

Chapter 14.03
HAZARDS AND OBSTRUCTIONS ENCROACHMENT PERMITS

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14e.03.010 Hazards. Permit Required.

Before any person, firm, or corporation shall commence or permit any other person, firm or corporation to commence any work to grade, pave, level, alter, construct, repair, remove, excavate or place any pavement, sidewalk, crosswalk, curb, driveway, gutter, drain, sewer, water, conduit, tank, vault, street banner or any other structure, utility or improvement located over, under or upon any public right-of-way or easement in the Town of Ruston, or place any structure, building, barricade, material, earth, gravel, rock, debris or any other material or thing tending to obstruct, damage, disturb, occupy, or interfere with the free use thereof or any improvement situated therein, or cause a dangerous condition, an encroachment permit shall be obtained. A separate permit shall be obtained for each separate project. In the case of work contracted by the Town of Ruston, the signing of the contract shall constitute an encroachment permit.

(a) It shall be a misdemeanor for any person to obstruct any street, alley or sidewalk in the Town of Ruston without the consent of the Town Council or as provided in this or as provided in this chapter, or to place or drop any glass, tack, nail or other article or substance dangerous to or capable of causing inconvenience to foot or vehicle traffic therein.

(b) Any person convicted of a violation of this section shall be punished by a fine of not to exceed \$25.00 or by imprisonment for not to exceed five days, or by both such fine and imprisonment.

14.03.020 Obstructions. Applications.

Application shall be made to the Mayor or his designee on a format as prescribed and provided by the Mayor. The application shall contain such information as the Mayor deems necessary, including, but not limited to the following:

A. Town of Ruston Business License for each contractor performing work related to the proposal.

B. Project Description. A written description of the proposed project, including the project duration and desired start date.

C. Site Plan. A plan drawn to scale upon sheets not exceeding 24 inches by 36 inches which specify the parcels of land in front of or through which, and the names of the streets, avenues, alleys, ways and places wherein such proposed work is to be performed. The plan must also show any existing and proposed structures, utilities, landscape areas, paths, parking areas, driveways, sidewalks, and signage locations.

D. Traffic Control Plan. Any proposal that will impede pedestrian or vehicular traffic must submit a traffic control plan. Unless approved in writing by the Mayor or his designee, all proposals must maintain traffic in both directions at all times in accordance with the latest edition of the Manual on Uniform Traffic Control Devices, or as directed by the Town Engineer. Access to emergency traffic such as police, fire and emergency units shall be provided at all times. Additionally, access to commercial property shall not be blocked for more than four (4) consecutive hours, and access to residential property shall not be blocked for more than eight (8) consecutive hours. The applicant shall notify the Town Clerk prior to closing any street and immediately upon reopening a closed street. The applicant shall also coordinate all construction activities with the school district, post office, disposal firms, and other services that operate in the project area. The applicant shall be liable for all damages that result from failure to provide reasonable notice, access, or coordination.

E. Performance and Maintenance Bonds as described in RMC 14.03.030(F).

F. Certificate of Insurance. The applicant shall provide proof of insurance for each contractor performing work related to the proposed work as described in RMC 14.03.030(E).

~~(a) No person, firm or corporation shall place any structure, building materials, earth, gravel, rock, garbage, debris or any other material or thing tending to obstruct, damage, disturb or interfere with the free use thereof or any improvement situated therein, or cause a dangerous condition thereon without first obtaining a permit in writing from the Town Clerk to do so. No permit shall be assignable and no person shall allow his name to be used to obtain a permit or permits for any other person. All applications for such permit shall be signed by the person or his duty authorized agent who desires to do the work designated in said application. Said permit will become void 30 days after date of issue unless otherwise provided in the permit or unless extended or revoked by the Town Clerk. The fee for a permit to connect with a sewer shall be \$500.00. There shall be no charge for other permits issued under the provisions of this section.~~

~~(b) Except as hereinafter specifically provided, every permit shall require that the person, firm or corporation to whom the same is issued shall:~~

~~(1) Give the Town Clerk 24 hours' notice of the commencement of such work;~~

~~(2) Carry on such work in conformance with the Town's general specifications in effect at the time of issuance of said permit;~~

~~(3) Diligently prosecute the same to completion;~~

~~(4) Comply with such additional conditions and provisions as may be prescribed by the Town Clerk;~~

~~(5) Deliver to the Town of Ruston, prior to the issuance of the permit, a bond in the sum of not less than \$1,000 in form to be approved by the Town Attorney. Such bond shall be conditioned on the faithful conformance with the provisions of this section, and shall be further conditioned to indemnify and save harmless the Town of Ruston from any and all judgments, costs or expenses arising from injuries or damage to any persons or property on account of said work, and shall be further conditioned that the permit applicant shall carry out and complete such work within the specified time and according to the terms of such permit. Such bond shall be continuously in effect from the date of issue, and may be further conditioned to cover all permits issued to the applicant; provided, that such bond by its terms provides that the same shall not be canceled unless and until the Town Clerk is given written notice of such intention to cancel a minimum of 10 days before the effective date of said cancellation. Such bond shall further provide that it shall remain in full force and effect until the completion of any and all work which has been commenced or is to be commenced pursuant to any permits issued prior to the effective date of cancellation;~~

