

## ORDINANCE NO. 3805

**AN ORDINANCE AMENDING CHAPTER 12.20 OF THE RAPID CITY MUNICIPAL CODE BY ADDING THERETO NEW SECTIONS 12.20.200, 12.20.210, 12.20.220, 12.20.230, 12.20.240, 12.20.250, 12.20.260, AND 12.20.270 TO ALLOW FOR PERMITS ALLOWING ENCROACHMENT INTO RIGHT-OF-WAY.**

BE IT ORDAINED by the City of Rapid City that Chapter 12.20 of the Rapid City Municipal Code be amended by adding Sections 12.20.200, 12.20.210, 12.20.220, 12.20.230, 12.20.240, 12.20.250, 12.20.260, and 12.20.270 to read as follows:

**12.20.200      Encroachment defined.**

Encroachments shall be considered as any object above ground or below belonging to a private owner which has been or caused to be constructed or located within streets, public rights-of-way or other property dedicated to a public use.

**12.20.210      Permit required.**

Any person desiring to construct an encroachment on a public right-of-way or any other property dedicated to a public use shall apply for an encroachment permit to the director of public works or his designee.

**12.20.220      Removal of unauthorized encroachments.**

Unauthorized encroachments shall be subject to immediate removal by the owner upon being given notice by the municipality. Notice shall consist of a written letter, sent to the record owner of the property by certified mail, return receipt requested, explaining the violation and allowing 20 calendar days from the date of the letter to remove the encroachment. If the receipt for the certified letter is not returned within twenty (20) days, a duplicate letter shall be sent to the property address by first class mail, giving an additional ten (10) days to remove the encroachment. Failure of the owner to receive either notice shall not be a defense to enforcement. If the owner does not remove the encroachment after being given proper notice, the municipality shall remove the encroachment and the person encroaching shall reimburse the municipality for all costs incurred. The cost of such removal may be assessed to the property.

**12.20.230      Existing encroachments.**

Any encroachment of a private nature without a permit may be removed in accordance with this Chapter or may be granted a permit allowing such encroachment to remain if such encroachment meets the approval of the director of public works or his designee. The individual, upon signing the permit, agrees to indemnify the municipality against any and all claims to persons or property which may grow out of or arise in connection with such encroachment within, on over or under any property owned by the municipality, a public right-of-way or other property dedicated to a public use. The passage of this ordinance shall not be deemed to authorize or approve any existing encroachment existing as of the date of the effect of this ordinance.

**12.20.240      Appeals.**

Any revocation, suspension, or denial of an encroachment permit may be appealed to the Common Council by filing a written notice of appeal with the finance officer and stating the grounds for such appeal. The appeal notice must be filed within ten days after the effective date of the action from which the appeal is taken.

**12.20.250      Fee.**

A permit fee of one hundred dollars (\$100) shall be charged for encroachment permits.

**12.20.260      Applicability of chapter to persons doing construction or excavation work.**

The provisions of this chapter do not change or alter the requirements set forth for obtaining licenses and permits for construction or excavation work in public rights-of-way. In the event the encroachment needs to be removed or destroyed to perform work on public utilities in the right of way, such removal or destruction may be performed by the entity performing the utility work. The landowner shall be responsible for any costs incurred in removing or destroying the encroachments, as well as any cost of reconstruction. In no event shall the City or any authorized utility be responsible for any cost associated with moving, removing, destroying, or reconstructing any encroachment.

**12.20.270      Subordinance.**

Nothing herein shall authorize any encroachment to be placed in any applicable sight triangle as required by Chapters 17.50, 12.20, and 15.40 of the Rapid City Municipal Code. No encroachment permit shall be issued for any sign. The granting of an encroachment permit for any such encroachment shall be automatically void, and any permit fee shall be refunded to the applicant.

CITY OF RAPID CITY

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Finance Officer  
(SEAL)

First Reading:  
Second Reading:  
Published:  
Effective: