

STREET
NAME: _____

PROJECT: _____

STATE OF: **NORTH CAROLINA**
COUNTY: **UNION**

TOWN OF WAXHAW

-AND-

**RIGHT OF WAY
ENCROACHMENT AGREEMENT
TOWN OF WAXHAW**

**Name and Address of Entity Requesting
Encroachment**

THIS ENCROACHMENT AGREEMENT made and entered into this the _____ day of _____, 20____, by and between the Town of Waxhaw ("Town") and _____ ("Encroacher").

W I T N E S S E T H

THAT WHEREAS, Encroacher desires to encroach on the right of way of the public road designated as _____ located approximately _____ with the construction and/or erection of: _____ as shown on the attached drawings; and

WHEREAS, it is to the material advantage of Encroacher to effect this encroachment, and Town in the exercise of authority conferred upon it by statute, is willing to permit the encroachment with in the limits of the right of way as indicated, subject to the conditions of this agreement.

NOW, THEREFORE, IT IS AGREED that Town hereby grants to Encroacher the right and privilege to make this encroachment as shown on attached plan sheet(s), specifications and special provisions which are made a part hereof upon the following conditions, to wit:

Encroacher binds and obligates himself to install and maintain the encroaching facility in such safe and proper condition that it will not interfere with or endanger travel upon said highway, nor obstruct nor interfere with the proper maintenance thereof, to reimburse Town for the cost incurred for any repairs or maintenance to its roadways and structures necessary due to the installation and existence of the facilities of Encroacher.

That Encroacher agrees to provide during construction and any subsequent maintenance proper signs, signal lights, flagmen and other warning devices for the protection of traffic in conformance with the latest Manual on Uniform Traffic Control Devices for Streets and Highways and Amendments or Supplements thereto. Information as to the above rules and regulations may be obtained from the Directors of Engineering and Public Works of Town.

That Encroacher hereby agrees, to the extent permitted by applicable law, to indemnify and save harmless Town from all damages and claims for damage that may arise from the installation and maintenance of this encroachment; provided, however, that Encroacher shall not be obligated to indemnify and save harmless Town with respect to damages or claims for damage to the extent arising from the operation and maintenance of the public right of way.

That Encroacher agrees to restore all areas disturbed during installation and maintenance to the satisfaction of the Directors of Engineering and Public Services of Town. Encroacher agrees to exercise every reasonable precaution during construction and maintenance to prevent eroding of soil; silting or pollution of rivers, streams, lakes, reservoirs, other water impoundments, ground surfaces or other property; or pollution of the air. There shall be compliance with applicable rules and regulations of the North Carolina Division of Environmental Management, North Carolina Sedimentation Control Commission, and with ordinances and regulations of various counties, municipalities and other official agencies relating to pollution prevention and control. When any installation or maintenance operation disturbs the round surface and existing ground cover, Encroacher agrees to remove and replace the sod or otherwise reestablish the grass cover to meet the satisfaction of the Directors of Engineering and Public Services of Town.

That Encroacher agrees to assume the actual cost of any inspection of the work considered to be necessary by the Directors of Engineering and Public Services of Town.

That Encroacher agrees to have available at the construction site, at all times during construction, a copy of this agreement showing evidence of approval by Town. Town reserves the right to stop all work unless evidence of approval can be shown.

Provided the work contained in this agreement is being performed on a completed highway open to traffic; Encroacher agrees to give written notice to the Directors of Engineering and Public Services of the Town when all work contained herein has been completed. Unless specifically requested by Town, written notice of completion of work on highway projects under construction will not be required.

That in the case of noncompliance with the terms of this agreement by Encroacher, Town reserves the right to stop all work until the facility has been brought into compliance or removed from the right of way at no cost to Town.

In the event that Town decides, in its sole discretion, to close, relocate, widen or otherwise modify the street within such right-of-way that Encroacher has encroached upon, Encroacher agrees to relocate or remove the encroaching infrastructure at Encroacher's sole cost and expense. Town will attempt to accommodate relocation but may require removal if the street right of way is closed or relocation is impractical or conflicts with Town goals.

That it is agreed by both parties that this agreement shall become void if actual construction of the work contemplated herein is not begun within one (1) year from the date of authorization by Town unless written waiver is secured by Encroacher from Town.

IN WITNESS WHEREOF, this GRANT OF RIGHT OF WAY ENCROACHMENT has been signed and sealed by a duly authorized officer of GRANTOR and GRANTEE, as of the date first above written.

