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Fence encroachment agreement form

Starting January 1, 2021, new processes will be in place for encroachment requests that fall into public right-of-way or a public easement. Public easements are primarily reserved for utilities and water flow, and typically run along the perimeter of private property. It is important to keep easement areas free of fences, sheds, gazebos, etc., in order to ensure water flow isn't blocked during heavy rain events, and to preserve utility line access. Encroaching onto an easement requires an encroachment agreement. To obtain approval for an easement encroachment (i.e. building something on a public easement), an encroachment application must be submitted to Public Works and an encroachment agreement signed for approval by City Council. This is required for any object that intrudes or encroaches upon, above, or under public streets, alleys, easements or other public grounds including, but not limited to: Fences Retaining walls Awnings Signs Sheds Bollards Post Indicator Valves *this list is not exhaustive, please contact Public Works if you have additional questions Step 1: Submit an Encroachment Application Apply online (complete the form here) or call the Zoning Division 319-286-5836 Encroachment application fees apply (effective January 1, 2021): Encroachment Fees Application (Temporary) \$100 Application (Easement) \$250 Application (Right-of-Way) \$500 Closing Cost \$100 Recording Cost \$50 Agreement Renewal or Transfer of Ownership \$100 Step 2: Submit Certificate of Insurance To protect the interests of you, your neighbors, and the City, property owners who install anything in an easement are required to provide proof of insurance (certificate of insurance). Step 3: Sign and Return Encroachment Agreement Following successful application, the property owner will sign an encroachment agreement in the presence of a notary and return to Public Works for approval. TimelineOnce Steps 1 – 3 are completed, processing your agreement can take approximately 2 – 4 weeks and will go through City Council approval. Once approved, encroachment agreements are good for a term of 10 years. Questions?For questions about encroaching onto the right-of-way or a public easement, please call (319) 286-5777 or email ROWreview@cedar-rapids.org. Resources Determine if your property has an easement via Linn County Land Records Definitions Encroachment: An encroachment represents any intrusion upon public right-of-way or a public easement. Setting or placing anything in an easement or public right-of-way, whether it be temporary or fixed in nature is an encroachment.Temporary Encroachment: An encroachment that expires after 1 year Right-of-Way: Land owned and controlled by the City, usually over roads, highways, utilities are built. Area including street to the property line (behind sidewalk). Easement: A nonpossessory right to use or enter onto the real property of another without possessing it. Primarily reserved for utilities and water flow, and typically run along the perimeter of private property.Please take our Customer Service Survey by clicking the link below: Property buyers and sellers alike hope for a smooth closing when real estate changes hands. Like good fences, good encroachment agreements can make good neighbors. What is an encroachment? An encroachment is an improvement, such as an overhanging gutter, a stretch of fence line, or the wall of a building, which belongs to one neighbor but extends, wholly or in part, onto a property owned by another party. It is often the case that encroachments exist and neighbors are unaware of them, until the time of a sale. Property surveys, prompted by the pending sale of a parcel, may identify a previously unknown encroachment, or confirm that one exists. With the advent of more sophisticated surveying equipment, encroachment problems have become more common. Simultaneously, lenders and the mortgage underwriters that review loan applicants (and the properties that intend to purchase) have become stricter. The attorney for the lender studies the fresh survey prior to closing. Upon learning that an encroachment exists, a lender will typically require that the affected neighbors sign an encroachment agreement, before the property closes. What is an encroachment agreement? An encroachment agreement is a fairly simple agreement between the owners of the affected properties. Standard agreements acknowledge and describe the encroachment, and identify who is the owner of the encroaching improvement. Firstly, the encroaching owner agrees that, despite the fact that they are "using" the neighbor's property, they will not make any future claims of ownership on the neighbor's property. Usually, the owner of the encroaching structure agrees to maintain it and to hold the neighbor harmless for any damage the encroachment might cause. He or she remains responsible for maintenance of the encroaching structure. These agreements often stipulate that if the improvement deteriorates and requires replacement, the future structure will not be allowed to encroach. Though encroachment agreements are relatively simple, I recommend that you engage an experienced real estate attorney to write an encroachment agreement for you. "Sound Advice" on how to avoid encroaching: Fence lines are, by far, the most common types of structures that encroach on a neighbor's property. Here are my tips for avoiding the need for an encroachment agreement: Make sure that you have a very recent survey, IN HAND, before you initiate any fencing project. If you do not, have the relevant boundary line surveyed and make sure that the surveyor places obvious, multiple, and permanent pins along the property line, so that there will be no future disagreement about your property lines.Extend rope or tape between the pins. If you are hiring a contractor to install your fence, make sure that this work is done BEFORE the contractor arrives to install the fencing. I recommend that you locate the new fence 6" inside your property line, just to make sure that you do not run the risk of encroaching on your neighbor's property. Please note: "Neighbor Law," a body of laws that address the rights of adjoining property owners, mandates that the party that is constructing the fence is required to have the less attractive side of the fence (if there is one), facing towards themselves. For more detailed information on encroachment agreements, please refer to this excellent, plain language discussion on the topic from the blog of Cary, NC attorney Jonathan Richardson: [◆ fence encroachment agreement sample form](#)

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