

SAMPLE



CITY OF CHARLESTON
Department of Public Service
Engineering Division
2 George Street, Suite 2100
Charleston, SC 29401

ENCROACHMENT AGREEMENT REQUEST

Property Owner/Renter: Joanna Smith

Mailing Address: 123 Som ewt ere Rd. Email: JSmith@gmail.com

City/State/Zip: Charleston, SC 29412

Telephone: 843.555.5555 Work: 843.123.4567 Cell: _____

Contractor: Fence Co. Contact/Number/Email fence@need.com

DESCRIBE ENCROACHMENT

1. Description of encroachment: Installing 6-ft wood fence into the City Right-of-way
2. Method for securing: 4x4 post in ground
3. Property description and address where encroachment is requesting to be placed (**Exhibit A**):
123 Somewhere Rd. Charleston, SC 29412 James Island
4. Drawing/sketches (to scale, submitted on 8.5"x11" sheets, multiple sheets if necessary) (**Exhibit B**) to include:
 - a. Plan view including the following if applicable: width of sidewalk; location of encroachments; location of any easements; any existing street fixtures; road width; driveway or sidewalk location; sprinkler head locations; and fence and gate locations. Utilize approved symbols for locations in blue or black ink. All other symbols should be defined in a key. Do not use highlighters.
 - b. Submittals for driveway encroachments are only applicable when non-standard materials are used in the right-of-way. Submittals for sidewalk encroachments are only applicable for any privately constructed, non-dedicated sidewalk in the right-of-way.
 - c. Elevation view (to scale)
 - d. Photograph
5. Business License, if applicable
6. B.A.R. approval, if applicable
7. Zoning approval, if applicable
8. Complete and execute Encroachment Agreement form. The form must be typed. Signatures in blue ink.
9. Two witnesses for signature and a notary on the completed Encroachment Agreement form, signed in blue ink.
10. Provide processing fee of \$25.00. Checks shall be made payable to the City of Charleston.
11. Provide recordation fee of \$10.00 per sheet for the first 4 sheets and \$1.00 per sheet for each sheet thereafter, if applicable, upon submission of application. Checks shall be made payable to the Register of Deeds for the appropriate county.

-  Fence
-  Sprinkler Head
-  Gate

RECEIVED BY PUBLIC SERVICES:  DATE: 1.2020

Note: Only complete applications will be accepted. All other applications will be returned. Any photocopies, facsimile, illegible, or incomplete applications and/or agreements will not be accepted.
Applicant will be notified after the Public Works and Utilities Committee or Public Service Review meeting where a decision will be made with respect to the grantee's completed application.

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

TEMPORARY / PERMANENT
ENCROACHMENT AGREEMENT

THIS ENCROACHMENT AGREEMENT ("Agreement") is made in the County and City of Charleston, SC, on 30 day of January, 20 20 by and between The City of Charleston, a South Carolina Municipal Corporation (hereinafter referred to as "City") and Joanna Smith (hereinafter referred to as "Grantee").

Whereas, the City is the owner of the property, sidewalk, or right-of-way located at (property address) 123 Somewhere Rd, Charleston, SC 29412 in the City of Charleston, South Carolina ("Property"), and is more fully shown on Exhibit A, attached hereto and incorporated by reference herein; and

Whereas, Grantee desires to install/construct a (Describe Encroachment) TMS #: 553185963-0545 Installing a 6 ft wood fence at 123 Somewhere Rd. Charleston, SC 29412 James Island ("Encroachment"); and

Whereas, Grantee desires to install/construct the Encroachments on the City's Property as shown on Exhibit B ("Encroachment Area") which is attached hereto and incorporated by reference herein; and

Whereas, the City is willing to permit the aforementioned Encroachment strictly in accordance with the terms and conditions herein.

