



# City of Norman, OK

Municipal Building  
Council Chambers  
201 West Gray  
Norman, OK 73069

## Master

**File Number: EN-2021-6**

**File ID:** EN-2021-6                      **Type:** Encroachment                      **Status:** Consent Item

**Version:** 1                                      **Reference:** Item 14                                      **In Control:** City Council

**Department:** Legal Department                      **Cost:**                                      **File Created:** 08/28/2020

**File Name:** Consent to Encroach 708 Stinson Street                      **Final Action:**

**Title:** CONSENT TO ENCROACH EN-2021-6: FOR LOT 3, BLOCK 1, STINSON ESTATES ADDITION, CITY OF NORMAN, CLEVELAND COUNTY, OKLAHOMA. (708 STINSON STREET)

**Notes:** ACTION NEEDED: Motion to approve or reject Consent to Encroachment EN-2021-6; and, if approved, direct the filing thereof with the Cleveland County Clerk.

ACTION TAKEN: \_\_\_\_\_

**Agenda Date:** 09/22/2020

**Agenda Number:** 14

**Attachments:** , Consent Agreement and Covenant, City Clerk Memo, Request to Encroach, Site Plan & Map, Memo from Planning, Memo from Public Works, Memo from Utilities

**Project Manager:** Beth Muckala, Assistant City Attorney

**Entered by:** sarah.encinias@normanok.gov

**Effective Date:**

### History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:

### Text of Legislative File EN-2021-6

Body

**BACKGROUND:** An encroachment request has been filed in the office of the City Clerk by property owner, Paula McIntosh, requesting a Consent to Encroach into a utility easement at the above-described property.

**DISCUSSION:** The application for the Consent to Encroachment concerns the encroachment upon a City of Norman and Norman Utilities Authority (NUA) twenty foot (20') utility easement for the installation of a patio cover. The owner originally requested that the patio cover be allowed to encroach upon the existing utility easement located at the west side of the lot and crossing southeast to the south side of the lot. The owner later amended its application to include the

existing patio, which also encroaches asaid easement.

At the present time, the City and the NUA have an abandoned sanitary sewer line located within the easement. This line was previously abandoned by the City during a past project after a new interceptor was installed in the right-of-way of the property. The City and the NUA do not object to the proposed encroachment however the applicant must waive and release the City from any claims for damage that may arise due to the failure, subsidence, or other problem caused by the abandoned sewer line.

Utility companies were not notified since this encroachment is located within a City-owned sanitary sewer easement.

Staff has reviewed the application and the “hold harmless” clauses. From a legal perspective, it protects the City’s and the NUA’s concerns with respect to damage to the property owners’ property should the City and the NUA or other authorized entity be required to perform work within its easement. There are some conditions applied to this Consent to Encroachment as listed below:

1. The property owner(s), and property owners’ heirs, successors, or assigns (hereafter collectively the “Owner Parties”) will be responsible for the cost to repair any damages to the City’s and the NUA’s utilities caused by any excavation, piercing or other construction activities conducted by the Owner Parties or their agents;
2. The Owner Parties will be required to apply for and receive any applicable permits prior to commencing work;
3. The Owner Parties will be responsible for the cost the City and the NUA incurs to remove any patio, paving, footings, deck, fence, curb, landscaping, retaining wall, and/or any other structure if needed to maintain or repair NUA facilities;
4. The Owner Parties will be responsible for the cost to repair or replace any patio, paving, footings, deck, fence, curb, landscaping, retaining wall, or any other structure after such repair;
5. The Owner Parties will waive and release any claims against the City and the NUA for any damages to the residence and related improvements caused by failure, subsidence, or other problem that arises due to the abandoned sewer line within the City’s and the NUA’s easement area;

Since the applicant updated its application to include the existing patio, all City departments have affirmed continued approval of this encroachment request.

The benefit to having the consent to encroach on file is that it is evidence of the property owners’ understanding that, while the City and the NUA is allowing them to encroach upon the easement, the City and the NUA are not liable and will not be responsible for damage to the property owners’ property in the event maintenance has to be performed within the easement.

All necessary City departments have responded on this item and have no objection to the proposed Consent Agreement and Covenant, with the conditions stated therein. Please note that this Consent Agreement and Covenant concerns only the City's consent to encroach where a project is otherwise permissible under City Code. Further evaluation will occur once such an application has been submitted by applicant relating to this project.

**RECOMMENDATION:** Based upon the above and foregoing, the City Attorney's office is forwarding the above Consent to Encroach, EN-2021-6, for Council consideration.