



CITY & BOROUGH OF WRANGELL PUBLIC HEARING AGENDA

Tuesday, June 28, 2016
6:30 –6:45 p.m.

Location: Assembly Chambers, City Hall

1. Call to Order
2. Roll Call
3. Public Hearing Items:
 - a. **PROPOSED ORDINANCE No. 918:** AN ORDINANCE OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AMENDING SECTION 13.05.010, PERMITTED ENCROACHMENTS, OF THE WRANGELL MUNICIPAL CODE (***second reading***)
4. Written Testimony
5. Oral Testimony
6. Adjournment

Agenda Item 3a

CITY & BOROUGH OF WRANGELL

BOROUGH ASSEMBLY PUBLIC HEARING AGENDA ITEM June 28, 2016

INFORMATION:

PROPOSED ORDINANCE No. 918: AN ORDINANCE OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AMENDING SECTION 13.05.010, PERMITTED ENCROACHMENTS, OF THE WRANGELL MUNICIPAL CODE (*second reading*)

Attachments:

- 1. Proposed Ordinance No. 918**
2. Memo from Carol Rushmore, Economic Development Director

CITY AND BOROUGH OF WRANGELL, ALASKA

ORDINANCE NO. 918

AN ORDINANCE OF THE ASSEMBLY OF THE CITY AND
BOROUGH OF WRANGELL, ALASKA, AMENDING
SECTION 13.05.010, PERMITTED ENCROACHMENTS, OF
THE WRANGELL MUNICIPAL CODE

BE IT ORDAINED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF
WRANGELL, ALASKA:

[The changes to the existing code are shown as follows: the words that are underlined are
to be added and the words that are **[bolded and in brackets are to be deleted]**.]

SEC. 1. Action. The purpose of this ordinance is to amend Section 13.05.010 of
the Wrangell Municipal Code relating to Permitted Encroachments.

SEC. 2. Amendment of Section. Section 13.05.010 of the Wrangell
Municipal Code is amended to read:

Section 13.05.010 Permitted encroachments.

A. **[It shall be unlawful for any]** No person, other than an officer or employee of the
City and Borough of Wrangell in the course of his or her employment, **[to]** shall make, cause or
permit any construction in, on, under or within a borough right-of-way except as provided for in
this chapter.

B. Removable, nonpermanent encroachments attached to permanent structures,
beautification activity, and aerial encroachments that are not for the purpose of advertising, may
be permitted **[only in that portion of the borough right-of-way located on Front Street,
specifically, at its origination where it intersects with Stikine Avenue and Federal Way and
extending through the downtown commercial district ending at the intersection of Case
Avenue and Shakes Street,]** upon approval by the city and borough planning commission.
Except as provided for in WMC 13.05.040, persons who currently own, maintain, or wish to
modify, alter, or change an existing encroachment located in the borough right-of-way described
above, and persons desiring to construct, place, or erect an encroachment in the borough right-of-
way, shall apply for an encroachment permit on a form designated by the commission and,
except as provided for in WMC 13.05.040, pay an application fee of \$50.00 to the City and
Borough of Wrangell.

C. The commission may provide for any such terms and conditions as the commission
deems appropriate prior to approving an encroachment permit. In determining to issue or deny a
permit, the commission may consider, at a minimum, the following:

1. The collateral impact of the requested encroachment upon other individuals, the city and borough maintenance efforts, and public safety;

2. The overall beneficial or negative impacts on the use of the right-of-way by individuals or the public at large;

3. The need for the land for public construction projects in the foreseeable future;

4. Whether the encroachment can be considered an advertisement, which is specifically not permissible in the right-of-way;

5. The commission may require the applicant to obtain reviews and/or approvals of construction designs or materials from other state or local government agencies.

...

SEC. 3. Classification. This ordinance is of a permanent nature and shall be codified in the Wrangell Municipal Code.

SEC. 4. Severability. If any portion 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.

SEC. 5. Effective Date. This ordinance shall be effective upon adoption.

PASSED IN FIRST READING: June 14, 2016.

PASSED IN SECOND READING: _____, 2016.

David L. Jack, Mayor

ATTEST:

Kim Lane, Borough Clerk

MEMORANDUM

TO: Jeff Jabusch, Borough Manager
Kim Lane, Borough Clerk

FROM: MS. CAROL RUSHMORE
ECONOMIC DEVELOPMENT DIRECTOR

CC: Amber Al-Haddad, Public Works Director

SUBJECT: Proposed changes to Chapter 13.05 Encroachments of the Borough Right-of-way

DATE: May 27, 2016

BACKGROUND:

The State of Alaska is resurfacing Evergreen. Federal Highways is the primary funding source and their regulations require all encroachments must be permitted. Since Evergreen is owned by the City and Borough of Wrangell, it is our responsibility to permit the encroachments or have them removed.

