



## CITY OF WASILLA

290 E. HERNING AVE.  
WASILLA, ALASKA 99654-7091  
PHONE: (907) 373-9050  
FAX: (907) 373-9085

Code Ordinance  
Requested By: Administration/John Cramer  
for WASI Housing  
Prepared By: Clerk's Office/Legal

### ORDINANCE SERIAL NO. 97-62

AN ORDINANCE OF THE CITY OF WASILLA, ALASKA AUTHORIZING THE CONVEYANCE OF AN EASEMENT FOR USE BY WASILLA AREA SENIORS, INC. FOR SENIOR HOUSING PROJECT.

BE IT ORDAINED AND ENACTED BY THE CITY OF WASILLA, ALASKA AS FOLLOWS:

SECTION I. Classification. This is a non- code ordinance.

SECTION II. Purpose. To authorize the conveyance of an easement on Tract 1 (owned by the City of Wasilla) for use in the development of access to a senior housing project on the adjacent Tract B-1, Winter Trails Subdivision.

SECTION III. Findings. After review and deliberation, the Wasilla City Council makes the following findings:

1. By Ordinance Serial No. 97-28 the City of Wasilla approved the conveyance of Tract B-1, Winter Trail Subdivision to the Wasilla Area Seniors, Inc.; and
2. The findings of the City Council, as stated in Ordinance Serial No. 97-28 and its accompanying memorandum 97-23 (establishing the conclusion that the best interests of the City are to be served by the approved conveyance of Tract B-1) are hereby incorporated by reference as if fully set forth herein. Such findings can be summarized by the statement that the facilitation of the construction of senior housing is in the best interests of the City; and
3. The deed conveying Tract B-1 to the Wasilla Area Seniors, Inc. has been signed and recorded, granting title to Tract B-1 to the Wasilla Area Seniors, Inc. However, the area of land within Tract B-1 is not adequate to connect tract B-1 to the existing public use easement roadway, generally known as Century Circle. Additional land from Tract 1 (still owned by the City) is necessary to dedicate as a public use easement so as to enable Tract B-1 to be connected to the existing roadway easement presently located on Tract 1; and
4. The City of Wasilla wishes to encourage the senior housing project being undertaken by Wasilla Area Seniors, Inc. on Tract B-1 and therefore

is willing to create a public use easement on Tract 1 for use in connecting Tract B-1 to the existing roadway located on Tract 1; and

5. The creation of a public use easement for the above-described purposes is not subject to the requirements and procedures of WCC 7.16 as the creation of a public use easement is, at least in this instance, not the "sale or lease" of City land. Instead, the creation of a public use easement can be accomplished through an authorizing ordinance pursuant to Wasilla City Code 1.20.010(A)(10); and

6. There is an emergency necessitating an authorizing ordinance that is acted on pursuant to the expedited procedures available by WCC 1.20.050, "Emergency Ordinances." The emergency exists by reason of the fact that a) construction has been initiated on the senior housing project; b) the contractor hired by Wasilla Area Seniors, Inc. will have claims for payment that will become due in the near term future; c) the financing (to use for payment to the contractor) obtained by Wasilla Area Seniors, Inc., will not be available until the re-subdivision of Tract B-1 is accomplished by Wasilla Area Seniors, Inc. and approved by the Matanuska-Susitna Borough; d) the creation of the public use easement so as to permit the connection of Tract B-1 to Century Circle is a condition required by the Matanuska-Susitna Borough before re-plat approval will be given.


**SECTION IV. Authorization.** The Mayor is hereby authorized to execute an appropriate public use easement that will be imposed on Tract 1, owned by the City of Wasilla, such easement to be adequate to accomplish the purpose of allowing connection of Tract B-1 to Century Circle and adequate to satisfy the re-plat requirements imposed by the Matanuska-Susitna Borough for the resubdivision of Tract B-1.

**SECTION V. Effective Date as an Emergency Ordinance.** This ordinance shall become effective upon adoption by the Wasilla City Council as an emergency procedure, pursuant to the authority of WCC 1.20.050. As an emergency ordinance, the authority will be operative for 60 days pursuant to WCC 1.20.050(C). By adoption as an emergency ordinance, the City Council expressly acknowledges that there is a commitment by the Council members to also approve the ordinance as a permanent ordinance as the easement is to be executed by the Mayor upon adoption of the emergency ordinance.

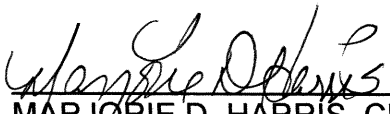
**SECTION VI. Effective Date as a Non-Emergency Ordinance.** This ordinance is anticipated to be first adopted by action as an emergency ordinance. Regardless, this ordinance shall also be heard as a non-emergency ordinance (as a follow-up to the proposed emergency ordinance), to become permanently effective upon adoption by the Wasilla City Council and to thereby become operative beyond the 60 days limitation imposed on emergency ordinances.

**Adoption as an Emergency Ordinance**

INTRODUCED AND ADOPTED as an emergency ordinance by the City Council of the City of Wasilla this 22<sup>nd</sup> day of September, 1997. Adopted as an emergency ordinance with the affirmative vote of three-fourths of the total membership or all members present, whichever is less.

  
\_\_\_\_\_  
SARAH H. PALIN, Mayor

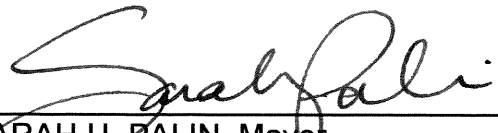
ATTEST:

  
\_\_\_\_\_  
MARJORIE D. HARRIS, CMC  
City Clerk


**ADOPTION TO BE OPERATIVE BEYOND 60 DAYS BY REGULAR ORDINANCE PROCEDURE**

Introduction Date: 09/22/97  
Public Hearing Date: 10/13/97

ADOPTED by the City Council of the City of Wasilla this 13<sup>th</sup> day of October, 1997.

