



City of Helena
Public Works Department

316 N Park Ave
 Helena, MT 59623
 Phone: 406-447-8431
 FAX: 406-447-8442

Application for Right-of-Way Encroachment or Use Permit

Applicant (please print full name):	
Address:	
City, State, Zip Code:	Phone Number:
Property Owner/User (please print full name):	
Address:	
City, State, Zip Code:	Phone Number:

REQUESTING:

- 7-13-3 Encroachment Permit (granted by the City Manager)
- 7-13-4 Non-Exclusive Right-of-Way Use Permit – duration of permit may not exceed 5 years (granted by the City Manager)
- 7-13-5 Exclusive Right-of-Way Use Permit (a private use that does not allow public access through the right-of-way) (granted by the City Commission)

Street address of property:
Legal Description of property:
Type, name, and legal description of Right-of-Way to be utilized (street, sidewalk or alley):
Purpose for Right-of-Way Use (including description of encroachment/use and duration of use):

Site Plan (must include drawing of the location and dimensions of the right of way area proposed for the encroachment and the arrangement of objects, fixtures, or portions of structures expected to be located in the right of way.) For further detail information attach additional sheets

Certificate of Liability Insurance (for Exclusive Right-of-Way Use Permits only)

NOTE TO APPLICANT

- Owner must provide a signed application, site plan, and any maps for review by f the City of Helena Public Works Department.
- **Exclusive Right-of-Way Use:** There is an annual fee of 5% of the market value or a minimum of \$50.00 for all Exclusive Right-of-Way Use permits and must be approved by the City Commission.
- The applicant for an exclusive right of way use permit shall indemnify, defend, and hold the city and its employees and agents harmless against all claims, liability, loss, damage, or expense incurred by the city due to any injury to or death of any person or any damage to property caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform the conditions of the permit, the applicant shall furnish a policy or certificate for comprehensive general liability insurance with the city named as an additional insured. Such certificate of insurance shall be in the amount of one million dollars (\$1,000,000.00) per claim or occurrence.

 Printed Name of Owner/User

 Signature Owner/User

 Date:

 Date Received

 Process By:

ORDINANCES OF THE CITY OF HELENA, MONTANA

ORDINANCE NO. 3276

AN ORDINANCE ALLOWING CERTAIN ENCROACHMENTS BY RIGHT BY AMENDING
CHAPTER 13 OF TITLE 7 OF THE HELENA CITY CODE

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY
OF HELENA, MONTANA:

Title 7, Chapter 13, of the Helena City Code is hereby amended
as follows:

7-13-1: **INTENT:** No change.

7-13-2: **PROHIBITIONS:** No change.

7-13-3: **ENCROACHMENTS:**

A. The following encroachments and uses are allowed, without prior approval by the City, on the portion of ~~public~~ the right-of-way that is not needed presently being used for installation of curbs, gutters, sidewalks, street paving, driving surfaces, or any other public purpose. ~~do not constitute a hazard to public use of the right-of-way, and are not located so as to affect universal accessibility in accordance with the Americans with Disabilities Act.~~

1. Mailboxes installed in compliance with laws and regulations;

2. Postal drop boxes owned by the United States Postal Service;

3. Bicycle racks available for public use;

4. Irrigation systems;

5. Landscaping, including lawn ornamentation, in compliance with this code;

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6. Retaining walls;

7. Fences;

~~68.~~ Driveways approved by the City Engineer;

~~79.~~ Walkways from the curb to the sidewalk;

~~8. Retail sale of food products from vehicles legally parked on right-of-way that serve the products on the portion of the right-of-way that is not used for public travel;~~

~~9~~10. Public utility lines, poles, and mains as allowed by right by law;

~~10~~11. Sandwich board signs. Sandwich board signs must be removed from the public right-of-way at the close of business or end of the event each day;

12. Awnings and overhangs; and

13. Any portion of a structure, such as foundation, roof eaves, stoops, and stairs, in existence as of December 9, 2019.

- B. ~~An application for an encroachment permit must be submitted to the City Manager on forms furnished by the City. The application must include a drawing of the location and dimensions of the right-of-way area proposed for the encroachment and the arrangement of objects, fixtures, or portions of structures expected to be located in the right-of-way.~~

Encroachments permitted by this section are subject to the following conditions:

1. Encroachments must comply with all other provisions of the Helena City Code including any applicable Building Code requirements and permits.
2. Encroachments cannot impede the sight distance triangle as specified in Section 7-3-7 of this Code.

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3. Overhanging encroachments, such as awnings and roof eaves, must be placed at least ten feet (10') above the grade immediately below.
4. Encroachment cannot constitute a hazard to the use of the right-of-way by the public.
5. Encroachment cannot be placed in a way as to constitute an obstacle in violation of local, state, and federal universal accessibility laws, rules, and regulations.

C. ~~The following encroachments and uses are allowed by permit issued by the City Manager:~~

~~1. Objects or fixtures placed upon the right of way that are capable of being removed without damage to adjacent structures, including fences, stoops, stairs, and signs.~~

~~2. Objects, fixtures, or portions of structures extending over right of way, such as awnings, overhangs, and roof eaves that are no less than ten feet (10') above the grade immediately below.~~

Placing an encroachment in the right-of-way as permitted by this section does not grant any property rights in the City's right-of-way to the owner of the encroachment.

D. The City may, without advance notice, perform construction and maintenance activities within the right-of-way. The City is not responsible for any damage to any encroachments present in the right-of-way when performing these activities.

E. Encroachments permitted by this section are subject to removal, at property owner's expense, upon sixty (60) days written notice from the City.

7-13-4: NONEXCLUSIVE RIGHT OF WAY USE:

- A. No change.
- B. A nonexclusive right-of-way use permit may only be granted for uses that are permitted in the district immediately

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adjacent to the right-of-way on which the use is taking place.
These uses include:

1. Commercial sale of goods or services, including the retail sale of food products from vehicles legally parked on the right-of-way.

2. through 5. No change.

C. through K. No change.

(Ord. 3107, 3-9-2009; amd. Ord. 3262, 6-24-2019; amd. Ord. 3276, 12-9-2019.)

FIRST PASSED BY THE COMMISSION OF THE CITY OF HELENA, MONTANA,
THIS 18th DAY OF NOVEMBER, 2019.

/S/ WILMOT COLLINS
MAYOR

ATTEST:

/S/ DANNAI CLAYBORN
CLERK OF THE COMMISSION

FINALLY PASSED BY THE COMMISSION OF THE CITY OF HELENA,
MONTANA, THIS 9th DAY OF DECEMBER, 2019.

/S/ WILMOT COLLINS
MAYOR

ATTEST:

/S/ DANNAI CLAYBORN
CLERK OF THE COMMISSION