

Introduced by: City Manager Allen
 Date: July 22, 2008
 Public Hearing: August 12, 2008
 Action: Adopted
 Vote: Unanimous

Yes:	No:
Pippel	
Erbey	
Vanover	
Chmielewski	
Best	
Combs	
Hanson	

CITY OF PALMER, ALASKA

ORDINANCE NO 08-014

AN ORDINANCE OF THE PALMER CITY COUNCIL ENACTING PALMER MUNICIPAL CODE CHAPTER 12.20, ENCROACHMENTS

Section 1. Classification. This ordinance shall be permanent in nature and shall be incorporated into the Palmer Municipal Code.

Section 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Chapter 12.20 is hereby enacted to read as follows:

Chapter 12.20

ENCROACHMENTS

12.20.010 Definitions.

As used in this chapter:

“Encroachment” means and includes emulsive applications such as petroleum based or other semi-permanent liquefied, solid, loose, frozen or crushed materials, including such materials as snow, gravel, topsoil or vegetation; tower, pole, pole line, pipe, pipeline, driveway, private road, fence, billboard, stand or building, or a structure or object of any kind which is or has been placed in, on, under or over a portion of a city sidewalk, street or right-of-way.

12.20.020 Permitted encroachments.

An encroachment may only be constructed, placed, changed or maintained on, across or along a city sidewalk, street or right-of-way after issuance of an encroachment permit by the city

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manager or his or her designee. In determining to issue or deny a permit the city manager may consider, as a minimum, the following facts.

- A. The collateral impact of the requested encroachment upon other individuals, city maintenance efforts, the public in general and safety;
- B. The overall beneficial or negative impacts on the use of the street or right-of-way by individuals or the public-at-large;
- C. The city manager may require the applicant to obtain reviews and/or approvals of construction designs or materials from other state or local governmental agencies.

12.20.030 Relocation or removal of encroachment.

If, incidental to the construction or maintenance of a city sidewalk, street or right-of-way, the city determines and orders that an encroachment previously authorized must be changed, relocated, or removed, the owner of the encroachment shall change, relocate or remove it at no expense to the city within forty-five (45) days or such reasonable time as agreed upon by the city. If the owner does not change, relocate or remove an encroachment within the time set by the city, the encroachment shall be considered an unauthorized encroachment and subject to the provisions of Sections 12.20.040 through 12.20.070 of this chapter.

12.20.040 Unauthorized encroachments.

If an unauthorized encroachment exists in, on, under or over a city sidewalk, street or right-of-way, the city may require the removal of the encroachment in the manner provided in Sections 12.20.050 through 12.20.070 of this chapter.

12.20.050 Notice of removal.

Except as otherwise provided in Section 12.20.060 of this chapter, notice shall be given the owner, occupant or person in possession of the encroachment, or to any other person causing or permitting the encroachment to exist, by serving upon any of them a notice demanding the removal of the encroachment. The notice shall describe the encroachment complained of with reasonable certainty as to its character and location. Service of the notice shall be made by certified mail.

12.20.060 Summary removal.

Upon an express determination that such encroachment constitutes an immediate danger to public safety, the city may at any time remove from a city sidewalk, street or right-of-way an encroachment which obstructs or prevents the use of the sidewalk, street or right-of-way by the public.

12.20.070 Removal after noncompliance—Removal expense.

After a failure of the owner of an encroachment to comply with a notice or demand of the city under the provisions of this chapter, the city may remove, or cause to be removed, the encroachment, and the owner of the encroachment shall pay to the city:

- A. The expenses of the removal of the encroachment;
- B. All costs and expenses paid by the city as a result of a claim or claims filed against the city by third parties for damages due to delays because the encroachment was not changed, removed, or relocated according to the order of the city; and

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C. Costs and expenses of suit.

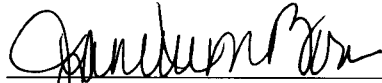
12.20.080 Actions by the city.

The city manager, or an officer designated by the manager, shall make the determinations mentioned in Sections 12.20.030 and 12.20.060 of this act, and shall have the power to issue all orders and do all acts necessary to carry out this act, including, but not limited to, the power to bring action to enforce this chapter in the courts of the state of Alaska.

Section 4. Effective Date. Ordinance No. 08-014 shall take effect upon adoption by the City of Palmer City Council.

Passed and approved this twelfth day of August 2008.



John C. Combs, Mayor

Janette M. Bower, CMC, City Clerk

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