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

1. The aforesaid recitals are incorporated herein verbatim.
2. **No Interest in Encroachment Area.** The Grantee shall not acquire any right, title, or interest in or to the City's Property as fully described and depicted in Exhibit A or the portion thereof affected by this Agreement. Grantee understands and agrees that the Encroachment is for a permissive use only and that the placing of the Encroachment shall not operate to create or vest any property rights in Grantee.
3. **Access.** The City shall have free and complete access to the Property for maintenance and repair of the Property, and the Grantee shall hold harmless the City for any damage that may be done to the Encroachment by the City during maintenance and repair of the Property.
4. **Maintenance of Encroachment.** The Grantee shall maintain the Encroachment in a good and safe condition as long as the Encroachment remains on the Property. Further, the Grantee understands and acknowledges that should the Grantee damage and/or disturb the Property and/or the Encroachment, the Grantee shall be solely responsible for repairing the destroyed/disturbed Property and the Encroachment to the City's satisfaction.
 - a. If this box is checked by the City, a general liability insurance policy with combined single liability limits for personal injury or death and property damage in the amount of \$1,000,000.00 per occurrence shall be required by the Grantee naming the City as an additional insured. Grantee agrees to provide proof of such policy to the City prior to the installation of the Encroachment.
5. **Indemnification.** Grantee shall indemnify, defend, and hold harmless the City against any and all claims or suits for damages or injury arising from Grantee's Encroachment or use of the Encroachment or from any activity, work, or act done, permitted, or suffered by Grantee in or about the Encroachment, and shall further indemnify, defend, and hold harmless the City against and from any and all claims or suits arising from any breach or default of any performance of any obligation of Grantee hereunder, and against and from all costs, attorney's fees, expenses, and liabilities related to any claim or any action or proceeding brought within the scope of this indemnification.
6. **Assignment.** Grantee shall not assign this Agreement without the prior written consent of the City.
7. **Successors and Assigns.** This Agreement shall be binding upon the Grantee, its successors, and assigns.
8. **Removal of Encroachment.** Any unlawful encroachments existing in the public right-of-way shall be subject to removal and the owner shall be responsible for labor and costs associated with such removal. Any encroachments existing in the public right-of-way shall be removed upon twenty-four (24) hours notice given by the Department of Public Service when such removal is necessary to repair or improve the right-of-way. If it is necessary to remove the encroachment(s), the owner shall be responsible for labor and costs associated with removal and reinstallation. In the event that the City Police, Fire, Public Service or Traffic and Transportation departments determine that the location of an encroachment constitutes an immediate physical danger to life, safety, or health, the encroachment may be removed immediately without prior notice. If the city removes an encroachment, a notice of removal shall be sent to the owner as soon as practicable under the circumstances. Any abandoned encroachment shall

be subject to removal. For purposes hereof, "abandoned" shall mean the vacating of the premises by the encroachment's owner/applicant for a period of seven (7) consecutive days or more. Any costs incurred to the City in restoring the public right-of-way to the condition that existed prior to the encroachment shall be the responsibility of the encroachment owner/applicant.

9. **Notice.** All notices required herein shall be sent via First Class U.S. Mail with postage prepaid thereon to the parties as follows:

To City: Department of Public Service Engineering Division 2 George Street, Suite 2100 Charleston, South Carolina 29401	To Grantee: Joanna Smith 123 Somewhere Rd. Charleston SC 49412
Location of Encroachment 123 Somewhere Rd.	

Notices shall be deemed effectively served upon the deposit in the United States Mail.

10. **Applicable Law.** This Agreement, and the rights and obligations of the parties hereto, shall be construed and enforced in accordance with the municipal ordinances of the City of Charleston and the laws of the State of South Carolina.

11. **Entire Agreement.** This Agreement contains the entire agreement between the parties hereto. No promise, representation, warranty or covenant not included in this Agreement has been or is relied on by any party hereto.

IN WITNESS WHEREOF, both parties have caused this to be duly executed this Temporary / Encroachment Agreement as of the date first above written and agree to all provisions as stipulated above.

SIGNED AND DELIVERED IN THE PRESENCE OF: _____ Date: _____ _____ Date: _____ Witnesses of the Mayor/Director of Public Services Department	THE CITY OF CHARLESTON BY: _____ Date: _____ Mayor/Director of Public Services Department
The foregoing instrument was acknowledged before me by its maker. _____ Date: _____ Signature of Notary	_____ Commission Expires

SIGNED AND DELIVERED IN THE PRESENCE OF: 1 _____ Date: _____ 2 _____ Date: _____ Witnesses of Grantee's Signature	THE GRANTEE BY: <u>[Signature]</u> Date: _____ Grantee <u>[Signature]</u> Printed Name
The foregoing instrument was acknowledged before me by its maker. <u>[Signature]</u> Date: _____ Signature of Notary	<u>3.17.29</u> Commission Expires

Committee on Public Works Decision

Approved Disapproved

Date

Conditions and/or Restrictions are described on the sheet labeled "Encroachment Inspection Review" or "Encroachment Checklist". Please refer to that for Maintenance Requirements and Construction Standards. Additional Conditions: _____