  
\_\_\_\_\_  
SARAH H. PALIN, Mayor

ATTEST:

  
\_\_\_\_\_  
MARJORIE D. HARRIS, CMC  
City Clerk

WINTER TRAIL SUBDIVISION  
TRACT A-1  
(PLAT #93-53)

FOUND 3 1/4" ALUM  
FLUSH WITH GROUND  
TRACT 1 ALUMINUM PIPE  
SURVEY OF TRACTS 1 & 2  
(PLAT #81-107BS)

15' SCREENING EASEMENT  
30' WATER LINE EASEMENT

100'x50' PUBLIC USE EASEMENT

N 89°56'57" E (M) 404.24' (M)  
N 89°58'00" E (R) 404.31' (R)

N 89°49'40" E (M) 274.63' (M)  
N 89°46'24" E (R) 274.54' (R)

N 00°02'18" W (R & M)  
10.00' (R & M)

**LOT 1**

91,093 SQ. FT.  
2.091 ACRES

S 75°00'00" W  
255.00'

N 90°00'00" W  
136.15'

15' UTILITY EASEMENT

**TRACT B-2**

362,624 SQ. FT.  
8.325 ACRES

472.89'

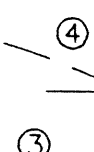
80' UTILITY EASEMENT

R=2765.00' (R&M) L=749.14' (M)

**KNIK ROAD**

**ROAD**

N 20°56'54" E (M) 219.72' (R)  
N 20°55'36" E (R) 219.75' (M)



**LAW OFFICE  
OF  
RICHARD DEUSER**

5 CHECK ST. - #206  
SILLA, ALASKA 99654

CENTURY PLAZA BUILDING  
PHONE (907) 376-9484  
FAX (907) 373-0404

**MEMORANDUM**

**To:** City Council Members and Mayor Palin; John Cramer and Tim Krug;  
**From:** Richard Deuser, Attorney  
**Date:** September 15, 1997  
**Re:** Ordinance Authorizing Easement on City Land to Connect WASI Senior Housing Project to Existing Road (Century Circle);

I have been contacted by John Cramer and Tim Krug with a request to draft an appropriate ordinance authorizing the Mayor to execute a public use easement. The information I have been given indicates that the land given by the City to WASI (B-1) cannot be connected to the existing Century Circle road. Consequently, an easement on the City's Tract 1 will be necessary to enable the connection to occur.

An appropriate ordinance is enclosed. It combines both the emergency procedure and the permanent ordinance into one document. The ordinance, as drafted, will be passed first as an emergency ordinance and again as a permanent ordinance. See the ordinance as it is self-explanatory.

**COMMENTS FOR STAFF ON EASEMENT DOCUMENT**

The ordinance contemplates that the Mayor will have authority to sign an appropriate easement. I would suggest that staff start working now with WASI and their architect on a possible re-draft of the existing proposed easement.

I understand that Cindy Roberts has been hired as the new public works director. I would offer the following to Ms. Roberts to be evaluated before the easement document itself is finalized. The issues I see include the following :

1. **Grantor/Grantee.** The Grantor of the easement is, of course, the City (the owner of Tract 1). The Grantee would usually be the City who would grant itself a public use easement. Instead, the draft speaks in terms of the Borough being the Grantee. It may be there are Borough re-plat requirements that make this appropriate, but this would not be the norm.

2. **Scope of Easement.** I would probably re-evaluate the language of what easement rights are being awarded. If the Borough is the Grantee, we want to avoid any implied or

express impression that the City needs the Borough's permission before exercising utility easement rights. Regardless of whether the Borough remains the Grantee, the next point (size of area of the easement), below, when combined with this point (scope) may have undesirable implications for control of future roadways and future utilities. Alternatively, and if acceptable for the re-plat approval, I might consider limiting the easement to road purposes only.

3. **Area Granted by Easement.** The draft easement is larger in area than what is necessary for the intended purpose. I assume that a more limited easement area (limited to accomplish the connection to the road) will require some engineering input and possibly some surveying. See comment on point 2, above.

Sincerely,



Richard Deuser

enc. : proposed ordinance with computer disk for Clerk's office;

ORDINANCE SERIAL NO. 97-62

Subject: **authorizing the conveyance of an easement for use by Wasilla Area Seniors, Inc. for senior housing project.**

Meeting Date: **09/22/97**

**RECOMMENDATION AND MOTION:**

**Adopt Ordinance Serial No. 97-62 as an emergency ordinance and Introduce Ordinance Serial No. 97-62 and schedule for public hearing and final action at the next regular meeting on 10/13/97.**

Administration Recommendation:

*WASX is waiting for their Limited Partnership funding - need land easement conveyed before funding comes through.*

Reviewed by Sarah H. Palin, Mayor:

*Sarah H. Palin*

Route To:	Department:	Approval (Initials):	Remarks:
1	Clerk's Office		
2	Finance		
3	Library		
4	Museum		
5	Planning	<i>SP</i>	
6	Police		
7	Public Works		
8	Admin.	<i>SP</i>	<i>Adopt</i>
9	City Attorney		

Attachment (s):      Fiscal Note: YES \_\_\_\_\_ NO \_\_\_\_\_  
 (List other attachments; i.e., maps, bid information, etc.)

Staff Recommendation:

Summary Statement: