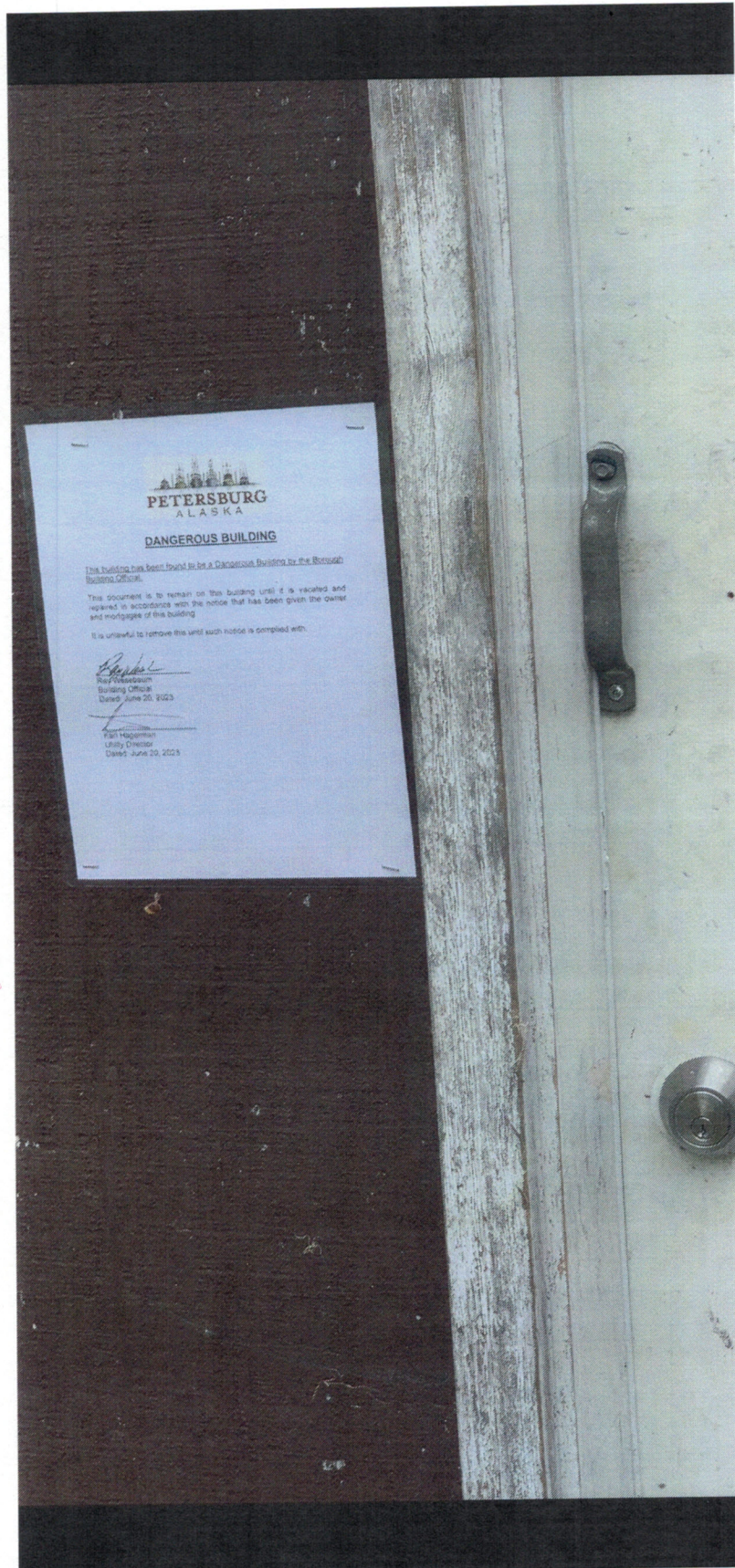
and

Via email and certified US Mail:

First Bank, lending institution/originator
Loan Servicing
Attn: Heather Borch
2030 Sea Level Drive, Suite 200
Ketchikan, AK 99901
Heather.Borch@firstbankak.com

Signature

Printed Name: Ray Wesebaum, Building Official



POSTAL SERVICE

PETERSBURG
1201 HAUGEN DR
PETERSBURG, AK 99833-9800
(800)275-8777

06/20/2023 03:25 PM

Product	Qty	Unit Price	Price
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First-Class Mail® Large Envelope	1		\$1.74
Ketchikan, AK 99901			
Weight: 0 lb 2.40 oz			
Estimated Delivery Date Mon 06/26/2023			
Certified Mail®			\$4.15
Tracking #: 70220410000014242179			
Return Receipt			\$3.35
Tracking #: 9590 9402 6275 0274 6078 60			
Affixed Postage			\$8.76
Affixed Amount: \$8.76			
Total			\$0.48

First-Class Mail® Large Envelope	1		\$1.74
Anchorage, AK 99510			
Weight: 0 lb 2.50 oz			
Estimated Delivery Date Mon 06/26/2023			
Certified Mail®			\$4.15
Tracking #: 70220410000014242193			
Return Receipt			\$3.35
Tracking #: 9590 9402 6275 0274 6078 46			
Affixed Postage			-\$8.76
Affixed Amount: \$8.76			
Total			\$0.48

First-Class Mail® Large Envelope	1		\$1.74
Petersburg, AK 99833			
Weight: 0 lb 2.50 oz			
Estimated Delivery Date Fri 06/23/2023			
Certified Mail®			\$4.15
Tracking #: 70220410000014242186			
Return Receipt			\$3.35
Tracking #: 9590 9402 6275 0274 6078 39			
Affixed Postage			-\$8.76
Affixed Amount: \$8.76			
Total			\$0.48

Grand Total:	\$1.44
Cash	\$2.00
Change	-\$0.56

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Petersburg, AK 99833

Certified Mail Fee	\$4.15
Extra Services & Fees (check box, add fee as appropriate)	\$3.35
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00
<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00

Postage \$1.74

Total Postage and Fees \$9.24

Sent To Courtney Johnson
Street and Apt. No., or PO Box No. PO Box 1904
City, State, ZIP+4® Petersburg, AK 99833

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

U.S. Postal Service™ CERTIFIED MAIL® RECEIPT Domestic Mail Only

For delivery information, visit our website at www.usps.com

Ketchikan, AK 99901

Certified Mail Fee	\$4.15
Extra Services & Fees (check box, add fee as appropriate)	\$3.35
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00
<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00

Postage \$1.74

Total Postage and Fees \$9.24

Sent To First Bank lending institution/originator
Street and Apt. No., or PO Box No. 2070 Sea Level Dr. Ste. 200
City, State, ZIP+4® Ketchikan, AK 99901

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

U.S. Postal Service™ CERTIFIED MAIL® RECEIPT Domestic Mail Only

For delivery information, visit our website at www.usps.com

Anchorage, AK 99510

Certified Mail Fee	\$4.15
Extra Services & Fees (check box, add fee as appropriate)	\$3.35
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00
<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00

Postage \$1.74

Total Postage and Fees \$9.24

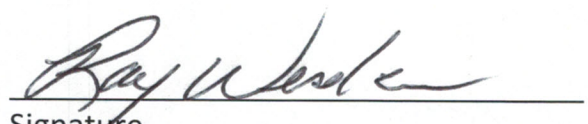
Sent To U.S. Finance Corp. Benefi



CERTIFICATE OF POSTING

The undersigned affirms that on the 20th day of June, 2023, he posted the **Dangerous Building Notice**, a copy of which is attached hereto, on the structure located at the following address:

**410 Mitkof Highway
Petersburg Alaska**

A handwritten signature in black ink, appearing to read "Ray Wesebaum", is written over a horizontal line.

Signature

Printed Name: Ray Wesebaum, Building Official

Report of Non-Compliance

To: Petersburg Borough Assembly

By: Karl Hagerman, Utility Director
Ray Wesebaum, Building Official

RE: 410 Mitkof Highway – Report of Non-compliance to a Notice of Dangerous Building

Cc: Steve Giesbrecht, Borough Manager
Debra Thompson, Borough Clerk
Liz Cabrera, Community Development Director

I. Introduction

Pursuant to Petersburg Municipal Code (PMC) Chapter 09.20, and a June 7, 2023 inspection conducted under the authority of an Administrative Search Warrant at the property located at 410 Mitkof Highway, Petersburg, Alaska ("the property"), notice was given by the Borough Utility Director and Borough Building Official to the owner of the property of a determination that the housing structure located at the property ("the building") is a dangerous building within the standards set forth in PMC 9.20.010(F) and (I). A copy of the *Notice of Dangerous Building* is attached to this report.

In brief, it came to the attention of the Borough that the building was being used as a residence by one or more persons, including the owner's father, however the building is not hooked up to the Borough's sewer system, and has no water service due to prior abatement proceedings. The recent inspection of the property disclosed that an improper outfall line runs from the building to a nonfunctional septic tank¹ and then from the tank down the hill and onto the beach of Wrangell Narrows, resulting in untreated human waste being deposited into public waters.² See, attached photographs taken during the inspection.

II. Previous Proceedings

This situation was the subject of a previous *Notice and Order of Abatement* dated August 3, 2020, when raw sewage was noted at the property by a borough employee. The property owner appealed

¹ The top and sides of the septic tank are covered with earth and extensive vegetation, making the inspection hatches inaccessible. The septic tank has not been pumped in many years and does not appear to be functional.

² This constitutes a violation of PMC 14.08.020, *Unlawful sewage - Disposal methods designated*, paragraphs A and B:

A. No person shall place, deposit or permit to be deposited in an unsanitary manner upon public or private property within the borough, or in any area under the jurisdiction of the borough, any human or animal excretion, garbage or other objectionable waste.

B. No person shall discharge into any natural outlet within the borough, or in any area under the jurisdiction of the borough, any sanitary sewage, industrial waste or other polluted water, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

to the Assembly, which issued a Decision on Appeal on November 2, 2020, upholding the *Notice and Order of Abatement*. Thereafter, the property has continued to be occupied from time to time, with no abatement occurring in that the building remains unconnected to the Borough sewer system.

III. Current Proceedings

As a result of the continued use and occupancy of the building, and the lack of proper sewage disposal, Borough officials determined that it met the definition of a dangerous building under the standards of PMC 9.20.010(F) and (I):

F. Those having light, air and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live or may live therein;

I. Those which, because of their condition, are unsafe, unsanitary, or dangerous to the health, morals, safety or general welfare of the people of the city; (PMC 9.20.010)

The owner was directed by a *Notice of Dangerous Building*, dated June 20, 2023, which was also posted onto the building per PMC 9.20.050, ordering that:

- 1. The building must be immediately vacated by all persons until the dangerous condition is fully repaired; and
- 2. The building must be repaired by properly hooking it up to the Borough sewer and water system within thirty (30) days of the date of this Notice.

As of July 20, 2023, no repair of the dangerous building has occurred, insofar as legal connections have not been made from the house to the borough sewer and water systems. Therefore, this constitutes a condition of non-compliance, necessitating this report of non-compliance to the Assembly under PMC 9.20.050(C).

In keeping with the provisions of PMC Sections 9.20.060 - .080, it is requested that the Assembly hold a non-compliance hearing to consider a issuance of an order requiring the building be vacated until the owner, or other party of interest, makes legal connection from the building to the borough sanitary sewer system.

Thank you for your consideration.

Photos from the Serving of Administrative Search Warrant at 410 Mitkof Highway on June 20, 2023



Discharge pipe below house leading to septic tank.



Pipe connected to septic tank and leading to beach.



Pipe connected to septic tank.




Pipe from septic tank going to beach.



CERTIFICATE OF SERVICE

The undersigned affirms that on the 27th day of July, 2023, he served the **Report of Non-compliance** on the following:

Via email and certified US Mail:
Courtney Johnson
PO Box 1904
Petersburg, AK 99833
cjohnson5047@gmail.com



Signature
Printed Name: Ray Wesebaum, Building Official



NOTICE OF HEARING REGARDING NONCOMPLIANCE WITH AN ORDER TO VACATE AND REPAIR A DANGEROUS BUILDING

PROPERTY ADDRESS: 410 Mitkof Highway, Petersburg, Alaska

OWNER OF BUILDING: Courtney Johnson and Courtney Johnson
 PO Box 1904 13713 Hwy 57
 Petersburg, AK 99833 Vancleave, MS 39565
 Email: cjohnson5047@gmail.com

MORTGAGE HOLDER: Alaska Housing Finance Corporation, holder/beneficial owner
 PO Box 101020
 Anchorage, AK 99510
 and
 First Bank, lending institution/originator
 Loan Servicing
 Attn: Heather Borch
 2030 Sea Level Drive, Suite 200
 Ketchikan, AK 99901
 Heather.Borch@firstbankak.com

NONCOMPLIANCE HEARING TO BE HELD: September 18, 2023, 6:00 p.m., at the Petersburg Borough Assembly Chambers located at 12 S. Nordic Drive, Petersburg, Alaska.

Dear Ms. Johnson:

On June 20, 2023, you received notice that the residential structure located at 410 Mitkof Highway ("the building") in Petersburg had been determined by the Borough Building Official to be a Dangerous Building under the provisions of Chapter 9.20 of the Petersburg Municipal Code (PMC), and you were ordered to vacate the buildings until the dangerous condition of improper sewer disposal was fully repaired. A copy of that notice is enclosed, which contained the following determination:

The building is being used as a residence by one or more persons, however the structure is not hooked up to the Borough's sewer system and has no water service due to prior abatement proceedings. The inspection of the property disclosed that an improper outfall line runs from the building to a nonfunctional

septic tank and then from the tank down the hill and onto the beach of Wrangell Narrows, resulting in untreated human waste being deposited into public waters. [footnotes omitted]

The Building Official directed that the building be properly connected to the borough sewer and water system within 30 days from the date of the June 20, 2023 notice.

The time within which the required corrective action was to be taken expired, without the repairs having been performed, and the Utility Director and Building Official reported the noncompliance to the Borough Assembly.

Accordingly, pursuant to PMC section 9.20.070, you are hereby given notice to appear before the Petersburg Borough Assembly at a noncompliance hearing to be held on Monday, September 18, 2023 at 6:00 p.m., at the Borough Assembly Chambers located at 12 S. Nordic Drive, Petersburg, Alaska, to give and provide testimony and evidence to show cause as to why the building located at 410 Mitkof Highway should not be ordered permanently vacated unless and until repaired in accordance with the requirements set out in the Building Official's June 20, 2023 notice.

The hearing will be conducted informally. At the hearing, you may appear in person or by agent or attorney, and offer documents and testimony, of yourself or other witnesses. The Borough Building Official, Utility Director and other borough employees are expected to offer testimony, written documents and photographs concerning the building and its condition. Both you, the Building Official and the Utility Director, or any member of the Assembly, may cross-examine witnesses. Testimony and cross-examination of witnesses will be conducted under reasonable time limits adopted by the Assembly. Oaths shall be administered to persons who wish to testify, and a record shall be kept of the proceedings by the Borough Clerk. The Building Official will mail to you, under separate cover, a copy of the documents which the official will present to the Assembly at that hearing. If you will also have documents to present to the Assembly, we would ask that you provide them to the borough clerk's office by 4:30 p.m. on Friday, September 8, 2023, so that they may be included in the packet which is provided to the Assembly prior to the hearing. If you do provide documents to the clerk for inclusion in the Assembly packet, you should additionally provide a copy of those documents directly to the Borough Building Official.

Following the hearing, the Assembly will make written findings of fact as to whether or not the building is a dangerous building within the terms of PMC 9.20.010. If the building is determined by the Assembly to be a dangerous building, it is anticipated that the Assembly will issue an order directing you and all other persons having an interest in the building to permanently vacate the building unless and until the building is properly connected to the borough sewer and water system. Failure to comply with an Assembly order can have serious financial and other consequences, including being responsible for costs under PMC 9.20.110.

Failure to appear at the hearing will waive your right to offer testimony or evidence to the Assembly regarding the building, which shall proceed to make findings of facts and issue its order based upon the evidence or testimony presented by the Building Official, the Utility Director and any other person who attends the hearing and provides testimony or evidence.

A copy of Chapter 9.20 of the Petersburg Municipal Code is enclosed for your information and review.

If you have any questions regarding this notice of hearing, please feel free to contact Borough Clerk Debra Thompson in writing at dthompson@petersburgak.gov.

Respectfully,



Debra K. Thompson, Borough Clerk
on behalf of the Petersburg Borough Assembly
DATE OF THIS NOTICE: August 25, 2023

Chapter 9.20 - DANGEROUS BUILDINGS

Sections:

9.20.010 - Defined.

All buildings or structures which have any or all of the following defects shall be deemed "dangerous buildings":

- A. Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle of its base;
- B. Those which, exclusive of the foundation, show thirty-three percent or more of damage or deterioration of the supporting member or members, or fifty percent of damage or deterioration of the non-supporting enclosing or outside walls or covering;
- C. Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used;
- D. Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city;
- E. Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein;
- F. Those having light, air and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live or may live therein;
- G. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of communication;
- H. Those which have parts thereof which are so attached that they may fall and injure members of the public, or property;
- I. Those which, because of their condition, are unsafe, unsanitary, or dangerous to the health, morals, safety or general welfare of the people of the city;
- J. Those buildings existing in violation of any provision of the building code of the city, or any provision of the fire-prevention code, or other ordinances of the city.

(Ord. 291 § 5, 1973; prior code § 42.70.010)

9.20.020 - Standards for repair, vacation or demolition.

