

## **ENCROACHMENT LICENSE**

Beach Crest Drive  
T05S R11W Sec. 25AB, Tax Lot #1800

THIS LICENSE, given by the County of Tillamook, Oregon, entitles Mitchell Jarrell and Kathryn Jarrell ("Licensee"), to certain limited, described uses of a portion of the public right-of-way on Beach Crest Drive abutting Licensee's property which is described below.

1. **PERMITTED USE:** By this license, the County of Tillamook grants to the Licensee the right to use the subject property for the repair, replacement, and maintenance of a road approach boardwalk parking structure as well as its associated access stairs on Beach Crest Drive right of way, adjacent to the property stated above, and for no other use.
2. **TERM:** This license shall be valid for a period of one calendar year and shall renew automatically if not revoked in accordance with the provisions of this License.
3. **SUBJECT PROPERTY:** The subject property is a platted 30 ft public right of way known as Beach Crest Drive adjacent to T05S R11W Sec 25AB Lot #1800. Area described on Figure 1, incorporated by reference herein.
4. **COUNTY'S RIGHTS:**
  - 4.1 If at any time, the County requires any improvement in the right-of-way or any lawful utility company requires use of the right of way in accordance with state law, Licensee shall remove, at their sole expense, and within thirty (30) days of receipt of written notice to do so from the County, or such lawful utility company, the permitted structure or other improvements placed on the right-of-way by Licensee which might impede the opening of the subject property for lawful use.
  - 4.2 The County may also elect to revoke this license for any purpose upon written notice to the Licensee. Upon receipt of such notice, Licensee shall remove, at their sole expense, and within Sixty (60) days of receipt of said written notice, the permitted structure that extend on to the subject property.

- 4.3 The opening, improvement, acceptance, or use of the right-of-way as an improved public road or its use by a lawful utility company or the revocation of this license for any reason shall not give rise to an action or suit for damages by the Licensee.

5. **LICENSEE AGREES:**

- 5.1 This License does not allow or permit the use of the subject property in violation of Tillamook County's land use laws and regulations. The licensee is responsible for obtaining all necessary building permits and land use approvals from the Department of Community Development prior to this License coming into effect.
- 5.2 It is specifically agreed by the Licensee that, if the granting, improvement, acceptance, or revocation of this license by the County occurs, any violations by the Licensee of the land use regulations of any government caused by the loss of use of the structure shall be the responsibility of the Licensee and shall take such action as may then be required by relevant laws and land use regulations without cost to Tillamook County.
- 5.3 The Licensee accepts responsibility for the care and maintenance of the structure that extends on to the subject property, and all of Licensee's improvements thereon. Licensee agrees to indemnify, defend and hold the County, its officers, directors, employees, and authorized representatives harmless from and against any and all claims, suits, liabilities, or expenses (including, without limitation, attorney's fees) that may be asserted against the County arising out of Licensee's possession, use or maintenance of the structure. The structure area is further described in Figure 1, incorporated by reference herein.
6. **TERMINATION:** This license shall automatically terminate upon the sale or transfer of Licensee's property bordering the described public right-of-way.
7. **WAIVER:** Licensee expressly waives any implied easement or right of use that may accrue due to the use of the above described property, except as specifically stated in this agreement.

EACH PARTY REPRESENTS TO THE OTHER BY THEIR SIGNATURES BELOW THAT EACH HAS READ, UNDERSTANDS AND AGREES TO ALL TERMS AND CONDITIONS OF THIS DOCUMENT.

Mitchell Jarrell  
Mitchell Jarrell

5-12-2023  
Date

Kathryn Jarrell  
Kathryn Jarrell

05.12.2023  
Date

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DATED THIS 17<sup>th</sup> DAY OF May, 2023

BOARD OF COUNTY COMMISSIONERS  
FOR TILLAMOOK COUNTY, OREGON

Aye/Nay Abstain/Absent

Erin D. Skaar, Chair

/

Mary Faith Bell, Vice-Chair

/

David Yamamoto, Commissioner

/

ATTEST: Tassi O'Neal,  
County Clerk

APPROVED AS TO FORM:

BY: Special Deputy

William K. Sargent  
County Counsel