~~(6) Furnish to the Town of Ruston a certificate of insurance attesting that the applicant is insured with~~

~~"Broad Form" coverage with limits of not less than \$50,000/\$1,000,000 for bodily injuries and \$10,000 for property damage. Such certificate shall further provide that such insurance shall not be canceled without 10 days' written notice to the Town of Ruston. If the applicant is a householder the application and permit shall provide:~~

~~(A) That the work shall be commenced and completed within a specified number of successive days, not to exceed five;~~

~~(B) That the same shall be performed by the householder without the services of a contractor or the employees of a contractor;~~

~~(C) That the applicant shall indemnify and hold harmless the Town of Ruston from any and all judgments, costs or expenses arising from injuries or damage to any person or property on account of said work, and that the applicant shall carry out and complete the work within the specified time and according to the terms of the permit. In such cases no bond or insurance shall be required and the 24hour notice of commencement of work need not be given, but the applicant shall comply with all of the other requirements of this section and the special provisions of his or her permit.~~

~~(c) Any person by whom or under whose immediate authority, as principal, contractor or employee, an portion of any street, alley or public place may be obstructed or made dangerous shall erect and, so long as the obstruction or danger shall continue, maintain around the portion of the street, alley or public place so obstructed or made dangerous a good and sufficient barrier, and shall cause the same to be posted, and during the nighttime or during the daytime when due to climatic or other causes the visibility is less than 300 feet shall show sufficient red lights to warn of said obstruction or danger.~~

~~(d) Any person, firm or corporation violating any of the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not exceeding \$1,000.00 or imprisoned in the Town jail for a period not exceeding 90 days, or both.~~

14.03.030 Scattering debris from a vehicle. Issuance of Permit.

All permits shall be issued by the Mayor or his designee. The permit is not subject to the requirements of RMC Title 19, and may be issued to the applicant if all requirements deemed relevant by the Mayor or his designee are met. Requirements shall include, but are not limited, to the following:

A. The proposed use will not protrude into or over any portion of a public right-of-way or public place open to vehicle or pedestrian travel in such a manner as to create a likelihood of endangering the use of such public place by vehicle or pedestrian traffic.

B. The proposed use will not block access to public utility lines including, but not limited to, water, sewer, storm drainage, cable, gas, and power.

C. The requested use must meet all other applicable requirements of this code, including, but not limited to, the underlying zoning regulations applicable to the adjacent property upon which the use will be conducted, constructed or maintained.

D. The applicant shall be required to indemnify and hold the Town harmless from any and all claims for bodily injury or property damage that may arise out of or in connection with the applicant's permitted use.

E. During all periods of use for encroachment permits, the applicant shall maintain public liability and property damage insurance acceptable to the Town and/or other insurance necessary to protect the public and the Town on premises to be used unless waived by the Mayor or his designee. The limits of said insurance shall be established by the Mayor or his designee. Said insurance shall not be cancelable or reduced without prior written notice to the Town, not less than 30 days in advance of the cancellation or

alteration. Said insurance shall name the Town as a named or additional insured and shall be primary as to any other insurance available to the Town.

F. Performance and Maintenance Bond.

1. Performance Bond. All permits require a Performance Bond upon forms approved by the Town Attorney, in the amount of 150% of the cost to replace existing improvements that may be disturbed as allowed by the Encroachment Permit. No bond shall be approved for less than five thousand dollars (\$5,000). Applications for Encroachment Permits shall be accompanied by an licensed engineer's estimate of the cost to replace existing improvements which shall be used to determine the value of the bond after review and approval by the Town Engineer. The Performance Bond will not be released until the Town has inspected and approved the completed work, and the applicant has provided a Maintenance Bond as described in RMC 14.03.030(F)(2).

2. Maintenance Bond. A Maintenance Bond shall be required prior to the release of the Performance Bond. The value of the Maintenance Bond shall be 15% of the value of the Performance Bond and shall be in effect for a period of not less than 24 months from the date of written acknowledgement from the Town that all proposed work has been completed. The Maintenance Bond shall also remain in effect until the Town has provided written acknowledgement that it has inspected the completed work after the expiration of the 24 month period and found that the condition of the repairs and improvements are acceptable to the Town.

3. Exceptions.

a. The Mayor or his designee may waive the requirement for a bond for permits that are issued to a legal property owner for sidewalk repairs or installations that abut the legal property owner's property.

b. The applicant may submit a Performance and/or Maintenance Cash Set Aside agreement in lieu of the required Bonds. Cash Set Aside agreements shall be on forms approved by the Town attorney.

