



Major Encroachment Resolution 1996-153

Inspections Department Zoning Division

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This resolution establishes typical provisions for encroachment requests.

Whereas, The City Council receives and approves requests from private property owners, firms, or corporations to encroach upon the public maintained right-of-way;

Whereas, the City Council desires to establish an orderly process by adopting typical provisions for encroachment requests;

NOW, THEREFORE, be it resolved by the City Council of the City of Raleigh, North Carolina that decisions regarding encroachment requests shall be made, unless otherwise stated, in consideration of the following criteria:

Covenants and Agreements

1	"As Built" drawings are required showing precise location of the encroachment and in the case of utilities, the drawing shall show all location of other utilities in the right of way area.
2	The owner is responsible for any and all expenditures of labor and materials required in the installation, erection, repair, maintenance, or location of the encroachment.
3	The owner is responsible for any and all labor, expenses or materials for all future maintenance, repair, removal, or dismantling of encroachment.
4	The owner is fully responsible for any and all property damage or injury to, or death of any person which results from any and all negligence, omission, defect in design, maintenance or workmanship created by the owner, its agents, employees, contractors or subcontractors, or any cause of action arising out of the installation, maintenance, or location of said encroachment.
5	The owner agrees to hold harmless the City, its officials, Council Members, and employees for any and all liability arising out of such negligence, omission, defect, or other cause of actions; that it will defend and pay all attorney fees in any and all actions brought about as a result of such and it will indemnify the City, its officials, Council Members, and employees against any and all loss sustained by reason of such negligence, omission, defect, or other cause of action arising out of the planting, installation, maintenance, or location of said encroachment.
6	Upon approval of encroachment request, the owner shall procure or cause to be procured from a responsible insurance carrier or carriers, authorized in the minimum amounts of \$300,000/\$500,000/\$300,000 covering full liability for any and all personal injury, property damage, or wrongful death caused by construction, maintenance, location, repair, or visual obstruction of encroachment. Upon execution of the encroachment agreement between the owner and the City, the owner shall furnish to the City a "Certificate of Insurance", for general liability coverage with the minimum amounts as herein mentioned. The owner, during the life of the encroachment shall furnish the City without demand each July, or at the time of expiration as indicated on the "Certificate of Insurance": which is on file with the Zoning Division of the Inspections Department, an updated (original) "Certificate of Insurance" herein mentioned is carried, stating that such compensation is covered by such carriers and showing such insurance to be in full force and effect. In the event of any change in the insurance policy, the owner shall give the City thirty (30) days notice of such change. Should the owner fail to pay premiums upon said insurance, or should owner fail to obtain said insurance, or to perform any of the agreements, terms, or conditions herein contained, the City at its option by written notice may declare this agreement canceled and terminated and all rights acquired hereunder by owner shall thereupon terminate, except owner shall still be responsible for removing the encroachment from the right of way.
7	The owner agrees as part of the consideration of the signing of its contract that its agents, officials, employees, or servants will not discriminate in any manner on the basis of age, handicap, sex, race, color, creed, sexual orientation, or national origin with the reference to the subject matter in the contract, no matter how remote. The owner hereto further agrees in all respects to conform with the provisions and intent of the City of Raleigh North Carolina ordinance No. 1969-889 as amended.
8	The owner agrees to abide by all applicable statutes and ordinances and shall secure all required permits prior to installation.
9	The agreement shall not divest the City of any rights or interest in said right of way.
10	The agreement shall be revocable at will by the Raleigh City Council and the encroachment is subject to removal upon request of the City at the owner's expense.
11	The agreement shall be binding upon the owner, successors, and assigns, and shall insure to the benefit of the City and its agents.
12	If applicable, the owner shall secure a "Certificate of Appropriateness", from the Historic District Commission prior to installation.
13	If applicable, the owner shall contact "One Call Center" 48 hours prior to installation and must stay 10' from existing utilities.
14	The owner shall avoid damage to adjacent street trees and no concrete wash is to be emptied in tree areas or lawns.

Owner Signature	Date
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Adopted: June 4, 1996	Effective: June 4, 1996	Distribution: City Manager Inspections (3) Planning (3)
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