The Borough went through this same process when Front Street was being updated. Chapter 13.05 was developed specifically to assist businesses that had awnings overhang into the Front Street Right-of-Way. Because the code was developed only for Front Street businesses, it needs to be modified to address any encroachments on Evergreen. There are 11 encroachments: of which are landscaping type encroachments (rock wall, fence, plants) and 4 are wooden steps or stairs. We are carefully reviewing the encroachments to insure there are no sight obscuring issues that could create a safety hazard, and access issues for vehicles.

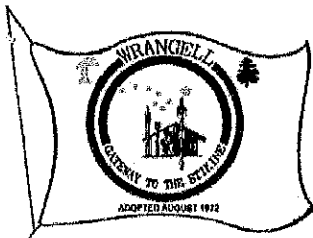
RECOMMENDATION:

Attached are simple suggested changes to the code to allow us to address encroachments throughout the Borough. The State's ROW agent has been very helpful and offered substantial changes to the code and to the permit. At this time, I am suggesting only simple changes to the code and am incorporating some of her suggestions into a new permit form that I am still working on.

Please review and let me know if you have any questions or want to discuss in more detail. Once I get a draft permit together I will submit that for review.

ATTACHMENTS:

1. Initial DRAFT proposed changes to Ch 13.05
2. Current Encroachment Permit Application form



CITY AND BOROUGH OF WRANGELL

INCORPORATED MAY 30, 2008

P.O. BOX 531 (907)-874-2381
Wrangell, AK 99929 FAX (907)-874-3952

Current
requires PZ approval
(NOT Assembly approval)

ENCROACHMENT PERMIT APPLICATION

The adopted Encroachment Policy (WMC 13.05) represents the City & Borough of Wrangell's position with regard to proposed encroachments and the private use of public right-of-way within the corporate limits of the City & Borough of Wrangell, Alaska. In the context of this application, "public right-of-way" refers to all public sidewalks; street and alley right-of-way; and parks, open space, and other properties or lots owned or controlled by the City & Borough of Wrangell.

This Encroachment Permit Application solely covers encroaching on the public right-of-way and by no means exempts applicant from obtaining other permits or licenses as may be required by the City & Borough of Wrangell or other agencies. Advertising signs are not allowed in the right-of-way.

1) GENERAL INFORMATION

| | | | |
|---|---------------|---------------------|-----------------|
| Physical Address/Location of Encroachment: | | | |
| Lot: | Block: | Subdivision: | Parcel#: |
| Identifying Description of Right-of-Way being encroached upon: | | | |
| Name of Applicant: | | Phone: | |
| Mailing Address: | | | |
| Name of Property Owner: | | Phone: | |
| Mailing Address: | | | |

Type of Permit Requested: ☐ PERMANENT ☐ TEMPORARY for an ☐ EXISTING ☐ NEW Encroachment.

If Temporary, When Will the Encroachment Be Removed? Date: _____

Proposed Use of Right-of-Way:

Size of proposed permitted area:

This permit is subject to the provisions of Wrangell Municipal Code, Chapter 13.05, and the following general and special conditions:

1. **Indemnification:** ~~Per 13.05.050~~, Permittee shall indemnify, defend and hold harmless the the City and Borough, and its officers, employees, and contractors, from any claim resulting from injury, loss, or damage to any person or personal property resulting from Permittee's use of the permitted area.

2. **Waiver of Claims:** Permittee waives any claim or right of action Permittee may have against the City and Borough in the event of damage to property, and injury to or death of any person in the permitted area that arises because of the design, construction, maintenance, management, or operation of a highway in the right of way containing the permitted area.
3. **Reimbursement of Costs:** Permittee shall reimburse the Borough for all costs and expenses incurred by the Borough, including attorney's fees, in any action brought by the Borough to recover any delinquent fees, or for the breach of any terms or conditions contained in this Permit, or to recover possession of the permitted area.
4. **Non-discrimination:** No person, on the basis of race, religion, color, national origin, age, or sex, shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in that person's use of the permitted area.
5. **Assignment:** Permittee may not assign or transfer this permit.
6. **Revocation:** This Permit is not a property right but a temporary authorization, revocable by the City and Borough. Please see W.M.C. 13.05.020 *- change*
7. **Loss of Business:** The City and Borough is not responsible for loss of business related to the issuance or revocation of this permit.
8. **Cancellation by Permittee:** Permittee may cancel this Permit by providing written notice to the City and Borough at the above address. Permittee is not entitled to a refund of any fees or expenses related to the revocation or cancellation of this Permit.
9. **Abandonment by Permittee:** Upon abandonment by Permittee of the permitted area, Permittee's rights under this Permit will immediately terminate, but Permittee's obligations will survive until fulfilled.

2) PROPERTY OWNER ACKNOWLEDGEMENT

Applicant understands that the City & Borough of Wrangell assumes no responsibility or liability for items encroaching into City & Borough.

Property Owner:

Sign: _____ Print: _____ Date: _____

Please attach a site plan and drawing of the proposed encroachment to this completed application and return it to the City & Borough.

3) APPROVALS

Planning & Zoning:

Sign: _____

Date: _____

Building Official:

Sign: _____

Date: _____

3) ATTACH SITE PLAN of the proposed encroachment, showing, linear, height, and area of the encroachment.