CORPORATION: TOWN OF WAXHAW, NC

BY: _____ SIGN

PRINT

TITLE: _____

CORPORATION: _____

BY: _____ SIGN

_____ PRINT

TITLE: _____

STATE OF NORTH CAROLINA

COUNTY OF _____

I, _____, a Notary Public of _____ County, North Carolina, do hereby certify that _____, personally appeared before me this day and acknowledged that he (she) is the Town Manager of Waxhaw, North Carolina, a North Carolina municipal corporation, and being authorized to do so, executed the foregoing GRANT OF RIGHT OF WAY ENCROACHMENT on behalf of the municipality.

(SEAL)

Notary Public

Print Name

My commission expires: _____

STATE OF NORTH CAROLINA

COUNTY OF _____

I, _____, a Notary Public of _____ County, North Carolina, do hereby certify that _____, personally appeared before me this day and acknowledged that he (she) is the Manager of _____, LLC, and being authorized to do so, executed the foregoing GRANT OF RIGHT OF WAY ENCROACHMENT on behalf of the corporation.

(SEAL)

Notary Public

Print Name

My commission expires: _____

INSTRUCTIONS

In the space provided in this agreement for execution, the name of the corporation or municipality shall be typed above the name, and title of all persons signing the agreement should be typed directly below their signature. The address should be included in this agreement and the names of all persons signing the agreement should be typed directly below their signature.

GENERAL REQUIREMENTS

1. Wherever possible, roadway crossing should be parallel to wind within the prevailing right of way of intersecting roads.
2. Crossings should be as near as possible normal to the center line of the roadway.
3. Parallel encroachments will not be permitted except outside of control of access lines.
4. The Directors of Engineering and Public Services should each be given notice by the applicant prior to actual starting of installations included in this agreement.

For Overhead Wire Lines

1. Minimum vertical clearances of overhead wires above all roadways must conform to clearances set out in the National Electric Safety Code.
2. Supporting poles or structures must be clear of control of access lines, and be at least 30 feet clear of the edge of shoulders of through lanes and 20 feet clear of the shoulders of interchange ramps.

For Underground Utilities

1. Open-cut installation for crossings will be permitted only when a highway project is in rough grading stage prior to paving. Generally, on rough grading projects, open-cut will not be permitted in fills of over 10 feet in depth and back filled material must be compacted to maximum density meeting the Town of Waxhaw's requirements.
2. Encasements under an existing roadway must be installed by means of tunneling, jacking, or boring and any voids outside the encasement must be filled with lean concrete grout and the ends of encasements be satisfactorily closed.
3. In cut section, encasement must extend continuously from ditch line to ditch line and in fill section; encasement must extend continuously five feet beyond toe to slopes.
4. Vents for encasement should be extended to the right of way line or as otherwise required by the Town of Waxhaw.
5. All pipe encasements as to material and strength shall meet the standards and specifications of the Town of Waxhaw.
6. When trenching is carried down cut slopes, excavation must be backfilled to maximum density and the disturbed portion of the slope be stabilized and sodded to the satisfaction of the Directors of Engineering and Public Services.

Plans

This Encroachment agreement must be accompanied, in the form of an attachment, by a plan showing the following:

1. All roadways and ramps
2. Right of way and control of access lines
3. Drainage structures or bridges if affected by encroachment
4. Location of the proposed encroachment
5. Length, size and type of encroachment
6. Dimensions, showing the distance from the encroachment to roadways, shoulders, structures, etc.
Location by roadway survey station number. If station number cannot be obtained, location should be shown by distance from some identifiable point, such as a bridge, road intersection, etc.

All encroachment agreements involving the crossing of the right of way, roadways and/or ramps of a roadway, must be accompanied, in the form of an attachment, by a profile showing the following information:

1. The profile should extend from right of way line to right of way line and show all slopes (cut or fill), ditches, shoulders, pavements, medians, etc.
2. A vertical dimension from bottom of road ditches and from surface of pavement to encroaching structures.
3. Length, size, and type of encasement where required.
4. Notation of portion to be installed by open-cut.
5. For underground encroachments involving encasements that must be vented, the location of vents must be shown.
6. Method of installation must be shown in detail on either the plan or profile.
7. Any attachment to a bridge or other drainage structure must be approved by the Directors of Engineering and Public Services.
8. Where profile is required, it should be on same sheet with the plan.

SPECIAL PROVISIONS OR SPECIFICATIONS

Any special provisions or specifications as to the performance of the work or the method of construction that may be required by the Town of Waxhaw must be shown on a separate sheet attached to encroachment, provided that such information cannot be shown on the plan and profile sheet.