G. Such other conditions as may be imposed by the Mayor or his designee to reasonably assure that the requested use does not in any way create a likelihood of endangering those who are lawfully using the public right-of-way or public place.

H. All conditions shall be subscribed on or attached to the permit.

I. Applicant shall consent that in the event the Town is required to take enforcement actions to enforce the terms and conditions of the permit, that the Town shall be entitled to recover its costs, disbursements, and expenses including its attorneys' fees, which sums may be filed as a lien against applicant's premises and enforceable in the manner provided for the enforcement of mortgages on real property.

~~(a) It is unlawful for any person, firm, or corporation to allow or cause to be allowed any tracking of debris over or along any public street, sidewalk or right of way by vehicles leaving their property. As used herein, the word "debris" includes, but is not limited to: mud, dirt, gravel, wood or building materials dropped by vehicles entering or exiting property adjacent to a public street, sidewalk or right-of-way.~~

~~(b) Violation — Civil Infraction. Any person, firm, or corporation violating this provision shall be cited for violating a Class 1 civil infraction, which is a \$250.00 penalty for every violation. Violations will be processed pursuant to Chapter 9.22.~~

14.03.040 Term of Permit.

Notwithstanding the provisions of RMC 14.03.050, Revocation, encroachment permits shall be issued for varying terms, at the discretion of the Mayor or his designee and as generally set forth below:

A. Encroachment permit, residential, issued for construction of any fence or retaining wall is valid indefinitely unless revoked under RMC 14.03.050. Any other noncommercial use of the public right-of-way will require an encroachment permit issued under the same terms as described under encroachment permit, commercial (subsection B of this section).

B. Encroachment permit, commercial, issued for any use of the right-of-way (as defined in RMC 14.03.010) in connection with the operation of a business in the Town of Ruston, are valid for a period of 12 months from the date of approval. Property owners may make application to renew the encroachment permit upon permit expiration.

C. Encroachment permit, temporary, issued to property owners for uses of the right-of-way of a temporary nature and which involves the obstruction of a portion of a public sidewalk or other walkway, are valid for a period not to exceed 30 days. Property owners may make application to renew the encroachment permit upon expiration.

14.03.050 Revocation.

A. All permits issued pursuant to this chapter shall be temporary, shall vest no permanent right in the applicant, and may be revoked by the Mayor or his designee as follows:

1. Immediate revocation in the event of a violation of any of the terms and conditions of the permit;
2. Immediate revocation, in the event such use, structure or obstruction becomes, for any reason, dangerous, insecure or unsafe;
3. Upon 30 days' notice if the permit is revoked for any reason that is not covered by the preceding subsections, including, but not limited to, the Town's desire to make public use of the road, street, public right-of-way or other public place subject to an existing permit.

B. If any use or occupancy for which the permit has been revoked is not immediately discontinued, the Mayor or his designee may remove any such structure or obstruction or cause to be made to such repairs upon the structure or obstruction as may be necessary to render the same secure and safe, the cost and expense of which shall be assessed against the permittee, including all fees, costs, and expenses incurred, including attorneys' fees associated with the enforcement of or collection of the same. The Town may enforce this chapter in any manner provided by law, including the abatement of public nuisances.

14.03.060 Appeal.

Any decision of the Mayor or his designee, with respect to the issuance, refusal to issue, or revocation or refusal to revoke an encroachment permit may be appealed to the Town Council by filing a notice of intent to appeal such decision with the Town Clerk within 10 days of the date of issuance of the decision being appealed. If an appeal from any such decision is taken, the appellant shall be required to pay a nonrefundable appeal fee in an amount of not less than \$350.00. The appeal shall include a complete statement of the reason or reasons that form the basis of the appeal. The decision of the Town Council shall be final, binding and conclusive, the decision being solely within the discretion of the legislative body.

14.03.070 Existing Uses.

An encroachment permit shall be required for any existing use of any public right-of-way, street, sidewalk, or other public place. Owners seeking a temporary use of city right-of-way must obtain a permit before the use begins.

14.03.080 Deviations.

The Town Council may grant a deviation to the standards set forth in this chapter upon the findings that the granting of a deviation is in the best interest and welfare of the Town.

14.03.090 Penalty for Violation.

Any person violating any of the provisions of this chapter shall, upon conviction, be subject to a penalty of \$1000.00 and for any costs incurred by the Town relative to any violation.

14.03.100 Permit Exemptions.

Work being performed by the Town shall be exempt from the requirements of this chapter.

Notes/tasks related to the above amendment:

- 1) Repeal RMC 12.02 Digging and Grading – this code change merges Digging and Grading with Hazards and Obstructions and renames the permit “Encroachment Permit”.
- 2) This code update is exempt from SEPA review per WAC 197-11-800(19) Procedural Actions.