

**ENCROACHMENT LICENSE  
AND AGREEMENT**

**Prepared by:**

City of Naperville  
400 South Eagle Street  
Naperville, IL 60540

Property Address:

PIN:

**Return to:**

City Clerk  
City of Naperville  
400 South Eagle Street  
Naperville, IL 60540  
Attn: TED

(for Recorder's Use Only)

**ENCROACHMENT LICENSE AND AGREEMENT**

**THIS ENCROACHMENT LICENSE AND AGREEMENT** made this \_\_\_\_\_ day of \_\_\_\_\_, between the City of Naperville, an Illinois municipal corporation and home rule unit of government under the laws and Constitution of the State of Illinois (hereinafter "Licensor") and \_\_\_\_\_ [*Owner Name*] (hereinafter "Licensee").

**WITNESSETH THAT:**

**WHEREAS**, Licensee owns the following real property (hereinafter "Licensee's Property"):

[*Legal Description*]:

\_\_\_\_\_ [*PIN*]:                      and

**WHEREAS**, Licensor owns or otherwise has an interest in the real estate adjacent to or in Licensee's Property being a \_\_\_\_\_ [*Name of Easement*]

**WHEREAS**, Licensee proposes to place certain encroachments, namely\_\_\_\_\_

[Name encroachment] (hereinafter the "Licensee's Encroachment") and otherwise use or encroach within a portion of Licensor's Property (hereinafter "Encroachment Area") as described herein; and

**WHEREAS**, Licensor has determined that Licensee's Encroachment will not adversely impact the use of Licensor's Property or impair the public health, safety and welfare subject to the conditions provided for herein; and

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements contained herein, the parties hereto agree as follows:

1. The provisions of the preamble are hereby incorporated into and made a part of this License and Agreement as though fully set forth here.
2. To the extent of its authority, Licensor does hereby grant to Licensee, and Licensee's successors and assigns, a nonexclusive and revocable license for the benefit of Licensee's Property to encroach upon and to occupy and use Licensor's Property in the manner as set forth herein. The following Exhibits are attached hereto and made a part hereof:
  - a. Exhibit A, a site plan that depicts Licensee's Encroachment and the Encroachment Area.
  - b. Exhibit B, a narrative that describes Licensee's Encroachment and Licensee's proposed use of the Encroachment Area.
3. The License herein granted shall be limited to the use by Licensee of the Encroachment Area for the purpose of maintaining, repairing and replacing thereon Licensee's Encroachment.
4. Licensee agrees that this grant of License to encroach shall not otherwise modify or remove the requirements established in the public easement and covenants of record. The parties agree that this License is subject to any rights of third parties in the Property and Licensor makes no warranty regarding Licensee's right to use the Encroachment Area except as regards to the interest of Licensor.
5. Licensee accepts the Encroachment Area in its present condition.
6. Licensee assumes all liability and shall defend, hold harmless, indemnify and compensate Licensor, its officers, and employees, for any claim, injury or damage to person or property, occasioned by or arising in connection with the use or occupancy of the Encroachment Area by Licensee, or the existence or condition of Licensee's Encroachment, including reasonable attorneys' fees.