The following standards shall be followed in substance by the building official and the city council in ordering repair, vacation, or demolition:

- A. If the dangerous building can reasonably be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be ordered repaired.
- B. If the dangerous building is in such condition as to make it dangerous to the health, morals, safety or general welfare of its occupants, it shall be ordered to be vacated.
- C. In any case where a dangerous building is fifty percent damaged or decayed, or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be demolished. In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of this chapter, or any ordinance of the city or statute of the state of Alaska, it shall be demolished.

(Ord. 899 § 3 (part), 2006; Ord. 291 § 5 (part), 1973: prior code § 42.70.020)

9.20.030 - Unlawful.

- A. It is unlawful for any person, firm, association, club or corporation to have, keep or maintain within the city any building or other structure which is, or has become, a fire or health hazard, or a public nuisance.
- B. All dangerous buildings within the terms of Section 9.20.010, declared to be public nuisances under Chapter 9.16 of this code, shall be repaired, vacated or demolished as provided in this chapter.

(Ord. 291 § 5 (part), 1973: prior code §§ 42.60.030 and 42.70.030)

9.20.040 - Inspection duties of building official.

The building official, or his designated representative, shall:

- A. Inspect or cause to be inspected semi-annually, all public buildings, schools, halls, churches, theaters, hotels, tenements, and commercial, manufacturing or loft buildings for the purpose of determining whether any conditions exist which render such places a dangerous building within the terms of Section 9.20.010;
- B. Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this chapter;
- C. Inspect any building, wall or structure reported by the fire or police department in the manner provided in this chapter, as probably existing in violation of the terms of this chapter.

(Ord. 899 § 3 (part), 2006; Ord. 291 § 5 (part), 1973: prior code § 42.70.040 (part (1—3)))

9.20.050 - Notice duties of building official.

The building official, or his designated representative, shall:

- A. Notify in writing the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in any building found by the building official to be a dangerous building within the standards set forth in Section 9.20.010 of this chapter that:
 1. The owner must vacate, or repair, or demolish the building in accordance with the terms of the notice and this chapter,
 2. The occupant or lessee must vacate the building, or may have it repaired in accordance with the notice and remain in possession,
 3. The mortgagee, agent or other person having an interest in the building may, at his own risk, repair, vacate or demolish the building, or have such work or act done;
- B. Set forth in the notice provided for in subsection A of this section a description of the building or structure deemed unsafe, a statement of the particulars which make the building or structure a dangerous building, and an order requiring the same to be put in such condition as to comply with the terms of this chapter within thirty days of the date of notice; provided, however, that any person so notified may petition the city council for a thirty-day extension of time in which to comply with the provision of the notice;
- C. Report to the council any noncompliance with the notice provided for in subsections A and B;
- D. Appear at all hearings conducted by the council, and testify as to the conditions of dangerous buildings;
- E. Place a notice on all dangerous buildings reading as follows:

This building has been found to be a dangerous building by the building official. This notice is to remain on this building until it is repaired, vacated or demolished in accordance with the notice which has been given the owner, occupant, lessee, mortgagee, or agent of this building, and all other persons having an interest in such building. It is unlawful to remove this notice until such notice is complied with.

(Ord. 899 § 3 (part), 2006; Ord. 291 § 5 (part), 1973: prior code § 42.70.040 (part (4—8)))

9.20.060 - Noncompliance hearing—Before city council.

For every case of noncompliance with the notice provided for in this chapter reported by the building official, the city council shall hold a hearing and hear testimony as the building official, or the owner, occupant, mortgagee, lessee or any other persons having an interest in the building, shall offer relative to the dangerous building.

(Ord. 899 § 3 (part), 2006; Ord. 291 § 5 (part), 1973: prior code § 42.70.050)

9.20.070 - Noncompliance hearing—Notice.

Upon receipt of a report of the building official as provided for in Section 9.20.050(C) of this chapter, the city council shall give notice to the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in the building to appear before the council on the date specified in the notice to show cause why the building or structure reported to be a dangerous building should not be repaired, vacated or demolished in accordance with the statement of particulars set forth in the building officials' notice provided for in Section 9.20.050(B).

(Ord. 899 § 3 (part), 2006; Ord. 291 § 5 (part), 1973: prior code § 42.70.060)

9.20.080 - Noncompliance hearing—Findings of city council.

The city council shall make written findings of fact from the testimony offered at the hearing as to whether or not the building in question is a dangerous building within the terms of Section 9.20.010.

(Ord. 291 § 5 (part), 1973: prior code § 42.70.070)

9.20.090 - Issuance of order to repair, vacate or demolish.

In the event the city council determines in its findings of fact that the building in question is in fact a dangerous building within the terms of Section 9.20.010, the council shall issue an order based upon its findings commanding the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in the building to repair, vacate or demolish the building within such time period and upon such terms and conditions as the council may prescribe. Any person not the owner of the dangerous building but having an interest in the building, may demolish such dangerous building at his own risk to prevent the acquiring of a lien against the land upon which the dangerous building stands by the city as provided in Section 9.20.100.

(Ord. 291 § 5 (part), 1973: prior code § 42.70.080)

9.20.100 - City action upon failure to comply.

If the owner, occupant, mortgagee, or lessee fails to comply with the order provided for in Section 9.20.090 within the time established by the city council for such compliance, then the council shall cause such building or structure to be repaired, vacated, or demolished as the facts may warrant, under the standards provided for in Section 9.20.020.

(Ord. 291 § 5 (part), 1973: prior code § 42.70.090)

9.20.110 - Costs of repair, vacation or demolition.

- A. In the event that any building is repaired, vacated or demolished as provided for in Section 9.20.100, the costs thereof shall constitute a lien in favor of the city upon the land on which the building existed, and such lien shall be enforced and foreclosed as provided by ordinances of the city relating to the enforcement and foreclosure of ad valorem tax liens.*
- B. In addition to the provision of subsection A as to liens, the owner of the land upon which the building existed shall be personally liable for such costs of repair, vacation or demolition, and such liability may be enforced in a personal action brought by the city against such property owner in the courts of the state of Alaska.
- C. In any case where such procedure is desirable and any delay thereby caused will not be dangerous to the health, morals, safety or general welfare of the people of the city, the city may institute any appropriate action or proceedings against the owner of the land upon which the building existed to force such owner to make all necessary repairs or demolish the building.
- D. If any person becomes obliged under the provisions of this chapter to demolish any building or other structure, then he shall likewise be obliged to remove from the land upon which such building is or was situated all debris and other property (except permanent foundations) resulting from or related to such demolition.
- E. None of the provisions contained in this section shall be deemed exclusive of any of the others, or of any other remedies that the city may have at law.

(Ord. 291 § 5 (part), 1973; prior code § 42.70.100)

* Editor's Note: Provisions on the foreclosure of ad valorem tax liens are found in Ch. 9.24.

9.20.120 - Emergency cases.

In cases where it reasonably appears that there is immediate danger to the life or safety of any person unless a dangerous building as defined in Section 9.20.010 is immediately repaired, vacated or demolished, the building official shall report such facts to the city council, and the council shall cause the immediate repair, vacation or demolition of such dangerous building. The costs of such emergency repair, vacation or demolition shall be collected in the same manner as provided in Section 9.20.110.

(Ord. 899 § 3 (part), 2006; Ord. 291 § 5 (part), 1973; prior code § 42.70.110)

9.20.130 - Manner of notice when owner absent.

In cases, except emergency cases, where the owner, occupant, lessee or mortgagee is absent from the city, all notices or orders provided for in this chapter shall be sent by registered mail to the owner, occupant, mortgagee, lessee and all other persons having an interest in the building, as shown by the land

records of the Petersburg Recording District, to the last known address of each, and a copy of such notice shall be posted in a conspicuous place on the dangerous building to which it relates. Such mailing and posting shall be deemed adequate service.

(Ord. 291 § 5 (part), 1973; prior code § 42.70.120)

9.20.140 - Administrative liability denied.

No officer, agent or employee of this city shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this chapter. Any suit brought against any officer, agent or employee of this city as a result of any act required or permitted in the discharge of his duties under this chapter shall be defended by the city attorney.

(Ord. 291 § 5 (part), 1973; prior code § 42.70.130)

9.20.150 - Duty to report—Fire department.

The members of the fire department shall make a report in writing to the building official of all buildings or structures which are, may be, or are suspected to be dangerous buildings within the terms of this chapter.

(Ord. 899 § 3 (part), 2006; Ord. 291 § 5 (part), 1973; prior code § 42.70.140)

9.20.160 - Duty to report—Police department.

All police officers shall make a report in writing to the building official of any buildings or structures which are, or may be, or are suspected to be dangerous buildings within the terms of this chapter.

(Ord. 899 § 3 (part), 2006; Ord. 291 § 5 (part), 1973; prior code § 42.70.150)

9.20.170 - Violations—Penalties.

- A. The owner of any dangerous building who fails to comply with any notice or order to repair or vacate or demolish the building, given by any person authorized by this chapter to give such notice or order, shall be guilty of a misdemeanor, punishable by a fine of not more than three hundred dollars or by imprisonment for not more than thirty days, or both. Each and every day that a person fails to so comply beyond the date fixed for compliance shall constitute a separate offense.
- B. The occupant or lessee in possession who fails to comply with any notice to vacate or fails to repair the building in accordance with any notice given as provided for in this chapter shall be guilty of a misdemeanor. Each and every day that such person fails to comply beyond the date

fixed for compliance shall constitute a separate offense.

(Ord. 291 § 5 (part), 1973: prior code § 42.70.160)



CERTIFICATE OF SERVICE

The undersigned affirms that on the 25th day of August, 2023, she served the Notice of Hearing Regarding Noncompliance with an Order to Vacate and Repair a Dangerous Building on the following:

Via email and US Mail:

Courtney Johnson
PO Box 1904
Petersburg, AK 99833
cjohnson5047@gmail.com

Courtney Johnson
13713 Hwy 57
Vanceleave, MS 39565

and

Via US Mail:

Alaska Housing Finance Corporation, holder/beneficial owner
PO Box 101020
Anchorage, AK 99510

and

Via email and US Mail:

First Bank, lending institution/originator
Loan Servicing
Attn: Heather Borch
2030 Sea Level Drive, Suite 200
Ketchikan, AK 99901
Heather.Borch@firstbankak.com

Debra K Thompson
Debra K. Thompson, Borough Clerk

- PETERSBURG, ALASKA
Title 9 - HEALTH AND SAFETY
Chapter 9.20 DANGEROUS BUILDINGS

Chapter 9.20 DANGEROUS BUILDINGS

Sections:

9.20.010 Defined.

All buildings or structures which have any or all of the following defects shall be deemed "dangerous buildings":

- A. Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle of its base;
- B. Those which, exclusive of the foundation, show thirty-three percent or more of damage or deterioration of the supporting member or members, or fifty percent of damage or deterioration of the non-supporting enclosing or outside walls or covering;
- C. Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used;
- D. Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city;
- E. Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein;
- F. Those having light, air and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live or may live therein;
- G. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of communication;
- H. Those which have parts thereof which are so attached that they may fall and injure members of the public, or property;
- I. Those which, because of their condition, are unsafe, unsanitary, or dangerous to the health, morals, safety or general welfare of the people of the city;
- J. Those buildings existing in violation of any provision of the building code of the city, or any provision of the fire-prevention code, or other ordinances of the city.

(Ord. 291 § 5, 1973: prior code § 42.70.010)

9.20.020 Standards for repair, vacation or demolition.

The following standards shall be followed in substance by the building official and the city council in ordering repair, vacation, or demolition:

- A. If the dangerous building can reasonably be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be ordered repaired.
- B. If the dangerous building is in such condition as to make it dangerous to the health, morals, safety or general welfare of its occupants, it shall be ordered to be vacated.

- C. In any case where a dangerous building is fifty percent damaged or decayed, or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be demolished. In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of this chapter, or any ordinance of the city or statute of the state of Alaska, it shall be demolished.

(Ord. 899 § 3 (part), 2006; Ord. 291 § 5 (part), 1973: prior code § 42.70.020)

9.20.030 Unlawful.

- A. It is unlawful for any person, firm, association, club or corporation to have, keep or maintain within the city any building or other structure which is, or has become, a fire or health hazard, or a public nuisance.
- B. All dangerous buildings within the terms of Section 9.20.010, declared to be public nuisances under Chapter 9.16 of this code, shall be repaired, vacated or demolished as provided in this chapter.

(Ord. 291 § 5 (part), 1973: prior code §§ 42.60.030 and 42.70.030)

9.20.040 Inspection duties of building official.

The building official, or his designated representative, shall:

- A. Inspect or cause to be inspected semi-annually, all public buildings, schools, halls, churches, theaters, hotels, tenements, and commercial, manufacturing or loft buildings for the purpose of determining whether any conditions exist which render such places a dangerous building within the terms of Section 9.20.010;
- B. Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this chapter;
- C. Inspect any building, wall or structure reported by the fire or police department in the manner provided in this chapter, as probably existing in violation of the terms of this chapter.

(Ord. 899 § 3 (part), 2006; Ord. 291 § 5 (part), 1973: prior code § 42.70.040 (part (1—3)))

9.20.050 Notice duties of building official.

The building official, or his designated representative, shall:

- A. Notify in writing the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in any building found by the building official to be a dangerous building within the standards set forth in Section 9.20.010 of this chapter that:
 1. The owner must vacate, or repair, or demolish the building in accordance with the terms of the notice and this chapter,
 2. The occupant or lessee must vacate the building, or may have it repaired in accordance with the notice and remain in possession,
 3. The mortgagee, agent or other person having an interest in the building may, at his own risk, repair, vacate or demolish the building, or have such work or act done;
- B. Set forth in the notice provided for in subsection A of this section a description of the building or structure deemed unsafe, a statement of the particulars which make the building or structure a dangerous building, and an order requiring the same to be put in such condition as to comply with the terms of this chapter within thirty days of the date of notice; provided, however, that any person so

notified may petition the city council for a thirty-day extension of time in which to comply with the provision of the notice;

- C. Report to the council any noncompliance with the notice provided for in subsections A and B;
- D. Appear at all hearings conducted by the council, and testify as to the conditions of dangerous buildings;
- E. Place a notice on all dangerous buildings reading as follows:

This building has been found to be a dangerous building by the building official. This notice is to remain on this building until it is repaired, vacated or demolished in accordance with the notice which has been given the owner, occupant, lessee, mortgagee, or agent of this building, and all other persons having an interest in such building. It is unlawful to remove this notice until such notice is complied with.

(Ord. 899 § 3 (part), 2006; Ord. 291 § 5 (part), 1973: prior code § 42.70.040 (part (4–8))

9.20.060 Noncompliance hearing—Before city council.

For every case of noncompliance with the notice provided for in this chapter reported by the building official, the city council shall hold a hearing and hear testimony as the building official, or the owner, occupant, mortgagee, lessee or any other persons having an interest in the building, shall offer relative to the dangerous building.

(Ord. 899 § 3 (part), 2006; Ord. 291 § 5 (part), 1973: prior code § 42.70.050)

9.20.070 Noncompliance hearing—Notice.

Upon receipt of a report of the building official as provided for in Section 9.20.050(C) of this chapter, the city council shall give notice to the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in the building to appear before the council on the date specified in the notice to show cause why the building or structure reported to be a dangerous building should not be repaired, vacated or demolished in accordance with the statement of particulars set forth in the building officials' notice provided for in Section 9.20.050(B).

(Ord. 899 § 3 (part), 2006; Ord. 291 § 5 (part), 1973: prior code § 42.70.060)

9.20.080 Noncompliance hearing—Findings of city council.

The city council shall make written findings of fact from the testimony offered at the hearing as to whether or not the building in question is a dangerous building within the terms of Section 9.20.010.

(Ord. 291 § 5 (part), 1973: prior code § 42.70.070)

9.20.090 Issuance of order to repair, vacate or demolish.

In the event the city council determines in its findings of fact that the building in question is in fact a dangerous building within the terms of Section 9.20.010, the council shall issue an order based upon its findings commanding the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in the building to repair, vacate or demolish the building within such time period and upon such terms and conditions as the council may prescribe. Any person not the owner of the dangerous building but having an interest in the building, may demolish such dangerous building at his own risk to prevent the acquiring of a lien against the land upon which the dangerous building stands by the city as provided in Section 9.20.100.

(Ord. 291 § 5 (part), 1973: prior code § 42.70.080)

9.20.100 City action upon failure to comply.

If the owner, occupant, mortgagee, or lessee fails to comply with the order provided for in Section 9.20.090 within the time established by the city council for such compliance, then the council shall cause such building or structure to be repaired, vacated, or demolished as the facts may warrant, under the standards provided for in Section 9.20.020.

(Ord. 291 § 5 (part), 1973: prior code § 42.70.090)

9.20.110 Costs of repair, vacation or demolition.

- A. In the event that any building is repaired, vacated or demolished as provided for in Section 9.20.100, the costs thereof shall constitute a lien in favor of the city upon the land on which the building existed, and such lien shall be enforced and foreclosed as provided by ordinances of the city relating to the enforcement and foreclosure of ad valorem tax liens.*
- B. In addition to the provision of subsection A as to liens, the owner of the land upon which the building existed shall be personally liable for such costs of repair, vacation or demolition, and such liability may be enforced in a personal action brought by the city against such property owner in the courts of the state of Alaska.
- C. In any case where such procedure is desirable and any delay thereby caused will not be dangerous to the health, morals, safety or general welfare of the people of the city, the city may institute any appropriate action or proceedings against the owner of the land upon which the building existed to force such owner to make all necessary repairs or demolish the building.
- D. If any person becomes obliged under the provisions of this chapter to demolish any building or other structure, then he shall likewise be obliged to remove from the land upon which such building is or was situated all debris and other property (except permanent foundations) resulting from or related to such demolition.
- E. None of the provisions contained in this section shall be deemed exclusive of any of the others, or of any other remedies that the city may have at law.

(Ord. 291 § 5 (part), 1973: prior code § 42.70.100)

* Editor's Note: Provisions on the foreclosure of ad valorem tax liens are found in Ch. 9.24.

9.20.120 Emergency cases.

In cases where it reasonably appears that there is immediate danger to the life or safety of any person unless a dangerous building as defined in Section 9.20.010 is immediately repaired, vacated or demolished, the building official shall report such facts to the city council, and the council shall cause the immediate repair, vacation or demolition of such dangerous building. The costs of such emergency repair, vacation or demolition shall be collected in the same manner as provided in Section 9.20.110.

(Ord. 899 § 3 (part), 2006; Ord. 291 § 5 (part), 1973: prior code § 42.70.110)

9.20.130 Manner of notice when owner absent.

In cases, except emergency cases, where the owner, occupant, lessee or mortgagee is absent from the city, all notices or orders provided for in this chapter shall be sent by registered mail to the owner, occupant, mortgagee, lessee and all other persons having an interest in the building, as shown by the land records of the Petersburg Recording District, to the last known address of each, and a copy of such notice shall be posted in a

conspicuous place on the dangerous building to which it relates. Such mailing and posting shall be deemed adequate service.

(Ord. 291 § 5 (part), 1973: prior code § 42.70.120)

9.20.140 Administrative liability denied.

No officer, agent or employee of this city shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this chapter. Any suit brought against any officer, agent or employee of this city as a result of any act required or permitted in the discharge of his duties under this chapter shall be defended by the city attorney.

(Ord. 291 § 5 (part), 1973: prior code § 42.70.130)

9.20.150 Duty to report—Fire department.

The members of the fire department shall make a report in writing to the building official of all buildings or structures which are, may be, or are suspected to be dangerous buildings within the terms of this chapter.

(Ord. 899 § 3 (part), 2006; Ord. 291 § 5 (part), 1973: prior code § 42.70.140)

9.20.160 Duty to report—Police department.

All police officers shall make a report in writing to the building official of any buildings or structures which are, or may be, or are suspected to be dangerous buildings within the terms of this chapter.

(Ord. 899 § 3 (part), 2006; Ord. 291 § 5 (part), 1973: prior code § 42.70.150)

9.20.170 Violations—Penalties.

- A. The owner of any dangerous building who fails to comply with any notice or order to repair or vacate or demolish the building, given by any person authorized by this chapter to give such notice or order, shall be guilty of a misdemeanor, punishable by a fine of not more than three hundred dollars or by imprisonment for not more than thirty days, or both. Each and every day that a person fails to so comply beyond the date fixed for compliance shall constitute a separate offense.
- B. The occupant or lessee in possession who fails to comply with any notice to vacate or fails to repair the building in accordance with any notice given as provided for in this chapter shall be guilty of a misdemeanor. Each and every day that such person fails to comply beyond the date fixed for compliance shall constitute a separate offense.

(Ord. 291 § 5 (part), 1973: prior code § 42.70.160)

**CERTIFICATE OF ELECTION
FOR THE PETERSBURG BOROUGH, ALASKA
REGULAR ELECTION
HELD ON OCTOBER 3, 2023**

I, Debra K. Thompson, Clerk of the Petersburg Borough, Alaska do hereby certify that a Regular Municipal Election was held in the Petersburg Borough, on October 3, 2023, to elect Borough Officials and Advisory Board Members and to answer one proposition. Results of said election were certified by the Officials of the election to the Canvass Board of the Borough and were canvassed on Monday, October 9, 2023.

	Election Day	AV & Questioned at Canvass	Total
Votes were cast as follows:			
<u>Assembly</u>			
Two 3 Year Terms			
Jeff Meucci	540	_____	_____
Rick Perkins	593	_____	_____
Rob Schwartz	695	_____	_____
Jeigh Stanton Gregor	588	_____	_____
<u>SCHOOL BOARD</u>			
One 3 Year Term			
Katherine Holmlund	882	_____	_____
<u>HOSPITAL BOARD</u>			
Two 3 Year Terms			
Jerod Cook	891	_____	_____
Marlene Cushing	798	_____	_____
Don Koenigs	441	_____	_____
<u>HOSPITAL BOARD</u>			
One 1 Year Term			
Mika Hasbrouck	597	_____	_____
Jim Roberts	519	_____	_____
<u>PLANNING COMMISSION</u>			
Three 3 Year Terms			
Marietta Davis	717	_____	_____
Chris Fry	789	_____	_____
Heather O'Neil	852	_____	_____

	Election Day	AV & Questioned at Canvass	Total
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HARBOR AND PORTS ADVISORY BOARD

Three 3 Year Terms

Bob Martin	888	_____	_____
Joel Randrup	861	_____	_____
Scott Roberge	820	_____	_____

LIBRARY BOARD

Three 3 Year Terms

Mary Ellen Anderson	840	_____	_____
Tina Buschmann	447	_____	_____
Marilyn Menish-Meucci	507	_____	_____
Lizzie Thompson	726	_____	_____
JoAnn Thynes	430	_____	_____

PARKS & RECREATION ADVISORY BOARD

Two 3 Year Terms

Ambre Burrell	951	_____	_____
Gregg Kowalski	946	_____	_____

PARKS & RECREATION ADVISORY BOARD

One 1 Year Term

Adam Caster	813	_____	_____
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PUBLIC SAFETY ADVISORY BOARD

Two 3 Year Terms

Stanley Hjort	409	_____	_____
Jacob Slaven	400	_____	_____
Russell Thynes	324	_____	_____
Mark Tuccillo	641	_____	_____
Tony Vinson	388	_____	_____

Propositions

Proposition #1

Allow Borough Employees to Serve On Certain Borough Boards and Commissions	Yes	872	_____	_____
	No	311	_____	_____

Dated this 9th day of October, 2023

Debra K. Thompson, Borough Clerk



Petersburg Borough

12 South Nordic Drive
Petersburg, AK 99833

Meeting Minutes Borough Assembly Regular Meeting

Monday, September 18, 2023

6:00 PM

Assembly Chambers

1. Call To Order/Roll Call

Mayor Jensen called the meeting to order at 6:00 p.m.

PRESENT

Mayor Mark Jensen
Vice Mayor Bob Lynn
Assembly Member Thomas Fine-Walsh
Assembly Member David Kensinger
Assembly Member Donna Marsh
Assembly Member Jeff Meucci
Assembly Member Scott Newman

2. Voluntary Pledge of Allegiance

The Pledge was recited.

3. Non-Compliance Hearing Under the Dangerous Buildings Code for 410 Mitkof Highway

A non-compliance hearing was held for a structure located at 410 Mitkof Highway that is not connected to the Borough's sanitary sewer system. Motion was made that the structure be determined to meet the definition of a Dangerous Building, as defined in PMC 920.010(I) and (J); that the structure be ordered to be vacated until such time as it is properly connected to the sewer system; and that Borough staff draft findings and an order for consideration and approval at the next regular Assembly meeting.

Motion made by Assembly Member Meucci, Seconded by Vice Mayor Lynn.

Voting Yea: Mayor Jensen, Vice Mayor Lynn, Assembly Member Fine-Walsh, Assembly Member Kensinger, Assembly Member Marsh, Assembly Member Meucci, Assembly Member Newman

4. Approval of Minutes

A. September 5, 2023 Assembly Meeting Minutes

The September 5, 2023 Assembly meeting minutes were unanimously approved.

Motion made by Assembly Member Marsh, Seconded by Assembly Member Meucci.

Voting Yea: Mayor Jensen, Vice Mayor Lynn, Assembly Member Fine-Walsh, Assembly Member Kensinger, Assembly Member Marsh, Assembly Member Meucci, Assembly Member Newman

5. Amendment and Approval of Meeting Agenda

The agenda was approved as submitted.

Motion made by Assembly Member Meucci, Seconded by Assembly Member Newman.

Voting Yea: Mayor Jensen, Vice Mayor Lynn, Assembly Member Fine-Walsh, Assembly Member Kensinger, Assembly Member Marsh, Assembly Member Meucci, Assembly Member Newman

6. Public Hearings

There were no public hearings.

7. Bid Awards

A. Scow Bay Generator #2 Procurement Award

By unanimous roll call vote, the Assembly approved award of a contract to Marine Services, Inc./Virdi Power for supply of a 3.5MW EMD diesel generator, remote radiator, coolant expansion tank, motor control center, compressed air starting system, equipment engineering and on-site commissioning support for a cost not to exceed \$ 2,047,000.

Motion made by Assembly Member Meucci, Seconded by Vice Mayor Lynn.

Voting Yea: Mayor Jensen, Vice Mayor Lynn, Assembly Member Fine-Walsh, Assembly Member Kensinger, Assembly Member Marsh, Assembly Member Meucci, Assembly Member Newman

8. Persons to be Heard Related to Agenda

Persons wishing to share their views on any item on today's agenda may do so at this time.

Melody Kirchner, representing herself, spoke in opposition of the Borough's denial to accept dedications of easements, rights-of-way, alleys and roadways proposed on the Alaska Mental Health Trust's plat of the South Mitkof Subdivision and asked the Assembly to reconsider so the land sale may move forward.

Niccole McMurren, representing herself, thanked the Alaska Public Entity Insurance for the detailed report on the Safety and Human Resources Review. She requests the Borough receive specific training to manage crisis intervention.

R.D. Parks, speaking for himself, his wife, Madonna, and their daughter, Molly, spoke regarding the APEI Safety and Human Resources Review report, stating it is a detailed roadmap for the Borough to follow. He shared his hopes that the Borough will get behind

the review and take all recommendations and assistance APEI has to offer and hopes this will be the start of a robust, dynamic safety culture.

9. Persons to be Heard Unrelated to Agenda

Persons with views on subjects not on today's agenda may share those views at this time.

Everett Bennett, Executive Director of WAVE, invited the community to a Reconnect Petersburg event on Friday, September 22, 2023 from 4:00 to 7:00 p.m. at the SONS of Norway Hall.

Cindy Lynn, representing herself, requested the Borough task a committee or an individual to look at the community impact of the development being discussed on our roads, sidewalks, traffic, noise, police and fire services, sewer and water services, electrical services, etc.

10. Boards, Commission and Committee Reports

There were no reports.

11. Consent Agenda

A. The 420 Retail Marijuana Store License Renewal

The Assembly unanimously supported renewal of The 420's marijuana store license.

Motion made by Assembly Member Meucci, Seconded by Assembly Member Marsh.

Voting Yea: Mayor Jensen, Vice Mayor Lynn, Assembly Member Fine-Walsh, Assembly Member Kensinger, Assembly Member Marsh, Assembly Member Meucci, Assembly Member Newman

B. Sea*Weed Farms Standard Marijuana Cultivation Facility License Renewal

The renewal of Sea*Weed Farms' standard marijuana cultivation facility license was unanimously supported by the Assembly.

Motion made by Assembly Member Meucci, Seconded by Assembly Member Marsh.

Voting Yea: Mayor Jensen, Vice Mayor Lynn, Assembly Member Fine-Walsh, Assembly Member Kensinger, Assembly Member Marsh, Assembly Member Meucci, Assembly Member Newman

12. Report of Other Officers

A. Alaska Public Entity Insurance

APEI Executive Director, Barbara Thurston, Deputy Director, Carleen Mitchell, and Loss Control Manager Cole Cummins presented and discussed the Safety and Human Resorces Review report and APEI's recommendations going forward.

B. Administration / Human Resources

Borough Clerk and Human Resources Director Thompson reported to the Assembly that Borough staff will be implementing the recommendations provided by APEI beginning with establishing of a safety committee who will prioritize the order of recommendation implementation and how the implementation will take place.

C. US Forest Service

USFS Special Uses Permit Administrator Uppencamp informed the public that the US Forest Service is reviewing a proposal submitted to them to utilize Little Duncan Bay for the filming of a wilderness survival television show beginning on October 4 and ending on November 11. Comments regarding the proposal may be submitted to bret.uppencamp@usda.gov.

13. Mayor's Report

A. September 18, 2023 Mayor's Report

Mayor Jensen read his report into the record, reminded the public that the first meeting in October was moved to October 9th at 12:00 p.m. and thanked Assembly Member Kensinger for his 3 years of service on the Assembly.

14. Manager's Report

A. September 18, 2023 Manager's Report

Manager Giesbrecht read his report into the record, a copy of which is attached and made a permanent part of these minutes.

15. Unfinished Business

A. Ordinance #2023-13: An Ordinance Adjusting the FY 2024 Budget for Known Changes – Third and Final Reading

Ordinance #2023-13 was unanimously approved in its third and final reading.

Motion made by Assembly Member Kensinger, Seconded by Assembly Member Meucci.

Voting Yea: Mayor Jensen, Vice Mayor Lynn, Assembly Member Fine-Walsh, Assembly Member Kensinger, Assembly Member Marsh, Assembly Member Meucci, Assembly Member Newman

16. New Business

A. Resolution #2023-12: A Resolution Approving the Disposal of Borough Owned Property Located at 10 N. 12th Street (Parcel #01-006-431) by Direct Sale to the Petersburg Indian Association for \$45,000

The Assembly unanimously approved Resolution #2023-12.

Motion made by Assembly Member Meucci, Seconded by Vice Mayor Lynn.

Voting Yea: Mayor Jensen, Vice Mayor Lynn, Assembly Member Fine-Walsh, Assembly Member Kensinger, Assembly Member Marsh, Assembly Member Meucci, Assembly Member Newman

B. Land Exchange to Benefit Pump Station 4 Project

By unanimous roll call vote, the Assembly approved the concept for land acquisition for the Pump Station 4 project and to allow the Wastewater Department to file an application with the Planning Commission for vacation of portions of the Ramona Street right-of-way and to seek land for the pump station via a major subdivision of Lot 10 at 1320 N. Nordic Drive.

Motion made by Assembly Member Meucci, Seconded by Assembly Member Kensinger.

Voting Yea: Mayor Jensen, Vice Mayor Lynn, Assembly Member Fine-Walsh, Assembly Member Kensinger, Assembly Member Marsh, Assembly Member Meucci, Assembly Member Newman

C. Letter to the Alaska Trust Land Office Regarding Proposed Development of the South Mitkof Subdivision

The letter to the Alaska Mental Health Trust Land Office was unanimously approved by the Assembly.

Motion made by Assembly Member Kensinger, Seconded by Vice Mayor Lynn.

Voting Yea: Mayor Jensen, Vice Mayor Lynn, Assembly Member Fine-Walsh, Assembly Member Kensinger, Assembly Member Marsh, Assembly Member Meucci, Assembly Member Newman

D. Approval of 2023 Election Officials for the October 3, 2023 Municipal Election

By unanimous roll call vote, the Assembly approved this year's Election Officials, as follows:

- | | |
|--------------------|-------------------|
| Joe Bertagnoli | Stephanie Payne |
| Tim Chittenden | Tina Sakamoto |
| Dianne Christensen | Julianne Thompson |
| Martha Cummins | Yvonne Thynes |
| Angela Davis | Marina Whitacre |
| Mara Lutomski | Cena Worhatch |
| Malena Marvin | Erica Worhatch |

Motion made by Assembly Member Marsh, Seconded by Vice Mayor Lynn.

Voting Yea: Mayor Jensen, Vice Mayor Lynn, Assembly Member Fine-Walsh, Assembly Member Kensinger, Assembly Member Marsh, Assembly Member Meucci, Assembly Member Newman

17. Communications

A. Correspondence Received Since August 31, 2023

18. Assembly Discussion Items

A. Extending Platting Authority Outside of Service Area 1

The Assembly discussed the steps that would need to be taken to extend the Borough's platting authority outside of Service Area 1 and what the effect of doing so might be.

B. Housing Task Force

Assembly Member Kensinger is not running to renew his seat on the Assembly and requested that, if the Assembly decides to continue the Housing Task Force after the Housing Needs Assessment is finalized, he be allowed to remain a member and that the Assembly appoint another Assembly member as Chair of the Task Force.

C. Petersburg Municipal Code Chapter 4.35 Property Development Fund

Assembly Member Meucci discussed creating a Building Maintenance fund that each department would contribute to annually much like the motor pool fund and re-titling the Property Development Fund chapter of Borough Code.

D. Scholarship Program for Trade Schools

The Assembly discussed the communication taking place between Manager Giesbrecht and the Alaska Vocational Technical Center (Avtec). Manager Giesbrecht explained it will take time to get all the details ironed out before the subject is brought before the Assembly.

E. Southeast Alaska Sea Otter Stakeholder Update

Assembly Member Meucci shared the latest notes from the Sea Otter Stakeholder meeting which are attached to this meeting's agenda packet.

F. Assembly Member Comments

Assembly Member Lynn thanked Member Kensinger for his time serving on the Borough Assembly.

Assembly Member Kensinger thanked the community for the opportunity to serve on the Borough Assembly.

G. Recognitions

There were no recognitions.

19. Adjourn

The meeting was adjourned at 8:30 p.m.

Motion made by Assembly Member Marsh, Seconded by Vice Mayor Lynn.

Voting Yea: Mayor Jensen, Vice Mayor Lynn, Assembly Member Fine-Walsh, Assembly Member Kensinger, Assembly Member Marsh, Assembly Member Meucci, Assembly Member Newman



Petersburg Medical Center

Borough Assembly Report – October 2023 – Phil Hofstetter, CEO

FY24-28 Strategic Plan Goals, Priorities, and Benchmarks

Workforce Wellness:

- On behalf of the entire PMC family, I extend our heartfelt congratulations to Mike Boggs, who has embarked on a well-deserved retirement after dedicating 24 years to PMC. His profound and comprehensive understanding of our facility and operations will be greatly missed.
- The annual department managers retreat is scheduled for October 25. This day-long retreat focuses on revisiting the strategic plan and brainstorming sessions.



Community Engagement:

- September 4 (Labor Day): Rainforest Run 10K and half-marathon.
- September 5: PMC reports out at Borough Assembly Meeting
- September 7: KFSK Radio PMC Live
- September 19-21: As part of advocacy, training and professional development, PMC senior leadership staff and two board members attended the annual Alaska Hospital & Healthcare Association (AHHA) conference. This conference brings together members and partners from facilities and communities throughout the state to discuss current topics, challenges, and opportunities across Alaska’s healthcare system. It’s a chance to share best practices, resources, and innovative solutions and to network with colleagues across the continuum of care. There was a strong focus on mental health in healthcare and upcoming post-acute care CMS regulations for LTC that may have significant regulatory impacts. We heard from Vera Starbard, an Emmy nominated Tlingit and Dena’ina writer and playwright who shared an incredible presentation of healing through storytelling.
- On September 20 Katie Holmlund and I testified to the state Childcare Task Force that took public comments on barriers to childcare in the state. Numerous healthcare facilities, state and AHHA complemented the Kinder Skog program and are excited about this innovative program to help solve childcare challenges.
- September 22: The local SHARE Coalition hosted the “Reconnect Petersburg” volunteer fair event. LTC Activities participated and provided information on a variety of volunteer opportunities within LTC for those with weekly, monthly, and one-time commitments. Information was also available on PMC volunteer policies, including pet visitor policy and van driving.



Guiding Values: Integrity - Dignity - Professionalism - Team Work - Quality

Facility:

- We are still awaiting final assessment and plan to repair and mitigate the considerable water damage and concern for mold and deterioration of floor and walls in the PMC long term care solarium. This area remains closed due to safety and infection control issues.
- Progress continues on the replacement hospital building project. In September, the Borough Planning Commission approved the final site replat dedicated to the replacement building. Additionally, the comprehensive NEPA Environmental Study was completed and documents were made available for the two-week public review and comment period which began September 15, 2023.
- Final design on the new facility is coming, with more information to come on this. We expect the Architects & Engineers to have a final design by the end of the month to put forward to the steering committee for approval.
- Updates: Project updates are available on the PMC website under the "[New Facility & Planning](#)" tab.

Financial Wellness:

- FY23 Audit is currently in process and the audit firm expects to complete this process in October.
- FY24 capital budget continues to be reviewed and will have a more concise list for approval.
- PMC continues to await word from the State regarding Exceptional Relief Request.
- Financial performance is improving slowly and will be reported out accordingly.

Patient-Centered Care:

- Beginning in September, PMC and the SEARHC scope team will start endoscopy and colonoscopy services.
- In October, Specialty Clinic introduces dermatology services, encompassing skin checks, removals of moles, lipomas and skin cancer; treatment of chronic skin conditions like psoriasis, acne and dermatitis; and cosmetic Botox procedures.
- PMC is working on implementing the HRSA grant award for Rural Communities Opioid Response program which will be a part of the Behavioral Health department. This is a one year \$300k grant. Additionally, PMC has growing concerns regarding the rising instances of fentanyl use and potential abuse in our community. We held a preliminary meeting on September 28 with EMS, PHN and law enforcement to gain a clearer understanding of the situation at the community level.
- Petersburg Medical Center has two exciting new programs to help people improve strength, improve balance and decrease fall risk: Bingocize and Tai Ji Quan: Moving for Better Balance. Classes started the week of September 11 with positive reaction and are already at capacity with a need to add a second group. For more information, call 772 -5580. Class times are as follows:
 - Monday/Wednesday: 10:00-11:00 am, Bingocize
 - Tuesday/Wednesday: 10:00-11:00 am, Tai Ji Quan



**Mayor's Report
For
October 9, 2023 Assembly Meeting**

- 1. Recognition of Outgoing Assembly Members Kensinger and Meucci:** I wish to recognize and thank Dave Kensinger and Jeff Meucci for their time serving our community on the Borough Assembly.
- 2. Recognition of John Jensen:** On behalf of Petersburg and other Alaskan fishing communities, I wish to recognize John Jensen for his 21 years of dedicated service on the Alaska Board of Fisheries.
- 3. Mayoral Proclamation – Domestic Violence Awareness Month:** With the Mayoral Proclamation attached to this report, I proclaim October, 2023, as Domestic Violence Awareness Month and October 19, 2023, as Wear Purple Thursday in support of domestic violence victims and survivors.
- 4. NOAA Proposed Rule Regarding Harbor Porpoises in SE Alaska:** NOAA recently divided harbor porpoises in SE Alaska into three stocks and has proposed a rule to change the SE Alaska gillnet fishery designation from a category II to a category I, which will result in the fishery being a priority for an observation program. The proposed rule can be found at the following link: [Federal Register :: List of Fisheries for 2024](#). Comments on the proposed rule are being accepted through October 13, 2023.
- 5. Request Legislation to Ban Russian Origin Seafood Products from U.S. Markets:** The low fish prices and flooded seafood market this year point towards global marketing issues, including allowing Russian origin seafood products to be sold in the U.S. To urge lawmakers to support domestic seafood producers and ban Russian origin seafood products from sale in the U.S., send your comments to: services@murkowski.senate.gov or public_testimony@sullivan.senate.gov.
- 6. Mayor Jensen to Conduct October Assembly Meetings via Zoom:** Mayor Jensen will be out of Petersburg for both October Assembly meetings but plans to conduct the meetings via Zoom.



MAYORAL PROCLAMATION
DOMESTIC VIOLENCE AWARENESS MONTH
OCTOBER 2023

The Petersburg Borough, in recognition of the critical work being done by domestic violence victim advocates and allies, encourages all citizens to actively engage in the scheduled Domestic Violence Awareness Month activities in October organized by Working Against Violence for Everyone (WAVE) and other national organizations working towards the eradication of domestic violence.

Domestic Violence Awareness Month is nationally recognized each October to generate awareness of violence and to promote taking action.

In 2022, WAVE provided 284 services to people impacted by gender based violence in Petersburg. While the impact of domestic violence is felt by individuals and families, it also affects our communities and nation as a whole.

Petersburg joins with others across the state of Alaska and nationwide in supporting domestic violence victims and survivors, the advocates and organizations who serve them, and holding offenders accountable in the Petersburg Borough.

Therefore, I, Mark Jensen, Mayor of Petersburg Borough, hereby proclaim October 2023 as Domestic Violence Awareness Month and October 19th, 2023 as Wear Purple Thursday.

Proclaimed this 9th day of October, 2023



 Mark Jensen, Mayor





**Borough Manager's Report
Assembly Meeting 09 October 2023**

- ❖ Fire/EMS has been working with Assisted Living to help make them more capable when a resident gets hurt. ETT course is being offered to the staff at cost and it looks like it's going to be helpful. We have 4 folks signed up so far. This would not replace EMS service when needed but is more to help identify when an emergency is taking place.
- ❖ Property tax payments are due in the finance office by 4:30pm on October 16th. A postmark is not considered timely. Call 907-772-4425 if you have any questions.
- ❖ Karl is working on the land procurement process, loan increase and process to hire a company to complete controls for the Pump Station 4 project.
- ❖ WW staff successfully removed the portable restrooms and have winterized them until next spring.
- ❖ All seems to be ready to start using the new handheld and software for meter reading in October.
- ❖ The Blind Slough contractor has seen some large milestones lately. With Gilkes' arrival, many pieces of equipment have been moved into the powerhouse. The first section of penstock is in place and the turbine inlet valve, nozzle piping and turbine case are also set. The generator is scheduled to be moved into the building on Tuesday, October 3rd and all pieces of Gilkes supplied equipment should be installed by October 14th. McG/DCI continues to work on the penstock and thrust blocks.
- ❖ A reminder to boat owners, harbor staff will be cleaning up floats of water hoses and clutter to make way for snow removal. Owners grab their stuff if they want it.
- ❖ Reminder to boat owners to call the Harbor Office with boat watching information as vessel owners start to travel out of town. Also, Harbor Staff is touching base with owners with vessels of concern. Reminding owners to prepare their boats for winter and snow/freezing issues.
- ❖ Dredge contractor – Western Marine is on scene and geared up to start dredging. Staff will be contacting boat owners prior to relocating vessels as the contractor works their way through South Harbor.
- ❖ Thank you to PMPL for changing out harbor lighting at the Drive Down this week.
- ❖ The Streets crew replaced the wear decking on the City Creek bridge, and hydrant winterization will get underway soon.
- ❖ The Borough's new vactor truck has been inspected, tested, and placed into service. Factory personnel were onsite September 26th to help train the Borough's personnel in the use of the new truck. The old vactor will

be auctioned this fall along with other surplus Borough vehicles and equipment.

- ❖ The Sanitation crew is working on cleaning up the landfill prior to snow season. Cars have been stacked (thanks to the Streets crew for helping.) and we have containers on the way for all the boats that need to be demolished.
- ❖ Building Maintenance is working on startup of various heating systems for the winter season.
- ❖ The library's new Xerox WorkCenter is now available for public use. It was purchased with a grant from the Rasmuson Foundation.
- ❖ Library squid hoodies are now available for purchase online at psglib.org/store. Proceeds from sales support programs and activities at the library.
- ❖ Homegrown Conversations, the library's radio show, is back on KFSK Wednesdays at 6:30pm. It features audio collected in partnership with Tim Shumway's Senior Alaska History Class. Each student interviewed a local person about their life experiences. All interviews will be archived on the library's web site.
- ❖ Assisted Living is working on Medicaid and the changes of some of the residents cost of care. We are also working with Alaska Care and a resident's POA on required paperwork for rental payments.
- ❖ Starting on the state inspection paperwork and getting Assisted Living into shape for the inspection.
- ❖ We did the flu vaccines at the Manor last week for the residents that wanted it.
- ❖ After looking into and talking with the state. It is required that tenants who rent a room at the Manor have a background check as well as a TB test (TB test every year) before they can move in.
- ❖ State also stated there is supposed to be locked doors between AL and EH. We have fire doors there so we will be asking about this and finding if these are required as well to be locked.
- ❖ Floor coverings are happening in the gymnasium portion of the Community Center. Thank you for your patience during this project and know that all areas of the facility will be reopened soon.
- ❖ The pools and mezzanine will be closed on Oct. 13th and 14th for the HS Swim & Dive meet. Please call or stop by the Parks and Rec front desk with any questions and view the fliers for specifics.
- ❖ Thank you to the many parents and student coaches and referees who have stepped up to help create a successful Youth Basketball season at Parks and Rec with 116 kids this season ~ we could not do it without you! Also, thanks to Julie Anderson and Chrystine Lynn for organizing!
- ❖ The first Borough Safety Committee meeting will be held on October 24, 2023, and will have an employee attending from each department including a representative from the IBEW and PMEA unions. Cole Cummins from APEI and Susan Erickson from Petersburg Wrangell Insurance will also be attending. The first agenda will include: Discussing the purpose of the committee, review of APEI recommendations, setting the meeting schedule and assigning responsibilities.

**PETERSBURG BOROUGH
ORDINANCE #2023-14**

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP FOR SERVICE AREA 1 OF THE PETERSBURG BOROUGH TO REZONE LOT GL 14 SECTION 33, TOWNSHIP 58 SOUTH, RANGE 79 EAST, COPPER RIVER MERIDIAN, (PARCEL #01-010-600) FROM PUBLIC USE (P-1) TO SINGLE-FAMILY MOBILE HOME (SFMH)

WHEREAS, Skylark Park, LLC owns the parcel of land described as follows:

Lot GL 14, Section 33, Township 58 South, Range 79 East, Copper River Meridian,
Petersburg Recording District, State of Alaska

;and

WHEREAS, the parcel is currently zoned Public Use (P-1); and

WHEREAS, the property owner initiated a zoning change of the parcel under PMC 19.84.020(C); and

WHEREAS, Chapter 19.84 of the Petersburg Municipal Code (Service Area 1) provides for zoning amendments whenever the public necessity, convenience or general welfare requires; and

WHEREAS, if rezoned, Skylark Park, LLC states the intended use for the property is to subdivide the parcel into 75' X 100' lots for placement of manufactured homes; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on the proposed rezone on September 12, 2023, and considered and reviewed applicant materials, public comments and testimony, and staff report; and

WHEREAS, the Planning Commission voted 5-0 to recommend rezoning the parcel to Single-family Mobile Home (SFMH); and

WHEREAS, Borough Charter Section 3.01(K) and Section 1.12.010(G) of the Municipal Code require amendments to the official zoning map be enacted by ordinance.

THEREFORE, THE PETERSBURG BOROUGH ORDAINS as follows:

Section 1. Classification. This Ordinance is of a general and permanent nature but will not be codified in the Municipal Code.

Section 2. Purpose. The purpose of this Ordinance is to amend the Official Zoning Map for Service Area 1 of the Petersburg Borough.

Section 3. Substantive Provisions. The Official Zoning Map for Service Area 1 of the Petersburg Borough, codified and referenced in Section 19.08.020 in the Municipal Code, is hereby amended for the following described property from Public Use (P-1) to Single-Family Mobile Home (SFMH): Lot GL 14, Section 33, Township 58 South, Range 79 East, Copper River Meridian, Petersburg Recording District, State of Alaska.

Section 4. Where Record to be Maintained. This non-Code ordinance, and the enactment of the zoning amendment referenced under Section 3 of this ordinance, shall be maintained with the zoning records of the Borough.

Section 5. Effective Date. This Ordinance will take effect immediately upon adoption.

PASSED and APPROVED by the Assembly of the Petersburg Borough, Alaska this _____ day of _____, 2023.

Mark Jensen, Mayor

ATTEST:

Debra K. Thompson, Borough Clerk

Adopted:
Published:
Effective:

Planning Commission Report

TO: Borough Assembly

FROM: Planning Commission

Subject: ZONING AMENDMENT
Skylark Park LLC - Gov't Lot 14

The Petersburg Planning & Zoning Commission makes the following findings as to need and justification:

1. An application for an amendment to the zoning map was submitted by Skylark Park LLC.
2. The parcel size is 5 acres, and it is mostly vacant. The surrounding area is partially developed with a mix of residential dwellings and vacant land.
3. The subject property is currently zoned Public Use, which is used for government-owned buildings and municipal facilities. The property may also be developed with single-family residential dwellings.
4. Zoning of the surrounding area:
 - a. North – Single Family Residential
 - b. South – Open Space Recreational
 - c. East – Public Use
 - d. West – Mobile Home Park
5. The stated intended use for the property is rezoning to Single Family Mobile Home to subdivide the parcel into 75'x100' lots for placement of manufactured homes. This use is consistent with SFMH. SFMH lot development requires a minimum lot size of 7,500 sf.
6. The purpose of the Single-family Mobile Home district is to provide a sound and attractive residential neighborhood for single-family mobile homes on standard residential-size building lots. One and two-family dwellings also are allowable uses in the SFMH district.
7. The overarching housing goal in Chapter 6, Housing, of the comprehensive plan is to *"...expand the range, affordability and quality of housing in the community while maintaining attractive, livable residential neighborhoods."* The plan specifies a goal to increase the *"availability of affordable, quality housing, particularly "starter homes" and rentals, while avoiding overdeveloping housing for a stable or declining population."*
8. The 2016 comprehensive plan recommends future land use for this area be Medium-High Density Residential. The intended use is higher density residential, including attached and detached homes, option for accessory dwelling units, for home-based occupations. The corresponding zoning districts for this use are single-family, single-family mobile home, multi-family, and mobile home park.
9. On August 29, 2023, a notice of the public hearing was mailed to all owners of property within six hundred feet of the exterior boundary of the property that is the subject of the application.
10. On August 31, 2023, notices of the public hearing were posted at the Municipal Building, and at the subject property.

Planning Commission Report

11. On September 12, 2023, a duly noticed public hearing was held by the Petersburg Planning Commission.
12. At the public hearing, the Planning Commission considered and reviewed applicant materials, public comments and testimony, and staff comments.

Section 2. Based on the preceding findings, the Petersburg Planning Commission makes the following determination and recommendation:

1. The current zoning of the parcel is Public Use. The purpose of the Public Use district includes government-owned buildings and municipal facilities, although single-family residential uses are also allowed.
2. The existing zoning of the subject area is inconsistent with the intended use of the site for development of manufactured home dwellings.
3. The proposal is consistent with the goals of the 2016 comprehensive plan and consistent with the future land use map.
4. By a 5-0, vote, the Planning Commission recommends the Petersburg Borough Zoning Map be amended by rezoning Government Lot 14, Section 33, Township 58 South, Range 79 East, Copper River Meridian from Public Use to Single-Family Mobile Home (SFMH).

Attached:

- A. Applicant Materials
- B. Vicinity & Detail Map
- C. Public Notice Mail out
- D. 2016 Comprehensive Plan Land Use Designations and Definitions
- E. 2016 Comprehensive Plan Housing Chapter
- F. Public Comment

 PETERSBURG BOROUGH LAND USE APPLICATION		CODE TO: 110.000.404110
		BASE FEE: 100.00
		PUBLIC NOTICE FEE: \$70.00
		TOTAL: 170.00
DATE RECEIVED:	RECEIVED BY:	CHECK NO. or CC: CC
APPLICANT/AGENT		LEGAL OWNER (IF DIFFERENT THAN APPLICANT/AGENT)
NAME Ambre Burrell		NAME Skylark Park LLC
MAILING ADDRESS PO BOX 2070		MAILING ADDRESS PO BOX 2126
CITY/STATE/ZIP Petersburg, AK 99833		CITY/STATE/ZIP Petersburg, AK 99833
PHONE 907-772-4423		PHONE 907-772-4423
EMAIL ambre@rocknroadak.com		EMAIL
PROPERTY INFORMATION		
PHYSICAL ADDRESS or LEGAL DESCRIPTION: LOT GL14		
PARCEL ID: 01-010-600	ZONE: PU	OVERLAY:
CURRENT USE OF PROPERTY: Vacant Lot		LOT SIZE: 217,800 sq
PROPOSED USE OF PROPERTY (IF DIFFERENT): SF/MH Lots SF/MH lots subdivision		
CURRENT OR PLANNED SEWER SYSTEM: <input type="checkbox"/> Municipal <input type="checkbox"/> DEC-approved on-site system		
CURRENT OR PLANNED WATER SOURCE: <input type="checkbox"/> Municipal <input type="checkbox"/> Cistern/Roof Collection <input type="checkbox"/> Well		
LEGAL ACCESS TO LOT(S) (Street Name): Odin - Skylark		
TYPE OF APPLICATION & BASE FEE		
<input checked="" type="checkbox"/> 19.84 Zoning Change (\$100)		
<input type="checkbox"/> 18.18 Record of Survey (\$50) (Note: No Public Notice Fee)		
<input type="checkbox"/> 18.20 Minor Subdivision/18.24 Preliminary Plat/18.19 Replat (\$75 + \$10 per lot)		
<input type="checkbox"/> 18.24 Final Plat (\$25 per lot)		
SUBMITTALS:		
For Zoning Change, please submit letter stating the new zoning and explaining the need for the change. For Subdivision approvals, please submit a prepared plat map as required by borough code.		
SIGNATURE(S):		
I hereby affirm all of the information submitted with this application is true and correct to the best of my knowledge. I also affirm that I am the true and legal property owner(s) or authorized agent thereof for the property subject herein.		
Applicant(s):	<u><i>Ambre Burrell</i></u>	Date: <u><i>8.1.2023</i></u>
Owner:	<u><i>Ambre Burrell</i></u>	Date: <u><i>8.1.2023</i></u>
Owner:	_____	Date: _____
Owner:	_____	Date: _____

SKYLARK PARK LLC
PO BOX 2126
PETERSBURG, ALASKA 99833
907.772.3888
ambre@rocknroadak.com

August 8, 2023

Planning & Zoning Commission

To whom it may concern:

I am writing regarding parcels: 01-010-600 owned by Skylark Park LLC. I am asking the commission to change the zoning on our trailer park from mis zoned Public Use to Single Family Mobile Home park.

We are required to list how our proposal aligns with the Petersburg Comprehensive plan which ours does.

The Petersburg Comprehensive plan lists this parcel as Med-High density best use. Page 31 of the plan states 3. c) Establish guidelines that allow for and encourage higher density housing while ensuring quality of neighborhoods and individual structures. 4. d.) Increase the amount of residential, office and other uses within walking distance of downtown. Page 32. 1. Goal: Support Development. Actively work to reduce barriers to private development Strategy: Actively work to reduce barriers to private development. Local governments can have a large impact on the ease – or the complication – of complying with land use regulations. The objective of this strategy is for the Borough to play a role as facilitator of desired development.

Our intentions are to subdivide the lot into 75 x 100 lots which will be available for purchase to the public. This zoning change will allow a small home to be built or to work with us to bring in a custom designed manufactured home.

This zoning change will allow us to create actual affordable housing options for people struggling to find housing in Petersburg. This will also entice investors to purchase a manufactured home on its own lot they could rent out. Creating affordable rental properties will help the rental crisis we are in.

We hope the Commission can see the need in our community we will be able to address with this zoning change.

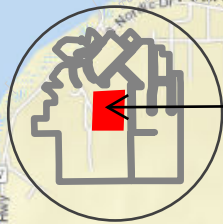
We would like to add that there will still be a Borough owned lot creating a green belt between our subdivision and Severson's Subdivision, which is more than what exists in most other subdivisions.

Thank you for your consideration.

Regards,

Sigmund K and Ambre R Burrell
Skylark Park LLC

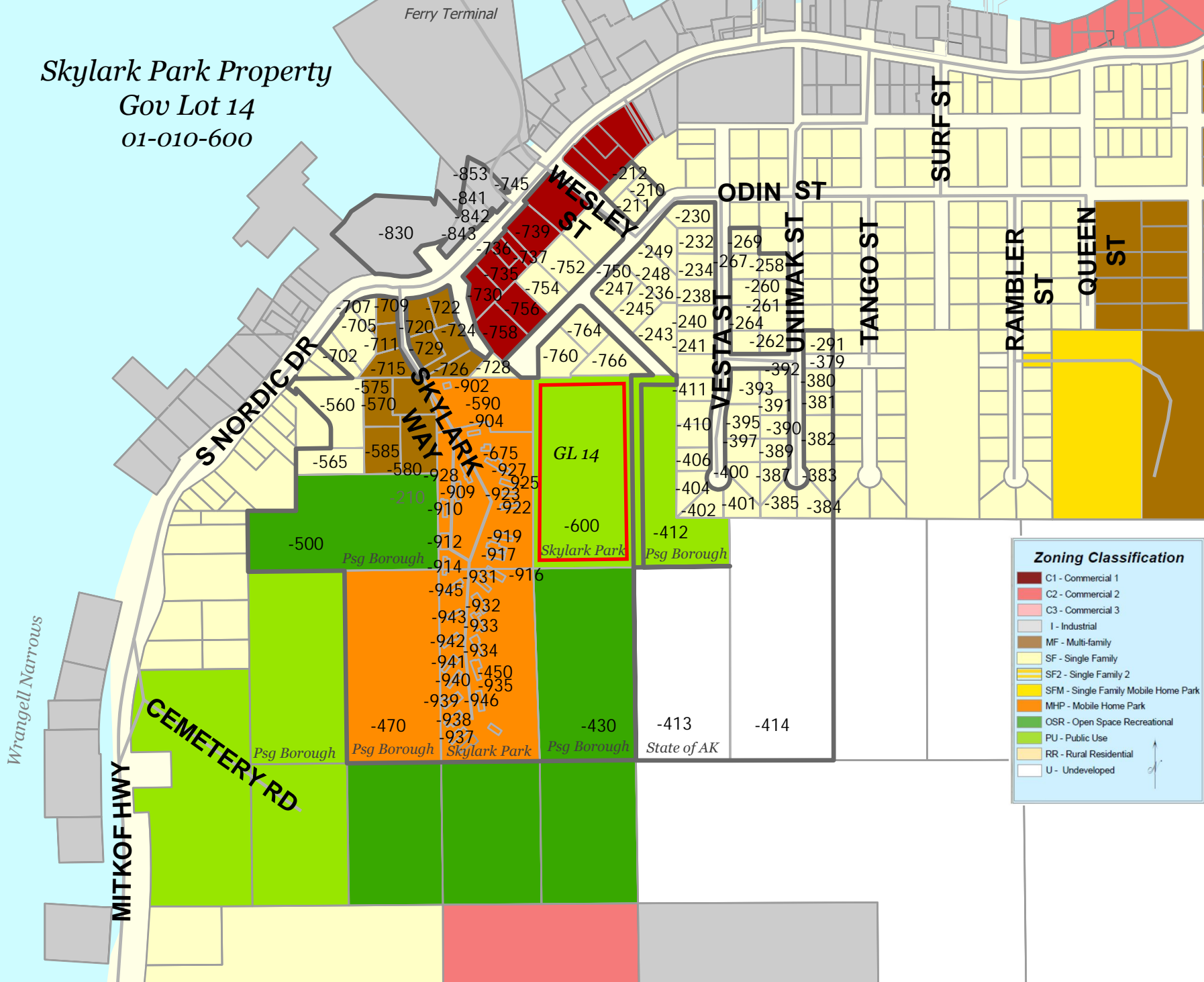
*Skylark Park Property
Gov Lot 14
01-010-600*



PROPERTY AREA



Skylark Park Property
Gov Lot 14
01-010-600



Zoning Classification	
	C1 - Commercial 1
	C2 - Commercial 2
	C3 - Commercial 3
	I - Industrial
	MF - Multi-family
	SF - Single Family
	SF2 - Single Family 2
	SFM - Single Family Mobile Home Park
	MHP - Mobile Home Park
	OSR - Open Space Recreational
	PU - Public Use
	RR - Rural Residential
	U - Undeveloped



August 29, 2023

«Name1» «Name2»
 «Address1»
 «City», «State» «Zip»

NOTICE OF SCHEDULED PUBLIC HEARINGS

The Petersburg Borough Planning Commission has scheduled a public hearing to consider:

Recommendation to the Borough Assembly regarding an application from Ambre Burrell (Skylark Park LLC) to rezone Gov’t Lot 14, US Survey from Public Use to Single-family Mobile Home (PID: 01-010-600).

The public hearing and consideration of the application will be held:	Tuesday, September 12th 2023, at 12:00 PM Assembly Chambers, Municipal Building 12 South Nordic Drive, Petersburg, Alaska.
The meeting is open to the public. To attend via ZOOM , please contact Anna Caulum at 907-772-5409.	

Interested persons desiring to present their views on the applications, either in writing or verbally, will be given the opportunity to be heard during the above-mentioned hearing. Said hearing may be continued from time to time as necessary. If the Planning Commission is unable to meet at the date and time stated above, this application will be considered at a future meeting with no further notice provided except for the general notice provided to the public.

TO SUBMIT WRITTEN COMMENTS TO THE PLANNING COMMISSION	
By Mail:	PO Box 329, Petersburg, Alaska 99833
By Email:	acaulum@petersburgak.gov
Hand-Deliver:	Petersburg Municipal Building, 12 S. Nordic Dr.

The Petersburg Municipal Code (PMC) provides for an appeal of a Planning Commission decision to the Borough Assembly by the property owner or a governmental agency, or any property owner within 600’ of the applicant property and requires that such an appeal be filed within 10 consecutive calendar days of the date the decision is made. For more information regarding appeal requirements, please see PMC Chapter 19.92.

Sincerely,

Liz Cabrera,
 Community & Economic Development Department

Name1	Name2
CHRIST FRY	
HEATHER O'NEIL	
SALLY DWYER	
JIM FLOYD	
JOHN JENSEN	
PHIL MEEKS	
MARIETTA DAVIS	
SKYLARK PARK LLC	
AGNER JESSE A	AGNER MARGARET H
ALASKA STATE OF	
AMANECER ELIZABETH	
ARMIN NORMAN	ARMIN MERRY
BERTAGNOLI JOE	
BOJORQUEZ FELIX RICARDO	
BRADFORD AARON	BRADFORD JANET
BRAUN RICK G	BRAUN SUE A
CANGIALOSI SALVATORE A	
CARNES SHANE	PHILLIPS DEANNA
CHITTENDEN TIMOTHY R	
CISNEY JOE ALLEN	CISNEY JENNIFER MAE
CLARK KEVIN J	
COLLINS KEVIN	BRUSELL PRISCILLA
CONN JOSHUA H	CONN HEATHER

CONNOR WILLIAM H JR	
COTTA CARISSA R	
CUMMINGS ROBIN	CUMMINGS JOYCE
CURTIS DYLAN	
DAVIS KELLY	
EGEN KADDY	
ELLIS MARY ANNE	
ENGELL JAMES B	ENGELL JILL E
ENRIQUEZ JORGE A	ENRIQUEZ MINDY J
FALTER TERRY	FALTER TERRI
FRANKLIN CLAYTON S	
FRANKLIN KYLE O	FRANKLIN VIKKI
FRIEND REX	FRIEND CHERI
GARD TIMOTHY	GARD LISA
GOOD INVESTMENTS LLC	
GRANBERG LOREEN	
GRANT CASSANDRA	
GRISS SEAN J	GRISS KRISTA A
HALL KIMBERLY REBECCA	
HAMMER KACEY	
HANAHAN INDIGO L	HANAHAN WILLIAM R
HASBROUCK MIKA JERE	
HERMOSA HOLDINGS LLC	

HESS COURTNEY N	HESS REX
HOLMGRAIN RANDAL E	HOLMGRAIN SARAH
JONES KENNETH JOHN LORGEN MARIE H	THE LORGEN- JONES LIVING TRUST
KATASSE IRVING	
KLUDT-PAINTER JONATHAN T	KLUDT-PAINTER ERICA L
LENZ TORE	
LOPEZ-MENDOZA JOEL	
LUHR JASON	LUHR STACY
LYNN CYNTHIA E	
LYONS HEIDI PERSCHON LIV	ONEIL HEATHER
LYONS JACK C	LYONS HEIDI
M&K SCHWARTZ AK TRUST	
MARSH KIRT	MARSH DONNA
MATTINGLY DARBY	MATTINGLY NICHOLE
MCCAY ASHON	MCCAY NATALIE
MORAN TONY	
MORRIS CHRISTINA	
MURDOCK WILLIAM CHARLES	MURDOCK EILEEN ROSE
NEIDIFFER JUSTIN	
NELSON JOSEPH T	NELSON KAREN G
NEWMAN LUCAS	NEWMAN TANGI
NEWMAN SCOTT D	NEWMAN CYNTHIA

NUSSBAUMER DONA M	NUSSBAUMER ALVIN
ONEIL DENNIS	ONEIL HEATHER
OREAR LARRY	OREAR KATHY
O'SOUP DERRICK G	O'SOUP KELLY N
PERSCHON LIV M	
PETERSBURG BIBLE CHURCH	
PETERSON RAYMOND G	PETERSON ELIZABETH K
PHILLIPS AARON L	
PHILLIPS JEANETTE	
PLEW EVA R	SALOMONE PAUL
POOLE JEFFREY	
RADFORD GENESIS & MARTINEZ- MACIAS	ALBERTO GREGORIO
ROSVOLD ANDERS O	
ROUNDTREE DEAN & ELENA	ROUNDTREE ARIEL M
ROUNDTREE JESSE	
SAKAMOTO DIANNA	QUEZON ALVIN
SANDHOFER THEODORE F	SANDHOFER MARSHA L
SCHWARTZ JAMES	SCHWARTZ LESLIE
SKEEK GEORGE	
SLAVEN JACOB	
STROMDAHL JAMES	STROMDAHL MARY
TANGATAILOA STACIE	
THE MILL INC	

THOMASSEN SCOTT	RRT TRUST / SPECIAL NEEDS TRUST
TIDWELL JARED	
TRIDENT SEAFOODS CORPORATION	
VICK THERESA	VICK DAN
VOLK ROBERT D	VOLK ANNE
WALLEN LISA J	
WOOD GEORGE	WOOD SUSAN
WORHATCH ERICA	
YOUNG ELROY L & ALICE H	
REGULA RANDY R & REBECCA A	
ZAIC NANCY L	HUSE DONALD

Use Category	Intended Uses	Zoning "Menu" – zones to be applied within any specific general land use category
	- On public land: no/minimal development	private land
Downtown Historic	Compact, walkable, diverse; controls on building form and appearance to maintain historic character; little or no onsite parking	C-3 Commercial 3 with modifications to maintain historic character
Downtown Commercial	Commercial, higher density residential, - compact, walkable, diverse; minimal onsite parking, most parking needs met through well-managed public parking, on and off street	C-1 Commercial 1 with modifications to reduce on-site parking requirements
Commercial Outside of Downtown	Commercial outside of downtown, including larger floorplate uses; in contrast to downtown, these are generally uses requiring substantial on-site parking to meet needs of customers who arrive by automobile	C-2 Commercial 2
Medium and Higher Density Residential	Higher density residential, including attached and detached homes; option for accessory dwelling units, for home-based occupations	SF 1 Single Family 1, (SF 2 - Single Family 2 modified or eliminated), MF - Multi-Family, SFMH - Single Family Mobile Home, MHP - Mobile Home Park
Lower Density Residential	Single family or duplex residential, option for accessory dwelling units and home-based businesses, (1-4 dwellings units per acre (DUA) is most common; but allow option for densities up to 6-8 DUA)	RR Rural Residential; Single Family Mobile Home? (add option for up to 6-8 DUA with admin site plan review)
Public Facilities	Site-specific, developed public use facilities, including developed recreation facilities	P-1 Public use
Industrial	Range of industrial activities; primarily uses that tend to have impacts on surrounding non-industrial uses, such as noise, smells, bright lights, truck traffic, low visual quality, safety concerns	I Industrial
Open Space/Recreation	Land in natural state, allowing for dispersed recreation. Open space is preferred near term use, in part to concentrate development in currently developed areas. This designation may be changed in the future to allow for development if/when local economy/population grows.	OS Open Space - recreation, modified to emphasize conservation, generally for public lands, option to be dedicated for mitigation lands
Development Reserve	Areas with limited current access, and limited near term development pressures. Decision on future uses to respond to market opportunities, community and environmental standards	No current corresponding zoning category
Dispersed Recreation/Resource Development	The general category for public land managed by USFS or DNR; multi-use management including timber harvests, recreation, mineral development (same outside SA1)	No currently corresponding zoning category

ATTACHMENT E

CHAPTER 6: HOUSING

Overarching Goal: Expand the range, affordability and quality of housing in the community while maintaining attractive, livable residential neighborhoods.

GOALS + STRATEGIES

1. **Goal: Housing Supply.** Increase availability of affordable, quality housing, particularly “starter homes” and rentals, while avoiding overdeveloping housing for a stable or declining population.
 - a. Renovate and rehabilitate existing housing stock. Potential actions:
 - Provide direct links to private and public sector partners that can work with residents to estimate cost and identify funding options for home upgrades and improvements.
 - The Borough should condemn unhealthy, dilapidated housing and either rehabilitate or replace such structures, preferably with higher density, more affordable homes.
 - b. Increase infill in already developed areas. Potential actions:
 - Encourage higher density, less expensive housing options such as duplexes, four-plexes, apartments, “mother-in-law,” or “tiny houses” where appropriate. These units could be used for vacation residences, low-impact living, lower income housing and singles housing options.
 - Develop appropriate zoning and building standards to allow for “tiny house” dwelling, including multiple-dwellings on a single lot.
 - Encourage re-development of older low-density single homes into higher-density housing.
 - *See Chapter 3: Land Use + Environment* for specific land use strategies to encourage infill.
 - c. Reserve land adjacent to existing infrastructure to allow for increased supply in new areas, as needed. Potential actions:
 - Expand the concentrated residential downtown core of Petersburg.
 - Add two more streets with utilities to Tlingit-Haida Regional Housing Authority (THRHA) subdivision. Build on sites with appealing views.
 - Identify locations along Mitkof Highway for housing.
 - Encourage small housing developments with shared green spaces, maintenance and parking.
 - Adjust land use restrictions to allow for smaller lots.
 - Open up portions of land the airport access road focusing on areas closer to town for new housing development.
 - Where the land is physically suited, consider building housing on the large platted Borough-owned subdivision north of the ballfields.



Tiny houses and “cottage homes” offer alternatives to traditional single family housing. Instead of a lot with a single home, the lot can be used for multiple detached homes on land held in common with landscaping for privacy.
Image from tinyhouseblog.com

- See *Chapter 3: Land Use + Environment and land use plan map* for land use designations for new housing.

2. **Goal: Partnerships.** Work in partnership with neighboring land owners, agencies, and nonprofits to share resources and reduce costs to identify and develop housing.
 - a. Conduct a comprehensive housing needs assessment.
 - b. Explore options for the Borough to play a role in reducing time and cost for development. Potential actions:
 - Infrastructure. Expand road, water and sewer systems. Assist with coordinating extension of power.
 - Permitting. Work with the Army Corps of Engineers to make the permitting process for new construction and development on existing private property easier (see Goal 1 in Land Use chapter).
 - Continue to offer a one-stop “concierge” for permits for desired uses.
 - Land. Expand areas open to housing, including land selections, and residential areas outside of town.
 - Funding. Waive fees till occupancy.
 - Host a fair for sharing innovative technologies such as renewable energy options and composting that could help interested residents and developers explore new opportunities for home construction both on and off the grid.
 - c. Work in partnership with THRHA, taking advantage of the Regional Housing Authority’s ability to leverage a mix of private and public funding sources.
 - d. Expand partnerships to offer subsidized housing to lower income households.
 - e. Encourage development of one-room studio condos for less than \$100,000.
 - f. Work with partners to offer rent-to-own housing and sweat equity options to make it easier for people to purchase homes.

3. **Goal: Seasonal Housing.** Ensure populations that are seasonal or transitional are living in housing that best meets their needs.
 - a. Develop land use policies that allow for appropriate and accessible seasonal housing for fishing workforce. Potential actions:
 - See *land use plan map* related to designating certain waterfront properties for workforce housing.
 - Learn more about the availability and use of vacation rentals in the Borough and examine the potential impact on the overall housing market.
 - b. Develop land use policies and Borough processes that facilitate, enhance and market Petersburg as a place for second homes. Potential actions:
 - Encourage development where there are appealing views.
 - See *land use plan map* for specific areas that have good views and access to existing infrastructure.

4. **Goal: Senior Housing.** Expand senior housing options across all levels of care.
 - a. Ensure adequate support services at lower levels of in-home care. Potential actions:
 - See *Chapter 5 Public Facilities + Services* for specific strategies related to supporting seniors to live safely in their own homes. This will prevent need to build as much housing for higher levels of care.
 - b. Promote development of additional elderly independent living housing. Potential actions:

- Identify possible sites including near Mountain View Manor, the Petersburg Medical Center or the ball fields.
 - Partner with non-profit developers whereby the Borough and/or other partners, such as the Alaskan Mental Health Trust Authority, provides the land for a senior housing project.
- c. Explore new housing models for seniors who need low level supports. Potential actions:
- Partner with regional Aging and Disability Resource center to pilot shared housing; for example, the Golden Girls Network.
 - Explore King Cove model of four independent housing units with one caregiver unit.
- d. Explore options for a memory-care assisted living wing addition to Mountain View Manor. Potential actions:
- Conduct a senior needs assessment to determine future demand for higher levels of care in Petersburg.

“Housing and childcare is seriously short for folks. And this is not a need for me, but I see and hear about this often.”

– Community survey participant

BACKGROUND AND CONTEXT

This chapter outlines the current housing profile of Petersburg Borough and identifies where there is need for additional housing in the future. The chapter begins with an overview of housing supply, quality and affordability. Next, the factors that affect the supply are considered; these factors include land supply, seasonal housing and the need for senior housing. The chapter concludes with a simple quantitative housing needs assessment that sets the stage for future analysis.

RATIONALE

While providing housing might not be the first priority of a borough government, there are public benefits to having an adequate supply of housing for its population. A diversity of housing options of different sizes and prices ensure that people who come to the Borough to work and live will have a place they are willing and able to pay for. Without housing for workforce, it is more difficult for new economic sectors to develop. Additionally, poor housing quality has negative impacts on the health and wellness of the community, including young children. It also makes those homes undesirable and unsellable, which makes them poor investment choices for first time home buyers. While Petersburg Borough does not need to construct



ATTACHMENT F

Sept. 5, 2023

Dear Planning Commission:

I am writing in opposition to the commission approving the rezoning request from Amber Burrell, Skylark Park, LLC.

The parcel in question has long been zoned public use, and more than could ever be adequately described, has been widely used as such from firsthand observation for almost 30 years.

After having lived for almost 6 years at Lot #11 in Magill's Trailer Court, as it was known for decades, my husband and I purchased our property at 710 Vesta Street 30 years ago and proceeded to build our home in which we have lived for 27+ years. The land between Vesta Street and Magills was vacant and had been zoned as public use for decades. We anticipated from the start that it would remain so. We've raised our children here, utilized the open spaces behind and to the south of our home in this muskeg as a playground for exploration, frog and newt hunting, cross country skiing, sledding, ice skating, and so many other activities that have enriched our lives. To think that a major portion of this open space will be rezoned into single family mobile home/manufactured homes for future development makes my stomach churn.

I've been able to watch from my kitchen window many children and adults alike enjoy this space as well.

Many of our neighbors along Vesta Street and in Severson Subdivision have long shown pride of ownership in maintaining their homes and yards. Mobile home parks in Petersburg and even across the country often are not places of cleanliness and beauty. Crime is much more prevalent and frequently, they are not well kept. These factors will affect negatively the neighbors in Severson Subdivision and will also negatively affect property values. The "green belt" noted in the petition is also public use, but would not make up for the presence of an expanded trailer/manufactured home development.

Several years ago, Pat Magill petitioned the Commission for exactly the same thing: a rezoning so she could expand the trailer court. That request was denied. I urge the commission to likewise deny this one as well.

Opening residential lots close to town (ok, it's a mile or so away) could be beneficial, but to take prime public use land and pack it full of mobile/manufactured homes would be a huge loss for the neighborhood that has been long established as well as the many people who utilize this ground for all sorts of activities throughout the year.

Thank you for your time.

Sincerely,

Kirt, Donna and Evan Marsh

From: [Mika hasbrouck](#)
To: [Anna Caulum](#)
Subject: Attn: Planning Commission
Date: Monday, September 11, 2023 10:55:44 AM

Dear Petersburg Planning Commission,

As you address the applications submitted to address our town's significant need for affordable housing, I offer some concerns and some suggestions to consider.

Firstly, I applaud the forward-thinking of Amber and Sig Burrell for their feasible and ingenious ideas. This is community in action.

Along with their concept, or maybe beyond it...there are some important details that need to be addressed in order to proceed with viability of this plan and any others that follow. The Planning Commission and the Assembly have a role in this.

The current Single Family Mobile Home Ordinance (19:28) has not been updated since 1985. That alone needs a careful review and revision because both the economy and the needs of our community have changed greatly in those 38 years, along with building standards, codes, and requirements. The current ordinance is now outdated and needs to be updated, revised, and discussed.

There are critical additions that now need to be made to ensure affordable, efficient, and quality housing for homebuyers within the type of residential zoning currently proposed. The existing 1985 Single Family Mobile Home Ordinance (19:28) as it reads is not ideal for lasting progress or for this application.

For example, there is no provision to ensure newly built, modern and efficient manufactured homes that are of lasting value for home buyers, are required when creating a residence or residential area zoned as Single Family Mobile Homes. While the proposal by the Burrell's might meet that criteria, nothing in the Ordinance requires it. That could create problems downline.

More specifically, as related to the Ordinance:

- There is no provision to ensure the integrity or value of adjacent Single Family Residential areas i.e. a buffer, green belt or set back separating the two. As SFR is zoned under different requirements, lots are typically larger, home specifications are different, and the financial investment of the home owner is greater.
- Consideration also needs to be given to adjacent businesses and commercially zoned properties in the immediate area as their uses within their zoning may not be

suitable for dense residential population nearby.

- Population density in a specific area needs to have serious consideration given, including to development already there and how the surrounding undeveloped properties are zoned.

From these points alone, there needs to be a serious look as this specific application(s). The application for proposed development is on land that is surrounded by an over-flowing apartment complex, a mobile home park, a large and long established Single Family Residential zoned neighborhood, with various homes, businesses and other structures scattered in between.

Also, there is a new road planned in the application. What type of development will this road access beyond this initial project? Is the type of traffic accessing that development appropriate for a densely populated residential neighborhood? Will there be more than one access road to mitigate traffic and/or heavy equipment operation? In any case, the road is only one reason why buffers for traffic and home density need to be specified and added to a revised and updated ordinance to ensure the quality and value of new and established homes within and adjacent to the proposed development.

I realize there is more than one application that will be addressed. However, they go hand in hand, the first being for property the Burrell's already own, and the subsequent application to purchase and develop under this zoning ordinance. Please take into consideration that there may need to be more than one code as the circumstances of the applications are different yet both would be physically connected and have a substantial impact on their adjacent surroundings.

We are all very well aware of the economic challenges we have and that we are facing as individuals, a community, state, and nation. As affordable housing is addressed in the light of new proposals, its imperative that the Borough Assembly and the Planning Commission play catch up and make changes that are positively impactful to current and future home, business and property owners.

I respectfully request that we work together in a timely manner to update this ordinance in order to proceed with genuine and lasting progress.

Respectfully,

Mika Hasbrouck
1101 Odin Street
Petersburg, Ak 99833

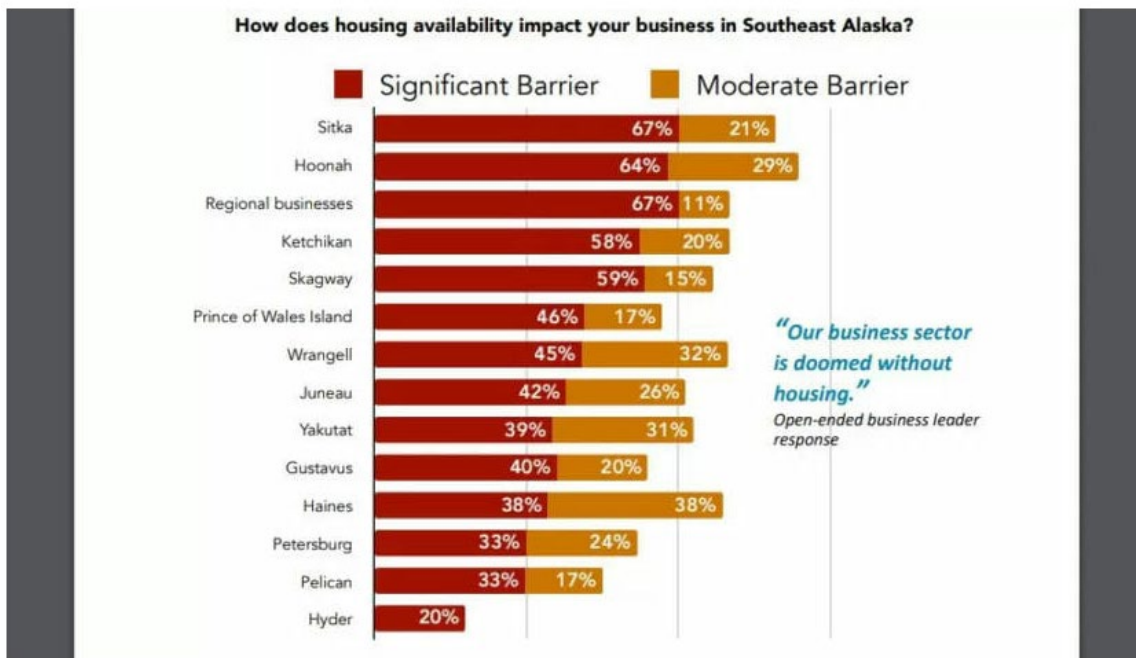
From: [Ambre Burrell](#)
To: [Anna Caulum](#)
Cc: [nwood@mac.com](#); [fvroque@gci.net](#); [Sally Dwyer](#); [jim@hammerandwikan.com](#); [i.fishjensen@gmail.com](#); [jensenboat@gmail.com](#); [psmeeks@aptalaska.net](#); [mariettajoanne12@gmail.com](#); [Liz Cabrera](#); [Ray Wesebaum](#)
Subject: Re: Planning Commission Meeting Packet 9.12.2023
Date: Monday, September 11, 2023 12:45:05 PM
Attachments: [Housing availability impact on business in SE Alaska.png](#)

Hi Everyone,

I would like to submit the following information for your review prior to tomorrow's meeting. In light of the housing crisis we find ourselves in, I feel it isn't necessary to overwhelm you with letters and emails from the numerous people reaching out to me on a daily basis to be put on the list for homes and lots based off one comment on a facebook post... If you feel this is necessary to the process I will bring those tomorrow.

<https://www.kfsk.org/2023/08/17/survey-shows-petersburg-needs-300-houses-in-the-next-decade/>

<https://www.kfsk.org/2022/09/01/housing-is-getting-harder-to-find-in-petersburg/>



Best,

Ambre Burrell
 Rock-N-Road Construction, Inc
 P. 907.772.3308
 F. 907.772.2268

On Thu, Sep 7, 2023 at 11:19 AM Anna Caulum <acaulum@petersburgak.gov> wrote:

Hello Planning Commission Members,

The Planning Commission meeting packet has been published for the September 12, 2023, meeting. You can click on the link below to be directed to packet.

Paper copies are available for pickup from the front desk at the Municipal Building (Finance Office).

[MEET-Packet-1446c03ee4a442ec86090f947a0405b6.pdf \(usgovcloudapi.net\)](#)

[Planning Commission Regular Meeting 09/12/2023 12:00 PM | Petersburg, AK \(municode.com\)](#)

Thank you ,

Anna Caulum

Finance Clerk II

Property Tax Clerk

Community Development Admin Assistance

Finance Department, Petersburg Borough

(907) 772-5409

Fax 907-772-3759

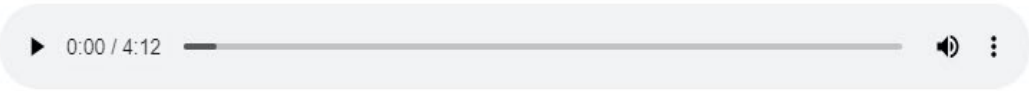


Survey shows Petersburg needs 300 houses in the next decade

Posted by Thomas Copeland | Aug 17, 2023



Housing is a big concern for communities across Southeast Alaska. In Petersburg, the results of a community survey indicate that more than 300 houses may need to be built or renovated in the next decade. Petersburg's housing task force held a public meeting about those survey results on August 17th.



Petersburg has a new fourth grade teacher this fall — Sharon Paulson. She moved to Petersburg this summer. The floor of her home is strewn with musical instruments played proudly by her son, five-year-old Glenn. Maracas, ukuleles and tambourines. In the middle of the room, he was playing a steel drum marked with the first seven letters of the alphabet.

Paulson signed her contract in March. She broke the news to her husband and her son, and then she started house-hunting in Petersburg.

"I looked on Zillow, which was laughable," said Paulson. "Someone said, check on Facebook and I saw that there really wasn't very much there. I looked with the realtor companies, both of them. I had my administrators putting the word out for people. We had a list of AirBnBs to ask if maybe they would rent to us."

After nearly two months of searching, Paulson spotted a classified ad in the local paper.

"That was the last hope that I had for being able to find housing," said Paulson. "It really was like, if we can't find housing, we can't make this move. So when we finally did find a house and our offer was accepted, like I could visibly see the stress fall off of my husband's face."

Stories like hers are common around Petersburg. So last fall, the Borough Assembly set up a housing task force. Assembly Member Dave Kensinger chairs the task force.

"I think we need to figure out a way to start building more housing," said Kensinger. "It's pretty simple. If we don't deal with it, we won't have as many people in town."

