



## **ROW Encroachment – City Council Review Application Guide & Checklist**

Economic & Community Development Department  
101 W. 8<sup>th</sup> Street  
Glenwood Springs, CO 81601  
(970) 384-6411

### **PURPOSE**

The right-of-way encroachment license (license to encroach) procedure is a mechanism by which the City can evaluate proposed encroachments of private property and structures into publicly-owned rights-of-way, such as streets, sidewalks, and other types of City property.

### **GENERAL OVERVIEW**

A license to encroach is required for any private use or structure proposed to be located within the City's right-of-way. The review process depends on the type and extent of the encroachment:

The following encroachments are reviewed administratively:

- Encroachments that are not permanent in nature
- Encroachments located in the air space above the City's right-of way
- Encroachments that project less than one foot into the right-of-way including awnings, landscaping, balconies, sidewalk signs.

Refer to the ROW Encroachment-Administrative Review Application Guide and Checklist if your project meets these criteria.

All other encroachments will require the review and approval of City Council. In reviewing proposed encroachments, staff and City Council consider whether the proposed encroachment:

1. Furthers the City's land use and utility goals and objectives;
2. Could be reasonably accommodated on the applicant's own property and outside of the City's right-of-way;
3. Compromises public safety, health, and welfare of the community;
4. Compromises access to other public and/or private lands; and
5. Is necessary based on a hardship created by the applicant.

### **REVIEW PROCESS**

All licenses to encroach that cannot be processed administratively require an application and public hearing before City Council following the process outlined below:

- 1. Pre-application Conference.** Contact one of the planners in the Community Development Department prior to submitting your ROW Encroachment application. We will discuss the review procedures, application requirements, application deadlines, and the City's goals, policies, and development standards as they relate to your proposed project.

At least 10 days prior to your scheduled conference, please submit one electronic copy of the following items:

- a. A completed Planning Application. The application is available [here](#), or on the City's website at [www.cogs.us](http://www.cogs.us). It is in "Forms, Permits & Applications" on the Community Development Department page.
- b. A written description of the proposed project.
- c. Conceptual drawings showing the location, layout, and primary elements of the proposal.
- d. Proposed uses, location of uses, and densities, if applicable.

- 2. Prepare Your Application.** During the pre-application conference you will receive a checklist of information that we will need to process your request. This information constitutes your application and may include any, or all the information found on page 7 of this guide.

City staff will evaluate your application based on how well it demonstrates compliance with the Municipal Code, and the City's goals, policies, and plans, and the ROW Encroachment criteria listed on page 1 of this guide. You may review the Municipal Code on the City's website at [www.cogs.us](http://www.cogs.us). Other approved plans also can be found on the City's website under the individual department pages. Community Development staff will help guide you to plans and policies that may be applicable to your project.

- 3. Submit Your Application.** Submit an electronic copy of your completed application to the Community Development Department on or before the 6-week application deadline. Within 5 business days of your submission, Community Development Department staff will review your application to determine whether it is complete. If it is incomplete, we will contact you with a list of the information needed to complete your application. You are encouraged to submit your application well in advance of the application deadline to allow you time to supply any missing information. Submissions after the deadline will result in your application being delayed to a future City Council agenda.

- 4. Provide Additional Copies.** After Community Development Department staff deems it complete, you will be asked to supply a final, complete electronic set of your application materials as well as paper copies for distribution to the City's reviewing departments and outside agencies. The number and format of paper copies can vary depending upon the scope of your application. If your application includes any full-sized plan sheets, we may request submission on 11" x 17" or 24" x 36" size paper.

- 5. Complete Public Notices.** Your application requires that you formally notify the public of the time, date and purpose of your hearing before the Planning and Zoning Commission. You are required to post your property with a placard, submit a legal notice for publication in the local newspaper, and mail your notice to property owners within 300 feet of the outside boundary of your proposed development parcel. Staff will review these

requirements and will provide you with a packet of information that includes the deadlines for completing each form of public notice. This is a time-sensitive process. Deficient public noticing may delay your hearing.

- 6. Agency Referral and Review.** During the 6-week period between your application submittal and your hearing, staff will distribute copies of your application to our “reviewing agencies” which consists of various City departments, City boards and commissions, and outside agencies such as the Colorado Department of Transportation, and gas and telephone companies. Community Development Department staff relies on these agencies to review your application and comment on any issues or concerns that they may have relating to your project. You will receive copies of agency comments and will have an opportunity to respond, if need be. In some instances, agency comments may cause you to redesign your project. Staff will include these comments in the packet of information that is distributed to the Planning and Zoning Commission and to City Council.
- 7. City Department/Applicant Development Review Committee Meeting.** Generally, three weeks prior to your public hearing, you will meet with City Departments, and planning staff to review and discuss their preliminary comments about your project. Following this meeting, you may be required to revise your plans to respond to specific requests or suggestions made by staff. If significant, substantive changes are necessary you will be required to submit a new application in which case your hearing will be postponed.
- 8. Staff Review & Report.** Toward the end of the 6-week review of your application, Community Development Department staff will prepare a report for the City Council meeting that analyzes how your project meets the Municipal Code, the City’s goals, policies, plans, standards and the ROW encroachment review criteria listed on page 1 of this guide. The report will include a staff recommendation of approval, denial, or continuance of your application. If staff recommends approval, there also may be a list of recommended conditions. Staff will complete the report at least a week prior to your hearing. You will receive a copy, usually via email. Make sure that you read the report and review the listed conditions, if there are any. Staff also will distribute the report, a complete copy of your application, and agency comments to City Council for its review.
- 9. Requesting a Continuance.** If, after reading the staff report, you wish to continue your application to the next available City Council meeting to correct deficiencies or clear up issues in the application, you will need to submit a letter to Community Development Department staff requesting continuance of your hearing. If you do this, you will not need to appear at the meeting or redo your public noticing, and no comments will be made by the City or public regarding your application at the hearing.
- 10. City Council Hearing.** Staff will provide you with a copy of the meeting agenda well in advance of your hearing. You or your representative are required to attend your public hearing.
- 11. Post-approval - As-built Drawings.** After you have satisfied all applicable conditions of your project’s approval, and after you have constructed your approved encroachment,

Community Development Department staff will ask you to provide an as-built drawing of your encroachment. The drawing must be prepared by a licensed surveyor and include a written legal description of the encroachment.

- 12. Revocable License to Encroach and Indemnification Agreement.** All ROW encroachments require that the owner of the encroachment execute a Revocable License to Encroach which memorializes the city's approval of the encroachment. All encroachments also require that the owner indemnify the City from any and all damages to property or persons resulting from the encroachment. Following construction of your approved encroachment and receipt and approval of the as-built drawings, City staff will provide you with a Revocable License to Encroach and Indemnification Agreement for your signature. This document and the legal description will be recorded with the Garfield County Clerk & Recorder's office. You will be required to pay the applicable recording fees which are detailed on the Clerk & Recorder's page of the Garfield County website: [www.garfield-county.com](http://www.garfield-county.com).
- 13. Post-approval Plan Modifications.** Please make sure that your plans reflect how you intend to develop your property. After your application has been approved, if you want to make significant changes you may be required to formally amend your application which involves additional hearings before City Council, and additional fees.
- 14. Proof of Insurance Required.** All Council-approved ROW encroachments require that the owner of the encroachment obtain and provide the City with a copy of an umbrella liability policy covering the encroachment area in limits of no less than \$1 million (\$1,000,000) and naming the City of Glenwood Springs as an additional insured party. The policy must be renewed by the encroachment owner for the life of the encroachment, and a copy of each new policy must be furnished to the City upon the anniversary date of the license to encroach. Failure to provide the policy as required shall automatically nullify the license without necessity of further notice and shall require the owner's removal of the encroachment at the owner's sole expense. Should the owner fail to remove the encroachment within a reasonable time, the City may declare the encroachment a public nuisance, undertake removal, and attach a lien to the owner's property for the cost of the removal.

#### **PUBLIC MEETING PROCEDURES**

The public hearing format is as follows:

1. Staff Presentation. Staff will provide City Council with a summary of your project and an analysis of how it meets or differs from the Municipal Code and other city plans and standards.
2. Questions of staff by Council.
3. Applicant Presentation. This is your opportunity to present any additional information about your project to City Council. You can mention points where you disagree with staff, present anything important that you felt that planning staff left out, present any new information that you have, or present any other information directly pertinent to

the application. Out of respect for Council and other applicants, please keep presentations very brief. If you have no additional important information to add to staff's presentation, you may state this.

4. Questions of the applicant by City Council.
5. Public Comment. The Mayor will open the meeting to public comment.
6. Applicant response to public comment. After hearing from all members of the public, the Mayor will close the public portion of the meeting and allow you the opportunity to refute or address any statements provided. At this time, Council may also ask staff for clarification of any points of fact.
7. Motion for action on the application, discussion among City Council, and a decision.

**Display of documents at the meeting.** You may use the Council Chambers computer to display any documents or to provide Council with a prepared presentation. We recommend that you bring your materials on a flash drive.

[Page Intentionally Blank]



## ROW Encroachment-City Council Review APPLICATION CHECKLIST

*For office use:*  
 Pre-application Meeting Date: \_\_\_\_\_ Planning File #: \_\_\_\_\_  
 Applicant: \_\_\_\_\_ Lead Planner: \_\_\_\_\_

During or shortly following your pre-application meeting, you will receive this checklist noting the materials that the City will need to process your ROW Encroachment application. This information constitutes your application. Failure to provide the required materials on or before the application deadline will delay your application.

<b>Materials to be Provided by Applicant</b>								
Submittal Requirements		Paper Copy – number and format			PDF	Notes	Required Submission (√)	Submitted by Applicant (√)
		8 ½ x11	11 x 17	24 x 36				
1	<b>Planning Application</b> – completed in full and signed by applicant and all property owners of record	√			√			
2	<b>Ownership</b> - provide proof of ownership such as Deed of Trust, Warranty Deed or Quit Claim Deed. Title commitment will not suffice	√			√			
3	<b>Project Description</b> – narrative describing the project and the need for the encroachment. Address of how the encroachment meets the review criteria	√			√			
4	<b>Complete Plan Set including:</b>	0	1	1	√			
	Cover Sheet							
	Site Plan							
5	<b>As-built drawing &amp; Legal Description</b> – following construction, provide an as-built drawing and legal description of the encroachment	√			√	Depending on the extent of the encroachment, format may include submission of a 24 x 36-inch drawing		

**Materials to be Provided by Applicant**

Submittal Requirements		Paper Copy – number and format			PDF	Notes	Required Submission (√)	Submitted by Applicant (√)
		8 ½ x11	11 x 17	24 x 36				
6	<b>Revocable License to Encroach and Indemnification Agreement.</b>					To be provided by Community Development Department staff		
7	<b>Proof of Liability Insurance</b>	√			√			
8	<b>Fee</b>	\$ _____				Cash, check or credit card. Check payable to the City of Glenwood Springs		
9	<b>Other Materials</b>							