7. Licensee's Encroachment shall be constructed and maintained in conformance with the plans and specifications approved by Licensor. Licensee shall obtain all necessary permits for construction of Licensee's Encroachment in the Encroachment Area. Licensee shall, upon completion of any work within the Encroachment Area, restore the surface of the Encroachment Area as required by Licensor to the same or better condition than that which existed prior to the beginning of any work.
8. The provisions and conditions of this License shall bind and inure to the benefit of the legal representatives, successors and assigns of the respective parties hereto, and shall run with the title of Licensee's Property.
9. This License shall be a covenant running with the land and shall be recorded in the office of the County Recorder where the Licensee's Property is located.
10. Licensee shall maintain Licensee's Encroachment in good repair and shall maintain the Encroachment Area in a clean and sightly manner, free of obstructions and debris.
11. This License may be terminated by either party as follows:
  - a. Licensor may terminate this License upon thirty (30) days written notice if it determines that Licensee's Encroachment is not properly maintained; or the existence of this License or Licensee's Encroachment presents a danger to the public's health, safety or welfare; or if Licensee's Encroachment is determined to interfere or potentially interfere with Licensor's use or proposed use of Licensor's Property or the Encroachment Area; or Licensee ceases using the Encroachment Area for Licensee's Encroachment.
  - b. Licensee may terminate this License upon thirty (30) days written notice provided such termination shall not be effective until Licensee's Encroachment is removed and the Encroachment Area restored as provided herein.
12. In the event of termination, Licensor shall cause the removal of Licensee's Encroachment and shall return the Encroachment Area to substantially the same condition as when this License was executed. In the event Licensee fails to affect such removal within thirty (30) days after Termination, Licensor shall have the right to enter upon the Encroachment Area and remove Licensee's Encroachment. All costs of said removal as provided herein shall be borne by Licensee and shall be paid to Licensor upon demand. The costs due and owing the Licensor by Licensee under the terms of this Agreement shall survive the termination of this Agreement.
13. Licensee, upon reasonable notice from Licensor whenever practicable, shall temporarily move or relocate Licensee's Encroachment to permit work or other activity within the Encroachment Area. Licensee assumes all risk in the placement of Licensee's Encroachment and shall be responsible for removal or relocation of Licensee's Encroachment in the event that any utility, including Licensor, requires access or to perform work within the Encroachment Area. Licensee shall remain liable for all expenses incurred by the City, including but not limited to, materials and labor in effecting removal, repair or relocation of Licensee's Encroachment as

provided here.

14. This Agreement sets forth all of the agreements, conditions, covenants, representations, warranties and understandings between the parties with respect to the subject matter hereof. No subsequent amendment, modification or waiver of any of the provisions of this Agreement shall be effective unless in writing and executed by the parties hereto.
15. The laws of the State of Illinois shall govern the terms of this Agreement both as to interpretation and performance. Venue for any action arising out of the terms or conditions of this License shall be in the Circuit Court for the Eighteenth Judicial Circuit, DuPage County, Illinois.

**IN WITNESS WHEREOF**, the parties hereto have executed this Encroachment License and Agreement as of the day and year first above written.

**LICENSOR**

By: \_\_\_\_\_  
Douglas A. Krieger  
City Manager

**Attest:**

By: \_\_\_\_\_  
Dawn C. Portner  
City Clerk

State of Illinois     )  
                                  ) ss  
County of DuPage    )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that **Douglas A. Krieger**, personally known to me to be the City Manager of the City of Naperville, and **Dawn C. Portner**, personally known to me to be the City Clerk for the City of Naperville, appeared before me this day in person and acknowledged that they signed this instrument in their respective capacities as the City Manager and City Clerk of the City of Naperville pursuant to authority granted to them by the City Council of the City of Naperville.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

(seal)

\_\_\_\_\_  
Notary Public

LICENSEE \_\_\_\_\_ [*Owner signature and Notary*]

By: \_\_\_\_\_

By: \_\_\_\_\_

[Print Name] \_\_\_\_\_

[Print Name] \_\_\_\_\_

[Title] \_\_\_\_\_

[Title] \_\_\_\_\_

State of Illinois     )  
                                  ) ss  
County of \_\_\_\_\_ )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that \_\_\_\_\_, and \_\_\_\_\_, appeared before me this day in person and acknowledged the signature(s) set forth above.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

(seal)

\_\_\_\_\_  
Notary Public

**EXHIBIT A**

*Place reduced copy of Plat with encroachment clouded onto this page or attach separately from grading plan.*

**EXHIBIT B**

PIN: \_\_\_\_\_

Address: \_\_\_\_\_

*Encroachment Description:*

*Example:*

*-Applicant requests to build retaining wall not higher than 12 inches 5' into the East 5' P.U.D.E for approximately 65'*