Kensinger says that's the easy bit. The hard part? What *type* of housing. To answer that question, the task force launched a community housing needs survey. It ran for a month in the summer, and it was all overseen by Anchorage-based Agnew Beck Consulting. Now, the results are in. Katie Scovic is the senior manager at Agnew Beck.

"We had 366 responses to the Community Housing Survey in Petersburg, which is awesome," said Scovic. "That's about 10% of the population and a really great rate for this kind of survey."

The survey was ten pages long with 39 questions, but here some of the headline results: a quarter of respondents aren't happy with their housing, and most of those who aren't happy are under 45 years old, working and still renting. Most of them want to move into family homes, but apartments and duplexes are popular too. 80% of all respondents want to see more land with utilities opened up for housing.

The survey shows that a lack of skilled labor and the cost of repair is holding people back from renovating their homes. However, Scovic says that even those who don't fall under any of those categories still care about this issue.

"The majority of Petersburg residents are satisfied with their own housing," said Scovic. "But also the majority of residents say that housing is a community issue. And so to see both of those things, at the same time, is encouraging."

Now, the team at Agnew Beck have been sifting through all that data to calculate what housing they think Petersburg needs.

“So according to our housing need forecasts over the next ten years, there’s a need for roughly 316 housing units in Petersburg,” said Scovic. “We’re really looking at about six new units a year and 18 rehab or renovation units each year for the next ten years.”

So, once the consultants submit their *final* report at the end of September, Dave Kensinger says there’s no time to waste.

“The time to do something was ten years ago,” said Kensinger. “And if we want to keep a vibrant community and we just don’t want a community of a bunch of retirees, we need to address the housing problem *now* — not next year.”

But that’s easier said than done, between land, labor and logistics. And many folks in Petersburg will have big concerns that need to be addressed first. Back at the Paulson family’s home, Sharon has shifted her focus to a different challenge altogether — the first day of school. Perhaps she can whip up a quick housing plan while she’s at it.

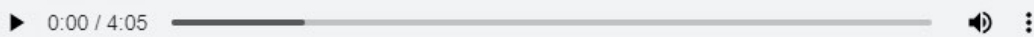
Housing is getting harder to find in Petersburg

Posted by Katherine Monahan | Sep 1, 2022



The borough assembly in a work session on housing in Petersburg on August 29th, 2022.

Across the country housing prices are climbing, and many people are struggling to afford to live in their own communities. In Petersburg, rising prices have combined with another factor – a simple lack of space.



Chase Kirby recently began a job as a police officer in Petersburg. He says the chief made it clear during the interview that housing is hard to come by here. But he wasn't expecting it to be this hard.

Kirby has a wife, three children, six dogs, and one cat. They're all waiting back in Utah while he tries to find at least a three bedroom house. He's working with a realtor, and the borough is reaching out on his behalf, but nothing has opened up so far. Meanwhile, Kirby is staying in the firehouse.

"It's not horrible," he says, "but it's not home."

He says that he and his family miss each other. He's heard that some homes *may* become available several months from now, but nothing definite.

Just in the past few years, housing has become a big issue in this small fishing community. Much of the nation is experiencing a lack of [affordable housing](#), and many people have had to [move to cheaper areas](#) with longer commutes. But like many Southeast towns, Petersburg is on an island, so commuting from out of town isn't an option.

"The rental market is very tight," says local real estate agent Sarah Holmgrain, "as well as the home sales market. It's difficult to find rentals right now that can accommodate really anybody more than a person or more than a couple."

A quick online search shows [two homes for sale](#) in Petersburg and [zero rentals](#). But [15 airbnbs](#) are available. Holmgrain says that's one area of Petersburg's housing market that *has* grown.

"And that's where I think a lot of our rentals have either disappeared into," she says, "that, or as people have developed rentals, they become Airbnbs."

That lack of rentals limits the options for people who are trying to make a transition in their lives – whether they're hoping to move *into* a situation, like Kirby with his new job, or *out* of one.

"If today, you had to pick up and leave, where would you go?" says Annette Bennett. They're the director of WAVE, a nonprofit organization that offers assistance to people in Petersburg who are impacted by violence. "There just isn't an option. And so that puts people choosing to stay in an unhealthy or unsafe space, because they'd rather do that than be homeless. And there's also some people that choose to live in their cars, because they can't live at home anymore."

Another group that's affected by the shortage is local employers. Some are having a hard time attracting essential workers. Borough Manager Steve Giesbrecht says the borough has been trying for six months to fill its Fire/EMS Director position, and several finalists have backed out citing housing as a reason.

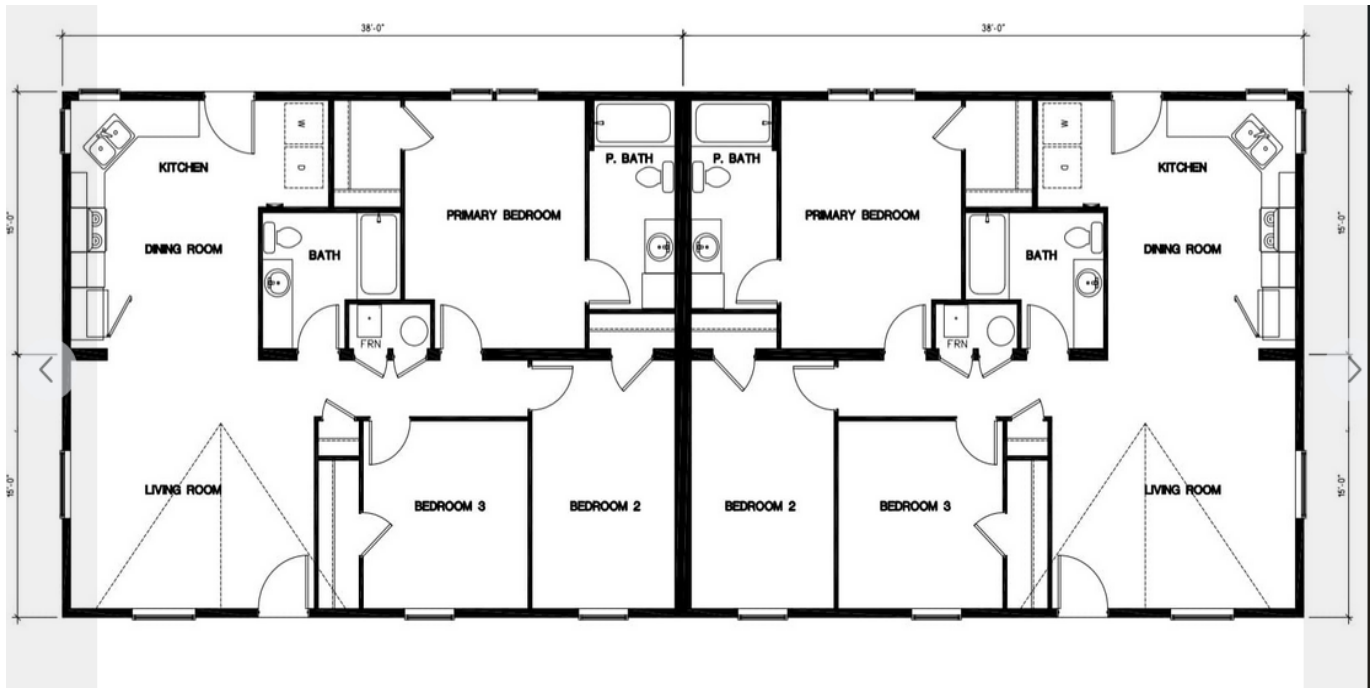
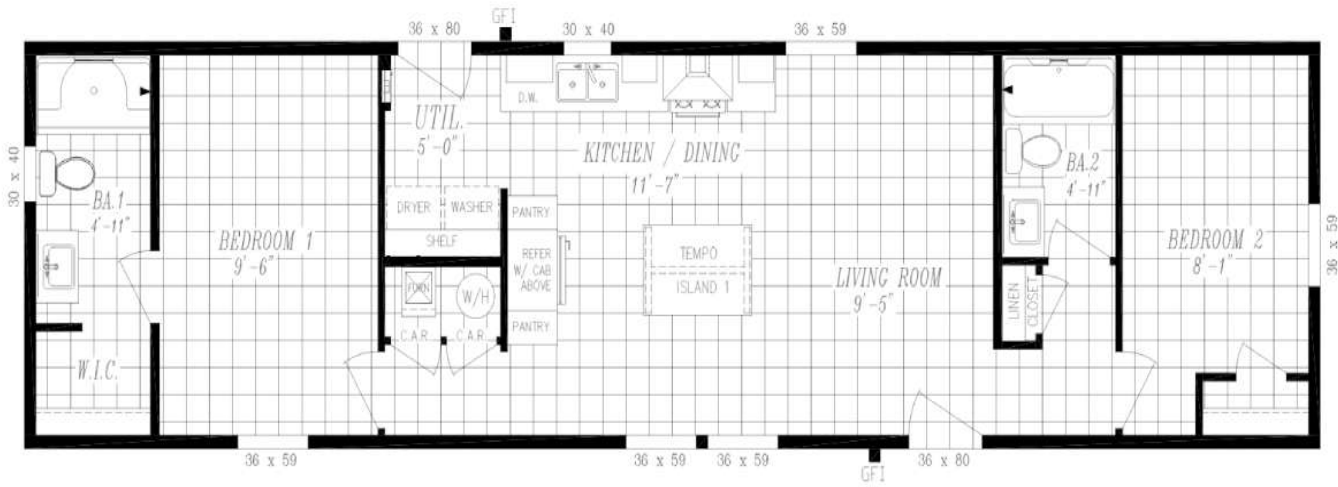
"We can bring more workers to town," Giesbrecht says, "but if they can't find a place to live, then they can't move here. So it's gonna be very difficult to fix the lack of workforce without fixing the housing side of it."

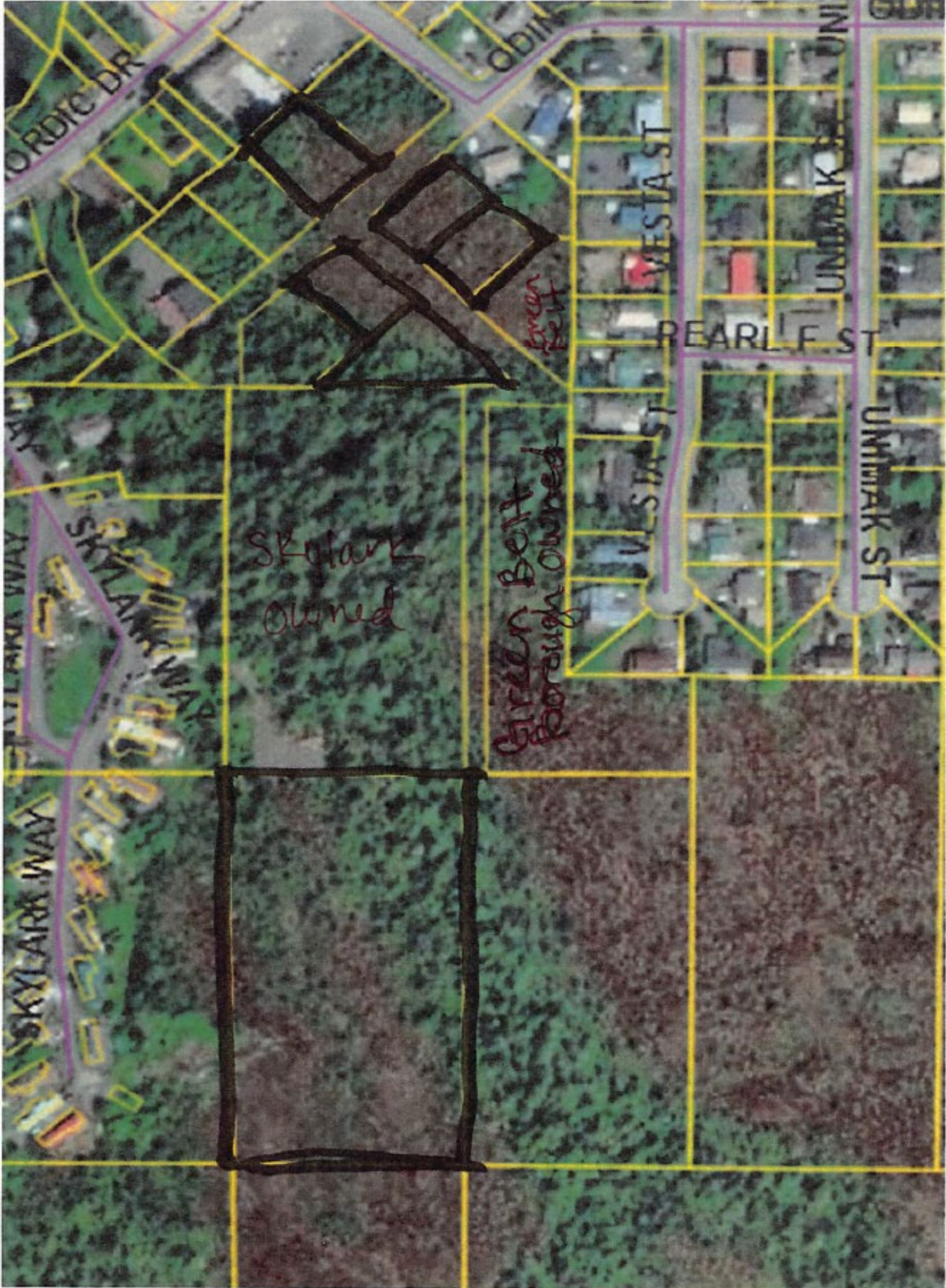
The borough is looking into creating additional lots that people could build houses on. However, it's very expensive to extend roads and utilities to new areas. Giesbrecht says, "Generally what we see is by the time the infrastructure is put in place, the value of the lots is so high that people can't afford them."

The borough is also interested in creative solutions. It [hopes to lease](#) units from the U.S. Coast Guard and make them available for Petersburg first responders. The Borough Assembly on August 29th held a [work session](#) on housing, and discussed possibilities like regulating airbnbs, creating tax incentives for rentals, and designating a legal camping area in town.

At the next public meeting on September 6th, councilmember Thomas Fine-Walsh plans to propose an ordinance to allow for tiny homes, accessory dwellings, and multiple buildings on a single lot.

Meanwhile the borough is seeking letters of interest to serve on a [housing task force](#). You can find a link to that information on our website, KFSK.org.





Subdivision	Total cost	Number of Lots	Cost per Lot
Lake Street	\$4,591,225	30	\$153,040
8 th Street*	\$2,319,756	6	\$386,626
Tidelands	\$3,818,595	25	\$152,743
East Sandy Beach	\$7,840,452	50	\$156,809
Airport Subdivision	\$3,112,278	25	\$124,491
<u>Fram Street</u>	\$2,107,814	10	\$210,781
Hungry Point	\$4,431,290	15	\$295,419
REDUCED CONSTRUCTION STANDARDS APPLIED TO FOLLOWING			
<u>Fram Street</u>	\$1,921,993 (~10% less)	10	\$192,199
Hungry Point	\$3,305,438 (~25% less)	15	\$220,362

**PETERSBURG BOROUGH
RESOLUTION #2023-13**

**A RESOLUTION AUTHORIZING THE APPLICATION FOR, AND
EXECUTION OF, A STATE REVOLVING FUND LOAN**

WHEREAS, the Petersburg Borough (the Municipality) seeks to obtain the necessary financial assistance to design and construct the Pump Station 4 Force Main project; and

WHEREAS, the Pump Station 4 Force Main project would include the following work: Installation of a new wetwell and three submersible pumps, valve vault, electrical control room addition onto the existing generator structure, installation of 750 linear feet of 12" diameter force main and installation of 500 linear feet of 18" diameter gravity main.

WHEREAS, the State of Alaska, Department of Environmental Conservation (the Department) is able to offer funding through the Alaska Clean Water Fund; and

WHEREAS, the project currently is included on an Alaska Clean Water Fund project priority list for the current fiscal year; and

WHEREAS, the project received loan funds from the Alaska Clean Water Fund in the amount of \$360,000 of which the debt was authorized by Proposition #2 at the 1996 local election; and

WHEREAS, the Municipality wishes to apply for a loan increase from the Alaska Clean Water Fund in the amount of \$2,977,177 to assist in funding and completion of the Pump Station 4 Upgrade project; for a total loan amount \$3,337,177; and

WHEREAS, the loan of up to \$3,337,177 would be repaid over no more than a 20-year term, with a finance rate calculated pursuant to 18 AAC 76.080; and

WHEREAS, Petersburg voters approved new debt service up to \$2.6 million within the wastewater department by approving Proposition #1 at the 2019 local election; and

WHEREAS, by way of pledged ADEC loan forgiveness of \$500,000, the indebtedness to the wastewater enterprise fund from this loan increase will be \$2,477,177.00 and is within the voter approved debt service for the wastewater enterprise fund; and

NOW, THEREFORE, BE IT RESOLVED, the Assembly for the Petersburg Borough hereby authorizes the Borough Manager to apply to the State Department of Environmental Conservation for a loan increase in an amount up to \$2,977,177 from the Alaska Clean Water Fund for the Pump Station 4 Force Main project, for a total loan amount of \$3,337,177. Upon approval of said loan increase, the Borough Manager is further authorized to execute the necessary loan documents relating to said increase, which will become a binding obligation in accordance with their terms when signed by both parties. The Manager is authorized to delegate responsibility to appropriate

Borough staff to carry out technical, financial and administrative activities associated with this loan, in accordance with the terms of borough charter and code.

