

CITY OF NOME, ALASKA
EASEMENT ENCROACHMENT PERMIT APPLICATION
INSTRUCTIONS

The terms of the permit are included in the Easement Encroachment Permit and License attached hereto. If these terms are acceptable to the owner(s), the owner(s) should fill out this application and the owner(s) must sign the attached Permit and License (introductory paragraph and paragraphs 1, 2, 3, 5) and sign in front of a NOTARY PUBLIC. The applicant must attach drawings depicting the encroachment and sign the application.

The applicant should return the completed application to the office of the City Engineer. If the City determines that the permit should be granted, it will sign the permit and contact the applicant. Originals of the license and permit will normally be kept on file at City Hall.

An as-built survey shall be submitted with this application and should show the encroachment for which a permit is requested. The City may accept other types of drawings if the drawing sufficiently depicts the location of the encroaching structure and the size of the encroachment. Whether a substitute drawing is acceptable shall be at the discretion of the City Engineer. Applicants may submit other information which they believe may be helpful to the City's review. The City may request additional information from the applicant if circumstances indicate it would be useful in its decision.

Easement encroachment permits may be issued by the City after review of any affected City departments and after approval by the City Manager. If the City Manager or his designee determines that the encroachment will not interfere with the need for public use of streets, utility easements, public rights-of-way, or other property dedicated to a public use, the permit may be granted. NCO § 16.05.030

CITY OF NOME, ALASKA
EASEMENT ENCROACHMENT PERMIT AND LICENSE

THIS AGREEMENT is by and between the City of Nome, a municipal corporation whose address is P.O. Box 281, Nome, Alaska 99762 ("City), and _____ whose address is P.O. Box _____, Nome, Alaska 99762, ("Licensee")(in the event of more than one owner, "Licensee" shall mean all owners).

RECITALS:

1. Licensee is the fee-simple owner(s) of the following-described real property (legal description):

_____.

("Property") on which sits a structure ("Structure") situated so as to encroach upon a public right-of-way easement ("Easement") owned by City.

2. Licensee represents that the Structure is used for the following purposes and for incidental purposes relating thereto:

_____.

3. Licensee has completed an Encroachment Permit Application (of which this Agreement forms a part) and requested authorization from City to permit a portion of the Structure [*circle one*] to be constructed or situated on the Property so that it encroaches into the City's Easement as shown on the attached survey, and only to the extent shown thereon.
4. City Agrees to authorize such encroachment under the terms and conditions as set forth in this Agreement.

It is now, therefore, agreed by and between City and Licensee as follows:

5. Grant of Permission and License. City does by this means license and permit Licensee's encroachment of the Structure into the Easement, without monetary consideration, for the uses indicated above, so long as the Structure conforms to City's regulations, other than the setback requirements as may otherwise be required

under municipal ordinance. The encroachment is more particularly described as follows: _____ square feet, more or less, in the _____ right-of-way, extending _____ inches/feet beyond the Property of Licensee for a distance of _____ inches//feet. This description prevails in the event of any conflict between it and the survey attached hereto.

6. Reservation of Rights. City hereby reserves all rights it may have to enter upon the Easement and to install, maintain, repair or replace any water, sewer, electric, or other public utilities, to take action to maintain roadways and assure proper drainage, or to use the Easement for any other public purpose.
7. Hold Harmless, Defense, Indemnification. Licensee shall hold City harmless and defend and indemnify City from any and all actions, claims or demands regarding property damage or injury or death to person or property which arise from or in any way relate to the existence of the encroachment. Licensee shall hold City harmless and defend and indemnify City should City exercise its rights reserved by this Agreement to come upon the Easement to install, maintain, repair or replace any water, sewer, electric, or other public utilities, to take action to maintain roadways and assure proper drainage, or to use the Easement for any other public purpose.
8. No Waiver of Power of Eminent Domain. Licensee agrees that nothing in the Easement Encroachment Permit and License diminishes, alters waives or otherwise limits the eminent domain authority of the City of Nome. In the event the City exercises its eminent domain authority over the property occupied by the encroachment for street purposes, Licensee agrees that no compensation shall be due Licensee for the Property occupied by the encroachment, or for any expenses related to removal of the encroachment.
9. Damage or Destruction. If that portion of the above-referenced structure which causes this encroachment is ever structurally damage beyond reasonable repair or demolished or destroyed, regardless of the cause of that damage or destruction, then this license shall terminate immediately as of the date of the damage, demolition or destruction without requiring any further action or notice by City.
10. Use of Structure. Licensee shall not expand, modify, or change the nature of the use of the Structure as indicated in paragraph 2, above, located in the Easement without the express, written consent of City.

11. Future Construction. Any construction on the Property after termination of this License shall be made in full compliance with applicable municipal ordinances.
12. No Adverse Possession. Licensee acknowledges that pursuant to the terms of this Agreement, as well as pursuant to the laws of the State of Alaska, Licensee acquires no prescriptive rights by virtue of this License.
13. Rights Are Personal. Licensee agrees that this license is personal to Licensee and may not be transferred, sold, or assigned to another person, firm, corporation or other entity without the prior, express, written consent of City. City hereby consents to the assignment of this License to _____ effective upon his/her purchase of the property provided he/she acknowledges in writing his/her agreement to be bound by the provisions of this license.
14. Termination. Notwithstanding paragraph 8, above, either party may terminate this Agreement at any time; however, Licensee's agreement to hold harmless the City and to defend and indemnify City for any actions, claims or damages arising out of or related to the encroachment (described in paragraph 7, above) will survive termination.
15. Effective Date. This Agreement shall become effective upon signature by all parties hereto.

IN WITNESS WHEREOF, the parties have signed this agreement at Nome, Alaska.

DATED this _____ day of _____, 200__.

CITY OF NOME:

BY: _____

ITS: CITY MANAGER

DATED this _____ day of _____, 200__.

PROPERTY OWNER(S):

BY: _____

BY: _____

Signed and sworn before me this _____ day of _____, 200__.

BY: _____

NOTARY PUBLIC IN ALASKA

My Commission Expires: _____

ASSIGNMENT AND ACKNOWLEDGMENT

_____ hereby assigns all of his/her rights and obligations under that certain City of Nome, Alaska Easement, Encroachment Permit and License for Lot _____, Block _____ to _____.

DATED this _____ day of _____, 200_____.

Name of Owner

ACCEPTANCE

_____ hereby accepts the above assignment effective upon his/her purchase of the property referenced therein and hereby acknowledges his agreement to be bound by the provisions of that certain City of Nome, Alaska Easement, Encroachment Permit and License for Lot _____, Block _____.

DATED this _____ day of _____, 200_____.

Name