



## Instructions for Encroachment Into City Right-of-Way or Property

**1. ENCROACHMENT SUBMITTAL REQUIREMENTS:**

- Completed Board of Works Application
- Copy of the recorded deed for the property
- Site plan showing details of the encroachment
- Notarized signature of owners on the License to Encroach Agreement
- \$100.00 Filing Fee

**2. PLAN REVIEW & ROUTING:** The completed application packet will be routed to all appropriate City/County Departments and utility companies for review. The Department of Building, Planning, and Development will communicate any concerns or comments from the other Departments/utility companies. If there are issues with the proposed project, adjustments to the project may be necessary. The Plan Review and Routing Process takes about two weeks and review of revised plans takes an additional week for each set of revisions.

**3. MEETING:** Once City Departments are satisfied, the Department of Building, Planning, and Development will prepare and present the Encroachment request to the Board of Public Works and Safety. Attendance by the owner is typically not required. If there are outstanding issues or concerns, the owner may be asked to attend to answer the Board's questions.

**4. APPROVAL:** Upon approval, the Encroachment License Agreement will be recorded in the Office of the DeKalb County Recorder. The Department of Building, Planning, and Development will provide a copy of the recorded Encroachment License Agreement to the property owner.

**5. PERMITS:** The owner is responsible for obtaining the necessary permits for the project. Permit applications are generally completed concurrently with the Board of Public Works Application Packet and issued when the recorded Encroachment License Agreement is provided to the owner.



# BOARD OF PUBLIC WORKS AND SAFETY

Department of Building, Planning, & Development

210 S Cedar St PO Box 506 Auburn IN 46706 | 260.925.6449 | 260.920.3342 fax | bpd@ci.auburn.in.us

## APPLICANT INFORMATION

Provide Contact Name, Company Name (if applicable), Mailing Address, Phone, and Email for each individual.

Applicant \_\_\_\_\_

Applicant Address \_\_\_\_\_

Applicant Phone \_\_\_\_\_ Email \_\_\_\_\_

Property Owner \_\_\_\_\_

## PROJECT INFORMATION

Name \_\_\_\_\_

Location \_\_\_\_\_

Project Type \_\_\_\_\_

Description \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## SUBMITTAL REQUIREMENTS CHECKLIST

- Owners Affidavit – if application is not signed by owner
- Recorded Property Deed
- Site Plan showing property lines, rights-of-ways, structures, parking, etc.

## CERTIFICATION

By signing below, I certify the following:

- I am the owner of legal agent of the subject property;
- The information provided in this application is true and accurate to the best of my knowledge;
- I understand the application will be routed to applicable government and utility agencies;

\_\_\_\_\_  
*Applicant Signature*

\_\_\_\_\_  
*Applicant Printed Name*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Applicant Signature*

\_\_\_\_\_  
*Applicant Printed Name*

\_\_\_\_\_  
*Date*

## OFFICE USE ONLY

Received Date: \_\_\_\_\_ LOGOS#: BOW- \_\_\_\_\_

Received By: \_\_\_\_\_ LOGOS Address: \_\_\_\_\_

Payment Type: \_\_\_\_\_ Receipt Number: \_\_\_\_\_

**ENCROACHMENT LICENSE AGREEMENT  
CITY OF AUBURN, INDIANA**

**THIS AGREEMENT**, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the Board of Public Works and Safety of the City of Auburn, Indiana, a Municipal Corporation in DeKalb County, State of Indiana [City], and \_\_\_\_\_ [Applicant].

**WITNESSETH:**

**WHEREAS**, City is the owner of the following described real estate located in DeKalb County, Indiana, to wit:

\_\_\_\_\_

\_\_\_\_\_

City having acquired said Real Estate as referenced in Document # \_\_\_\_\_ in the Office of the Recorder , DeKalb County, Indiana [Real Estate]; and

**WHEREAS**, Applicant has requested City’s permission to encroach upon said Real Estate with the following improvement, to wit: \_\_\_\_\_

\_\_\_\_\_ [Improvement]; and

**WHEREAS**, said Improvement is detailed in the attached Exhibit A showing the Improvement and its location, extent, construction, methods, materials, and a plan for maintenance of said Improvement in said Real Estate, together with a survey prepared by a licensed land surveyor for any existing encroachment; and

**WHEREAS**, City will grant Applicant a license to encroach upon said Real Estate [License] in order to install and if necessary to maintain said Improvement, subject to the terms and conditions herein stated.

**NOW, THEREFORE**, in consideration of the payment to the City of Auburn of the sum of one-hundred dollars (\$100.00) by Applicant, it is agreed that City does hereby grant to Applicant the revocable right and License to encroach upon City’s Real Estate as shown and described in Exhibit A hereto, subject to the following terms and conditions, to wit:

1. City is representing only the City of Auburn, Indiana, and its utilities, employees, commissions and agents, but is not representing the interest(s) of, nor abridging nor abrogating the rights of, any other authorized user of said Real Estate;
2. Acceptance of this Agreement and License does not relieve Applicant from the obligation to obtain any other permits or approvals as may be required for the placement or maintenance of said Improvement, and said placement, maintenance and Improvement shall be subject to all appropriate federal, state, and local laws, ordinances, rules and regulations;
3. This Agreement and License do not confer upon Applicant any right or title to City's Real Estate;
4. This Agreement and License shall not prejudice or preclude City from future use of City's property;
5. Applicant shall place and maintain said Improvement in the location and manner described in Exhibit A hereto, and shall not relocate, alter or enlarge said Improvement without prior approval of City;