Passed and Approved by the Petersburg Borough Assembly on October 9, 2023.

Mark Jensen, Mayor

ATTEST:

Debra K. Thompson, Borough Clerk



October 10, 2023

Sent via email: amy.orange-posma@alaska.gov

Amy S. Orange-Posma, PLS, CFedS
Survey Section, Division of Mining, Land and Water
Department of Natural Resources
State of Alaska
550 W 7th Ave, Suite 650
Anchorage, AK 99501

RE: Certificate of Acceptance of Dedication, South Mitkof Subdivision

Dear Ms. Orange-Posma,

Thank you for your email of September 13, 2023, and the opportunity to respond to your questions.

As you know, the Borough Assembly, on September 5, 2023, declined to approve a certificate of acceptance of dedication for the South Mitkof Subdivision, property owned by the Alaska Mental Health Trust Land Office (TLO). This was based on a number of concerns, many of which have already been expressed to TLO (see attached September 18, 2023 letter from the Borough to Chandler Long, Senior Project Manager). These concerns constitute reasonable public cause consistent with applicable municipal ordinances, as contemplated under 11 AAC 53.700(c). In brief, and as expressed in further detail below, the overarching basis for not agreeing to sign the dedication is the Borough's desire to act in the public interest and ensure orderly and safe development of land located within the Borough, consistent with municipal charter, ordinances, and state platting standards. The plat dedication, which states that the Borough "accepts for public uses" the easements and rights of way, would incorrectly advise buyers that Borough services can be immediately provided to the lots, and that the plat is consistent with Borough ordinances and standards. This, however, is not the case.

SUBDIVISION IMPROVEMENTS

The Borough has had significant previous experience with other TLO (Mallard and Goldeneye) and State of Alaska (Frederick Pt. North and East) subdivisions where road and utility improvements were not installed by the developer prior to final plat. These have almost uniformly resulted in substantial development issues, including substandard roads, development of roads outside of established easements/ROWs, or no

Amy S. Orange-Posma
 October 10, 2023
 Page 2

development at all for lack of access. These subdivisions have not served the public interest, and the correction of defects, and providing services to these subdivisions, is costly and difficult, and beyond the Borough's financial capacity to correct.

The proposed South Mitkof Subdivision encompasses over 500 acres and creates over 100 lots and is significantly larger in scale than any previous subdivision in the area around Papke's Landing.¹ As a result, the Borough anticipates even further negative impacts from sales of property in this proposed plat than experienced in the past. Property buyers expect the Borough to install the missing roads and utility improvements, which in most cases would require development of, and an election for, a service area (which may, or may not, receive voter approval). See, Borough Charter 14.02A(4)-(5). As a result, significant resources, in staff time and general funds, are spent addressing the lack of installation of subdivision services by the developer.

Under Borough platting requirements, effective within Service Area 1, a final plat cannot be approved until the necessary improvements are installed or improvement security is posted. See, PMC Chapter 18.26. While the Borough recognizes that the TLO may not be required to strictly comply with these ordinances, they are in place to prevent the very issues that have consistently arisen from these earlier plats. Installing improvements would be consistent with municipal code, prevent the persistent conflicts and issues that have arisen in the past in regard to such plats, and provide the Borough a mechanism to ensure orderly development of these properties, all goals consistent with the public interest.

The Borough would hope the TLO recognizes its obligations as a property developer and realizes the substantial public interest issues that arise when subdivisions are created and property sold without required improvements. Creating subdivisions and planning for orderly development will make TLO a welcome partner to communities and increase the value of TLO subdivisions. Otherwise, TLO sells the lots, and the negative impacts of the lack of improvements falls wholly to the Borough to address.

Section Line Easements

General Note #9 on the plat states that the subdivision is subject to "33' *section line easements, if the easements are determined to have attached when the lands were surveyed*". Despite the requirements of 11 AAC 53.690(q)², the proposed plat fails to label and identify any of the purported 33' section line easements. The proposed plat is unclear

¹ The difference in scale from the plats you cite in your letter is significant. Plat #2019-10 consists of 6 lots over 107.76 acres, Plat #2017-2 consists of 11 lots over 15.87 acres, and Plat #2016-12 consists of 26 lots over 174.23 acres. In other words, the subdivision at issue has anywhere from 4 to almost 20 times more lots than the plats you cite, and the acreage is, at a minimum, almost 3x greater.

² "The plat must clearly show the location, width, and use of each easement. Each easement must be clearly labeled and identified. The source document creating easements of record must be cited."

Amy S. Orange-Posma

October 10, 2023

Page 3

as to whether portions of the section line easements are being vacated, and whether the public access easements being dedicated are merely the existing section line easements of record, or newly created easements. The proposed plat should be a tool to inform property owners, not leave them wondering as to what may or may not be attached to their property.

Moreover, all lots within the subdivision will be required to install on-site wastewater systems and these systems must be setback from property lines and easements. See attached ADEC Minimum Separation Distances. Some of the parcels have easements on three sides limiting the area available for on-site systems. It is important for property owners to be fully aware when purchasing property how much area is available to site these systems and where the systems may be placed.

This is not the first time the TLO has failed to inform a property owner of existing easements. In 2022, the TLO sold two lots along Mitkof Highway and failed to disclose a section line easement and a public access easement on the properties. The new owner discovered the easements only during a later survey of the property following purchase and is now having to apply to vacate the easements rather than constructing a home as planned. Selling property in a subdivision plat that doesn't contain sufficient information for buyers is not in the public interest.³

Legal Access

The subdivision is platted without specific dedicated road right-of-ways, rather containing "public access and utility easements". The Borough has received no information as to why the subdivision is platted in this fashion, rather than having orthodox main road access points and road rights-of-way within the subdivision, and whether this decision was that of TLO or ADOT. This platting design results in inadequate access points, and some lots being thousands of feet from Mitkof Highway access, despite being located directly on the highway.⁴ This means that thousands of feet of road (past many other lots) would have to be constructed in order for some lots to be accessed and developed.

To address this impediment to functional development, the subdivision should have dedicated internal collector road rights-of-way, which merge into a number of main access points of the subdivision to Mitkof Highway, and TLO should work with ADOT to establish those access points.⁵

Road Names

³ Lots that may be affected: Lots 20, 21, 22, 27, 28, 29, and 30, Block 1; Lots 4, 5, 6, 7, and 8, Block 2; and Lots 1 and 2, Block 4.

⁴ See, for example, Lot 1, Block 4, Sheet 5 of 5, and Lot 21, Block 2, Sheet 4 of 5.

⁵ TLO should also consider shorter maximum road lengths to ensure that all lots can be developed in a reasonable and timely manner, which may require additional highway access points..

Amy S. Orange-Posma
October 10, 2023
Page 4

Under 11 AAC 53.690(t)⁶, unique street names should have been shown on the proposed plat. Establishing unique street names and an orderly numbering system are vital for emergency response, and a lack of that is contrary to the public interest. See also, PMC 18.24.070E.

Anadromous Waters

In Service Area 1, the municipal code requires a 10' easement along either side of any creek or stream. This easement may be wider if the stream is anadromous. See, PMC 18.24.080C(2). The proposed plat includes several streams found in the Anadromous Waters Catalog ("AWC")⁷, yet the plat provides no notice to the future property owner of the AWC stream, nor any easement or buffer for these important streams. Development of a lot with an AWC stream may require additional permitting and expense, which is important information to a potential property owner. Again, the lack of adequate information is not in the public interest.

Lastly, the Petersburg Borough, like nearly every other community in Alaska, wants and needs land for residential development. If subdividing and selling off lots in the manner proposed by the TLO was a viable solution, every community in the State would implement this low-cost strategy immediately. But no municipalities utilize this methodology because developing land in this fashion is inefficient, ineffective, and ultimately counterproductive.

The Borough is hopeful that the TLO will engage with the Borough to address these important issues. In the meantime, if you have any questions or require additional information, please feel free to contact Stephen Giesbrecht, Borough Manager at 907-772-4425.

Sincerely,

Mayor Mark Jensen

⁶ 11 AAC 53.690 (t) A street name shown on a plat filed for record must be unique within the locality except if the street is an extension of an existing street. An extension of an existing street must be named identically to the existing street.

⁷ See AWC Code: 106-44-10065; AWC Code: 106-44-10070; AWC Code: 106-44-10070-2002; AWC Code: 106-44-10080; AWC Code: 106-44-10090 in <https://www.adfg.alaska.gov/sf/SARR/AWC/>



September 18, 2023

To: Chandler Long
Senior Project Manager
Alaska Trust Land Office
1900 First Avenue, Suite 313
Ketchikan, AK 99901

The Petersburg Borough Assembly voted down accepting the dedication on the newest proposed development of the South Mitkof Subdivision. While the Assembly appreciates the further development of Trust land within the Borough, we see major future problems for both the Borough and the potential landowners that could be resolved before the lots are sold. Selling lots without a completed central access, or at least a legal requirement for a homeowner's association, or some other binding requirement to help pay for roads, will create an unreasonable burden and ill will toward the Borough in the future.

The Borough would like to work with you to avoid major future problems, including platted and developed road right-of-ways, utility easements, and appropriately sized lots to meet ADEC leach field requirements. Each lot should have road access, and the subdivision roads should be built to Borough standards and designed in a manner that is conducive for snow removal, general maintenance, and emergency service needs. The Subdivision should have at least one road outlet to Mitkof Highway, and this should be permitted and agreed upon with ADOT and built to their general road and location specifications. Main road arteries should be appropriately named.

These steps will make it possible for development to proceed in this subdivision and handle the possibility of future utility services.

Thank you again for your support in developing this land within the Petersburg Borough. We continue to have great interest in available land for building homes, and we are certain proper development will increase the sales value of this subdivision.

Respectfully,

Mark Jensen, Mayor
Petersburg Borough

Debra Thompson

From: Aulbach Mac1 <gaulbach@gci.net>
Sent: Monday, September 18, 2023 3:51 PM
To: Assembly
Subject: Property Development Fund

To: Petersburg Borough Assembly Members

My name is Gary Aulbach and I am representing myself.
 Thank you very much for allowing me to share my thoughts.

At the last Borough Assembly meeting I was very surprised to hear the city manager say that the Petersburg Borough does not have a building maintenance fund. Instead, the Borough uses the funds from the Borough Property Development Fund to take care of building maintenance. I would like to ask the Borough to end this practice and to either start a building maintenance fund with resources from the General Fund, or bring back the Facilities Maintenance Department which was in existence under community development for many years and was ended shortly after the current city manager arrived. At that time, I believe the three employees of the Maintenance Department were dispersed one each to the Manor, Parks and Rec. and Public Works. Finance director Jody Tow would have records of the budgets for the Maintenance Department as well as when it was disbanded. The Property Development fund has also been around a long time but it was called the Land Development fund and those funds were designated to purchase lands or develop land. The name of that fund was changed to Property Development Fund and the restrictions for use were broadened. The disbanding of the Maintenance Department did not save money, it merely put the wages, materials etc. into different departments and makes it harder to keep track of total expenditures as well as there not being any reserves built up to pay for large unseen expenditures like the current plumbing problem at the Parks and Rec. building. It is my opinion that had things been kept the way they were with a Maintenance Department, and the funds in the Land Development Fund had been left alone, the Borough would now have the funds to pay a contractor to open up one of these small subdivisions. If limitations are not put on "How" the money in the Property Development Fund are spent, the Borough will never be able to "Develop" any of its properties. It was like pulling teeth to get the assembly to approve \$100,000.00 of that fund to extend just 3 services to existing lots but more than \$500,000.00 of that fund flew right out the door to fix a sewer line in a facility. How much money would now be in that fund had it not been changed some 10 or 15 years ago?

Thank you for your time.
 Gary Aulbach

Debra Thompson

From: Alec Schramek <alecschramek@gmail.com>
Sent: Friday, September 22, 2023 6:10 PM
To: Assembly
Subject: MH and Blind Slough
Attachments: Blind Slough MH Sale.jpg

Hello Everyone,

I wanted to inform the assembly that MH has posted one property for sale in the Petersburg Area for the fall land auction, and it is my feeling that it will create quite a stir as the public finds out about it.

[Mental Health Fall Sale \(blind slough\)](#)

The piece is triangular in nature, and faces south along blind slough. It starts upstream from the giant boulder we are all familiar with and extends down stream past the main fishing hole. It is "The Place" to go fishing when one goes to blind slough. For many residents, this area means a great deal. I personally have fished there throughout my youth.

The value of this land is not only in that it is, "choice" - south facing, timbered and on a major water way, but it is also the only fresh water stream that i'm aware of in SE Alaska where one can fish for King Salmon, along with other species both native and hatchery raised.

I believe this area has significant meaning to the community as a resource in perpetuity, as it is accessible to all. The uncertainty of its transformation, and being sold to the highest bidder - advertised nationally - does not sit well with anyone I have talked to, or myself. The consequence of selling this, and the surrounding lots does not live up to the mission statement of mental health. If possible, I think the community residents should have a say in how this land is designated.

Of course, this is all coming up very abruptly along with the subject of extending plat authority and MH's ramping up of land sales at large, and the complexities of resolving these problems with everyone's interests in mind. I thought it would be important to bring up the issue as early as possible - perhaps it can serve as an entry to better understanding in what way the borough could/should extend it's responsibilities via plat authority, or any other "land use designations" it may be allowed.

I plan to write a formal letter to the assembly this weekend as I collect my thoughts, and I am recommending those that have voiced concerns to do the same. I appreciate your attention on the issue.

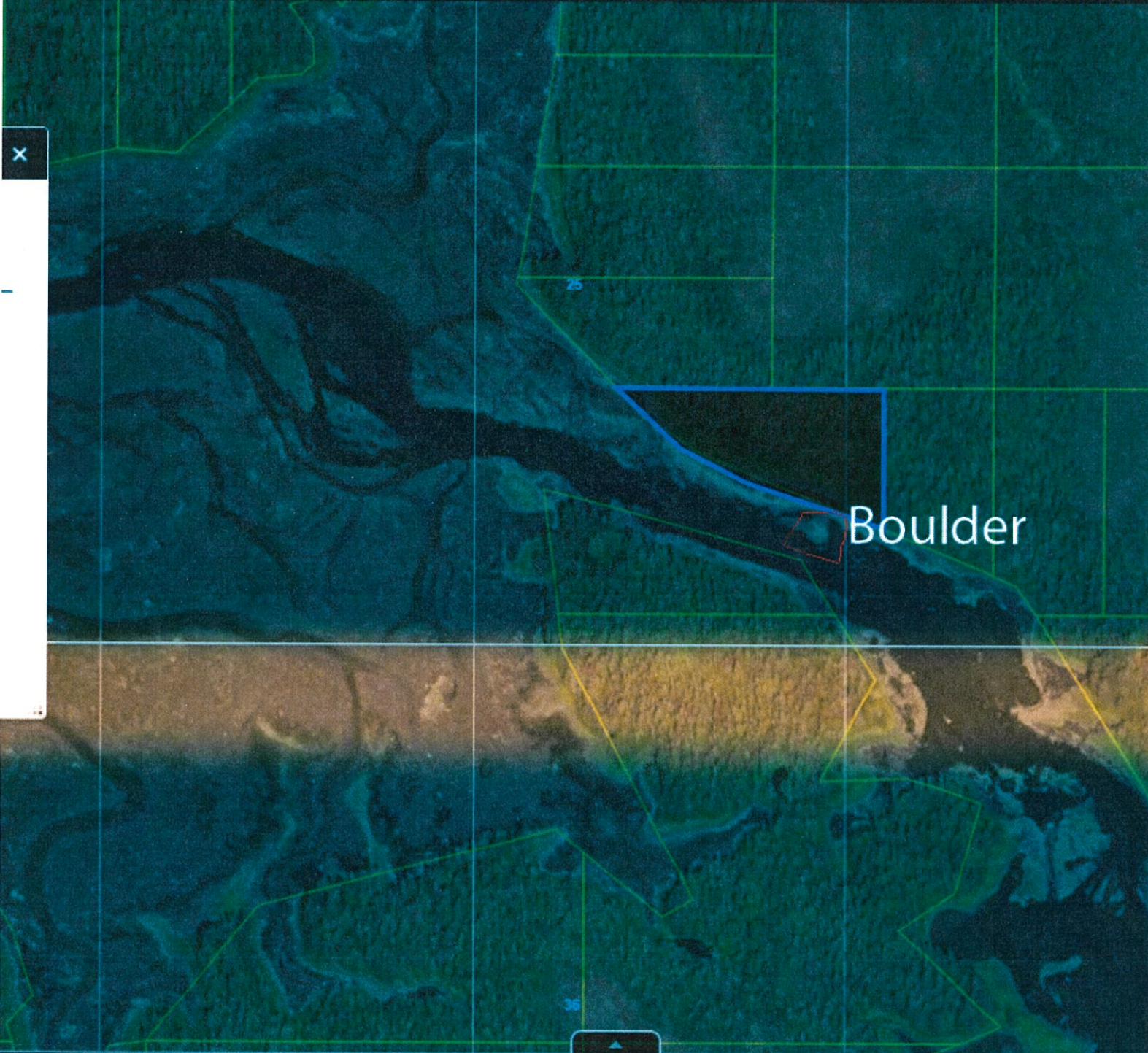
Sincerely,

Alec Schramek
907 518 1212

[Mental Health Fall Sale \(blind slough\)](#)

I have also attached a screen shot of the lot from the boroughs tax map for reference.

0: JUNE 2023



Boulder

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