



# Village of Downers Grove

## Official Village Policy Approved by Village Council

Description:	<b>Granting of Licenses for Certain Encroachments on Property Over Which the Village Holds an Easement</b>	
Res. or Ord. #:	<b>Res. 2010-41</b>	Effective Date: <b>04/20/10</b>
Category:	<b>Engineering and Public Works</b>	
	<input type="checkbox"/> New Council Policy	
	<input checked="" type="checkbox"/> Amends Previous Policy Dated: <b>9/26/94; 3/12/90</b>	
	Description of Previous Policy (if different from above):	
	Combining Inappropriate Use of Local Streets with Traffic Calming	

### **RESOLUTION 2010-41**

#### **A RESOLUTION AMENDING THE PROCEDURE TO BE FOLLOWED FOR THE GRANTING OF LICENSES FOR CERTAIN ENCROACHMENTS ON PROPERTY OVER WHICH THE VILLAGE HOLDS AN EASEMENT**

WHEREAS, the Village has been granted certain easements for its utilities, including storm sewers, water mains, and storm water detention; and

WHEREAS, from time to time the Village received requests from private property owners for permission to utilize such easement areas for certain private uses which may encroach into such easement areas; and

WHEREAS, it is deemed to be appropriate from time to time for the Village to permit such encroachments into easement areas, so long as the encroachments do not unduly interfere with the Village's necessary use thereof,

WHEREAS, the Council of the Village of Downers Grove has determined that it is in the best interests of the Village to establish a procedure to be followed in determining whether a particular license should be granted,

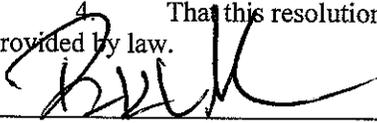
NOW, THEREFORE, BE IT RESOLVED by the Council of the Village of Downers Grove, in DuPage County, Illinois, as follows:

- I. That the following procedure shall, in all events, be followed in processing, considering and acting upon requests for a license to permit certain encroachments on Village easements:
  - a. The person or persons desiring the license shall file with the Village Manager's office a written request on a prescribed form, which request shall contain the following information:
    - (i) name and address of the Petitioner;

- (ii) the location, the legal description and the parcel identification number for the petitioner's property (the "Property");
  - (iii) a description of the encroachment including a site plan or drawing which shows the location of the encroachment in relationship to any Village easements or other interest in the Property;
  - (iv) if there are any public service facilities over, under or upon the Property that are known to the Petitioner, a statement as to the type of such facility and the public utility owning same;
  - (v) a fee as set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule" shall be paid to the Village, provided that no such fee shall be required if the Petitioner is a public body. This fee shall be used to pay for staff processing of the request and recordation costs.
- b. The staff of the Village shall verify the information contained in the request.
  - c. That subject to the conditions established in paragraph "d" hereof, the Village Manager of the Village of Downers Grove is hereby authorized to execute and grant on behalf of the Village from time to time as he may deem necessary and appropriate, licenses to permit certain encroachments, such as landscaping improvements or deck areas on property over which the Village holds a utility easement, on which are located or across which access may be gained to stormwater detention and drainage facilities, sidewalks, portions of the Village's water distribution or stormwater control systems, or other Village owned facilities. In connection with the granting of such licenses, the Village Manager is authorized to execute encroachment licenses, on behalf of the Village, provided that the encroachment permitted does not adversely affect the flow of drainage through or from the easement areas, and does not create any right of the private property owner to utilize the area and any public utilities located therein; and further provided that the Village is fully indemnified by the private property owner for any liability which may result as a result of the encroaching use.
  - d. An encroachment license shall run with the title of the Property and bind the successors, heirs and assigns of the Property Owner(s). Such license shall contain a provision that it may be terminated by either party on thirty (30) days notice. Upon termination, the licensee shall be responsible for removing the encroachment and returning the area to the same condition as when the license was executed.
  - e. That no licenses for such encroachments shall be granted by the Village Manager unless he has given written notice of his intent to take such action to the Village Council at least forty-eight (48) hours prior to a regularly scheduled Council meeting. At such meeting, the Village Council may direct the Village Manager to take some other action appropriate to the particular situation.
  - f. That the Village Clerk is hereby authorized to attest, seal and deliver encroachment licenses executed by the Village Manager pursuant to the authority granted by this resolution, and the proper officials, agents and employees of the Village are hereby authorized and directed to take such further action as they may deem necessary or appropriate to perform the obligation of the Village in connection therewith.
  - g. The Village Clerk shall record the license against the Property in the Office of the Recorder of Deeds of DuPage County.
2. The validity of any grant of license otherwise carried out in accordance with applicable law shall not be invalidated, impaired or otherwise affected by noncompliance with any part of the procedure set forth herein.

3. That Resolutions 94-35 and 90-9, and all other resolutions or parts of resolutions in conflict with the provisions of this resolution are hereby repealed.

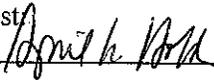
4. That this resolution shall be in full force and effect from and after its passage and approval as provided by law.



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Ronald L. Sandack, Mayor

Passed: April 20, 2010

Attest  


April Holden, Village Clerk