6. Applicant shall notify City at least forty-eight (48) hours prior to commencing construction, relocation, alteration or enlargement of said Improvement, whether or not approved by the City;
7. Applicant shall permit field inspections by City during and after completion of any work, and when requested by City, Applicant shall provide a representative to assist City with any inspections;
8. Applicant shall complete construction, relocation, alteration or enlargement of the Improvement within one (1) year following City approval unless extended by City in writing;
9. Within one (1) week following completion of any work, Applicant shall notify City of the completion;
10. After all work has been completed, Applicant shall provide City drawings showing the actual installation or other work performed on or to the Improvement;
11. Applicant shall at its expense repair or replace as required and maintain at all times said Improvement in accordance with the maintenance plan attached hereto, for the term of this Agreement;
12. In the event that Applicant fails to maintain the Improvement in accordance with the approved maintenance plan, City shall after ten (10) days written notice have the right to enter upon and maintain or remove, or enter into an agreement with a third party to maintain or remove, the Improvement, and Applicant shall reimburse City the true and actual cost of said maintenance or removal, based on receipts provided by City;
13. Applicant's installation and maintenance of said Improvement shall not damage, modify or destroy any City property, including but not limited to said Real Estate, utility lines, pipes and poles, streets, signs, curbs and gutters, and sidewalks, except as permitted by City to effect the installation of said Improvement;
14. Any damage to City's property that results from Applicant's installation or maintenance of said Improvement shall be fully repaired and returned to its condition as existed prior to the damage occurring, at Applicant's expense and within ten (10) days following written notification by City; however, if said repairs by Applicant have not been completed as specified and in the allotted time, City may repair the damage or cause the damage to be repaired, and Applicant shall reimburse City the true and actual cost of effecting the repair, based on receipts provided by City;
15. Except for property included in the maintenance agreement, all City property that has been damaged and restored shall be maintained by Applicant for a period of six (6) months after the work has been completed;
16. If at any time the City shall reconstruct and/or maintain any City property affected hereby, and such reconstruction and/or maintenance necessitates the modification and/or removal from service of Applicant's Improvement, Applicant shall perform such modification and/or removal from service at no cost to City and shall do so upon receipt of written notice from City;
17. City and any other authorized user of said Real Estate shall have the right to remove said Improvement in the event access is required to utilities or other authorized work either already located in or authorized to be placed in said Real Estate, and Applicant shall not be entitled to any reimbursement for such removal; however, City shall repair and/or replace the ground beneath said Improvement;
18. In the event that the costs including time, labor and equipment associated with City accessing its utilities or other authorized work is determined by City to be in excess of that normally required due to additional boring, trenching, movement or removal or other extra work under, upon or through said Improvement, said excess costs shall be paid by Applicant, based on receipts provided by City;
19. Applicant shall indemnify and hold harmless said City and its utilities, employees, commissions and agents from and against all demands, charges, losses, costs and expenses, including reasonable attorney fees and legal costs arising from the exercise by Applicant of any rights granted under this Agreement including, without limitation, the installation, ownership, use, repair, replacement, and removal of the Improvement by Applicant, or the employees, contractors, agents and authorized representatives of Applicant;

- 20. Applicant shall indemnify and hold harmless the City, its utilities, employees, commissions and agents from and against all liability and claims of any kind or character, including but not limited to possible damage, death or personal injury resulting from construction, erection, maintenance, placement and existence of said Improvement. City may at its option require and Applicant shall provide proof of insurance in amounts and terms considered by City to be adequate for protection of public health, safety and welfare, and so insuring the City and its utilities, commissions, agents and employees from and against any liability;
- 21. This Agreement shall constitute a covenant running with the land for the benefit of the parties hereto, their successors and assigns, and shall be binding upon all parties hereto, their successors and assigns, from the date of this Agreement until a written termination of this Agreement is executed by City; and
- 22. City shall at its expense record this Agreement in the Office of the Recorder of DeKalb County, Indiana.

**IN WITNESS WHEREOF**, City and Applicant have executed this Agreement as of the day and year first above written.

**CITY**

By: \_\_\_\_\_  
 Michael D. Ley, Mayor

**OWNER**

By: \_\_\_\_\_  
 Owner (signature / print)

By: \_\_\_\_\_  
 Owner (signature / print)

**CITY ACKNOWLEDGEMENT**

State Of \_\_\_\_\_ )  
 ) SS:  
 County Of \_\_\_\_\_ )

**OWNER ACKNOWLEDGEMENT**

State Of \_\_\_\_\_ )  
 ) SS:  
 County Of \_\_\_\_\_ )

**BEFORE ME**, the undersigned Notary Public in and for said County and State, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ personally appeared the within named Michael D. Ley, Mayor for the City of Auburn Indiana herein "City" acknowledged the execution of the foregoing instrument.

**BEFORE ME**, the undersigned Notary Public in and for said County and State, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ personally appeared the within named \_\_\_\_\_ herein "Owner" acknowledged the execution of the foregoing instrument.

**WITNESS** my Hand and Notarial Seal

By: \_\_\_\_\_  
 Notary Public, Signature

\_\_\_\_\_  
 Notary Public, Printed Name

\_\_\_\_\_  
 Number / Expiration Date or Stamp

**WITNESS** my Hand and Notarial Seal

By: \_\_\_\_\_  
 Notary Public, Signature

\_\_\_\_\_  
 Notary Public, Printed Name

\_\_\_\_\_  
 Number / Expiration Date or Stamp

This instrument prepared by the Department of Building, Planning and Development, City of Auburn, and approved by: W. Erik Weber, City Attorney, City of Auburn, Indiana

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Patricia M. Miller, Clerk-Treasurer, City of Auburn, Indiana