



ADMINISTRATIVE RULES OF MONTANA



18.7.102 ENCROACHMENT PERMITS

- (1) Any person or entity proposing to encroach on a highway right-of-way within the jurisdiction of the department must obtain an encroachment permit from the department.
- (2) An encroachment is any installation, device, object, or occupancy that is located at, above, or below the grade lines of the highway and within the right-of-way limits, and that is not installed as part of the highway facility by the department.
- (3) Encroachment permits are not required for the following uses, which require a separate department-issued permit for the appropriate use:
 - (a) Utility facilities occupying right-of-way pursuant to department-issued utility encroachment permits or utility occupancy agreements; or
 - (b) Private driveways, road approaches, and curb cuts occupying right-of-way pursuant to department-issued approach permits.
- (4) Encroachment permits may be issued for uses including:
 - (a) devices or objects placed within right-of-way limits (e.g., fence encroachment permits, landscaping encroachment permits); or
 - (b) physical occupancy of the right-of-way by persons or groups of persons (e.g., special use permits, foraging permits).
- (5) Application for an encroachment permit must be made to the appropriate district or area office. The form may be found on the department's web site at www.mdt.mt.gov. Paper copies of the application may also be obtained by request to the appropriate district office.
- (6) Applicants must be the owner of the property abutting the right-of-way at the encroachment's proposed location, a government agency, the contractor proposing to conduct work in the right-of-way, or an individual or designated group leader of persons who will temporarily occupy the right-of-way. The application must be signed by the applicant or representative.
- (7) For device or object encroachment permits, a site plan drawing with sufficient detail must be provided to show the location of the proposed encroachment. The site plan must be tied to the nearest highway milepost or station marker.
- (8) For device or object encroachment permits, the applicant must:
 - (a) submit a detailed drawing of the proposed encroachment;
 - (b) submit an environmental checklist contained within the form; and
 - (c) agree to the terms and conditions on the permit.

- (9) Each application must be complete and accompanied by all required supplemental materials. The department will not review or approve a permit application until all necessary information has been provided. The department reserves the right to reject ineligible, incomplete, or otherwise improper applications.
- (10) The department may set a time limit for placement of the requested encroachment. Failure to construct the encroachment or occupy the right-of-way within the specified time limit will terminate the encroachment permit and require the applicant to re-apply.
- (11) Construction work of the encroachment within highway right-of-way limits must not commence until an approved permit has been issued.

Authorizing statute(s): 60-3-101, 61-8-203, MCA

Implementing statute(s): 60-3-101, 61-8-203, 61-8-706, 61-8-712, MCA

History: Eff. 12/31/72; AMD, 2014 MAR p. 2828, Eff. 11/21/14.