



ADMINISTRATIVE RULES OF MONTANA



18.7.109 GENERAL REQUIREMENTS

- (1) The construction of new or modified device or object encroachments shall be the responsibility of the permittee and shall be constructed in conformance with the applicable regulations and manuals, as approved by the department, at the permittee's sole expense.
- (2) During the progress of right-of-way work or occupancy, the permittee must erect and maintain such barricades, signs, and other traffic control devices as may be deemed necessary by the department.
- (3) The permittee is responsible for completing any environmental documentation required by the department at the permittee's sole expense.
- (4) The permittee is responsible for any changes, maintenance, or repairs to existing encroachments deemed necessary by the department at the permittee's sole expense.
- (5) The permittee must furnish all materials necessary for the construction of the device or object encroachment authorized by the permit. All materials must be of satisfactory quality, and are subject to inspection and approval by the department.
- (6) It is the responsibility of the permittee to supply, place, and properly construct an approved device or object encroachment, or upgrade a retroactively approved encroachment, in accordance with department design and safety standards, and all appropriate department manuals.
- (7) Drainage in highway ditches must not be altered or impeded except as authorized and approved by the department. The permittee is responsible for any damage to highway right-of-way or adjacent landowners' property caused by unapproved drainage encroachments into highway right-of-way, at the permittee's sole expense.
- (8) The permittee is responsible for any changes, maintenance, or repairs to existing encroachments deemed necessary by the department, at the permittee's sole expense.
- (9) The department may make any changes, additions, repairs, or relocations to any encroachment or its appurtenances within the highway right-of-way, at the permittee's sole expense.
- (10) Existing device or object encroachments which are granted either a retroactive new permit, or a permit for a change in condition, may be inspected by the department for compliance with department design and safety standards.
- (11) Any device or object encroachment which does not meet department design and safety standards is subject to removal by the owner at the owner's sole expense, after department revocation of the encroachment permit.

- (12) The permittee is responsible for all repairs to the highway or within the right-of-way resulting from the activities of the encroachment, at the permittee's sole expense. Additionally, the permittee must reimburse the department for any expense incurred in repairing the surface of the roadway or right-of-way due to any damage as a result of the occupancy or work performed under the permit (e.g., settlement at installation site).
- (13) If the department makes changes, additions, repairs, or relocations to the highway within the highway right-of-way, which conflict with a permitted encroachment, the encroachment permit may be temporarily or permanently revoked by the department, at the department's sole discretion.
- (14) The permittee is responsible for any damage or injury to a third party or department facilities caused by the permittee's installation, maintenance, repair, or actions under a department-issued encroachment permit, at the permittee's sole expense.

Authorizing statute(s): 60-2-201, MCA

Implementing statute(s): 60-2-201, 60-5-101, 60-5-104, 60-5-105, 60-6-101, MCA

History: NEW, 2014 MAR p. 2828, Eff. 11/21/14.