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## Chapter 12.04 ENCROACHMENTS

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Prior legislation: Ords. 344 and 627.

### **12.04.010 Definitions.**

As used in this chapter:

A. "Person" means an individual, a copartnership, a firm, an incorporated or unincorporated association, a trust, a corporation, an estate, or a public agency.

B. "Encroachment" means privately owned improvements, facilities or structures, including without limitation any post, sign, pole, fence, deck, building, tree (unless permitted pursuant to PVEMC [12.16.030](#)), pipe, cable, drainage facility, septic system, or recreational facility, in the public right-of-way or on other public property, constructed and maintained by the property owner.

C. "Standard encroachment" means any encroachment which conforms to a standard plan previously approved by the public works director as a city standard encroachment.

D. "Nonstandard encroachment" means any encroachment which does not conform to a standard plan previously approved by the public works director as a city standard encroachment.

E. "Public property" means property owned in fee by the city or dedicated for public use.

F. "Public rights-of-way" means public easements or public property that are used for streets, alleys or other public purposes. (Ord. 701 § 2 (Exh. 1), 2012; Ord. 650 § 1, 2003)

### **12.04.020 Permit required.**

It shall be unlawful to erect, place, construct, establish, plant or maintain any structure, vegetation or object on public property or public rights-of-way without a permit issued by the public works director. This provision shall not apply to: (A) any of the officers or employees of the city under the direction of the various city departments or their designee; or (B) any person utilizing a bin for construction waste or special refuse which has been provided by the contractor providing solid waste collection service to single-family residential units under agreement with the city, provided the location of such bin is in conformance with the requirements of such agreement. (Ord. 701 § 2 (Exh. 1), 2012; Ord. 662 § 1, 2005; Ord. 650 § 1, 2003)

### **12.04.030 Permit application.**

A. Any person applying for a permit required by the provisions of PVEMC [12.04.020](#) shall file with the public works director an application in writing on a form furnished by the director. Such form shall specify the following:

1. The name and residence or business address of the applicant;
2. The location or description of the property on which the proposed encroachment is to be made;
3. The name of the person who will perform the work;
4. The nature, purpose, and dimensions of the proposed work, including detailed plans and specifications;
5. Such additional information as the public works director may require.

B. The application shall be accompanied by a nonrefundable fee in an amount established by resolution of the city council.

C. A permit for the construction, alteration, or reconstruction of improvements on property of the city shall be issued only to a person licensed by the state of California as a contractor for the work to be performed under said permit and shall not be transferable. This requirement may be waived by the public works director for work on walkways perpendicular to the street where the public works director determines in his or her sole discretion that sufficient assurances have been provided that such work may be properly performed by a person without such a license. (Ord. 701 § 2 (Exh. 1), 2012; Ord. 650 § 1, 2003)

#### **12.04.040 Permit issuance.**

A. The public works director may condition issuance of an encroachment permit to provide for the public safety, the protection of persons or property, the public convenience, the accommodation of public needs, adequate traffic control, control over litter and noise, the cleanup and removal of construction materials, and such other provisions as may appear to be in the public interest.

B. Prior to issuance of an encroachment permit, the director shall require the applicant to provide and maintain:

1. An agreement to defend, indemnify, and hold harmless the city, its officers, agents and employees from and against any and all loss, damage, liability, claims, demands, costs, charges, and expenses, including attorney's fees, and causes of action of whatsoever character which city may incur, sustain or be subjected to on account of loss or damage to property or loss of use thereof, or for bodily injury to or death of any person arising out of or in any way connected to the encroachment.
2. An agreement to reimburse the city for any costs incurred by the city to repair damage, restore premises, or satisfy claims incurred by reason of the encroachment.
3. A certificate of insurance issued by a corporation authorized to do business in the state of California providing for comprehensive general liability insurance in an amount established by resolution by the city council, on account of any one occurrence or in the aggregate resulting in injury to or death of one person or for damage to property. A certificate indicating that the city is named as additional insured shall be provided on a form specified by the city. (Ord. 701 § 2 (Exh. 1), 2012; Ord. 650 § 1, 2003)

**12.04.050 Display of permit.**

The permittee shall keep the permit at the work site at all times any work is in progress. (Ord. 701 § 2 (Exh. 1), 2012; Ord. 650 § 1, 2003)

**12.04.060 Inspection.**

A. An encroachment on any public property shall be done under the supervision of the public works director or his or her designee. Any such work done without the inspection and approval of the public works director shall be subject to rejection and abatement as a public nuisance.

B. The applicant shall be subject to inspection fees as determined by resolution of the city council. Such inspection fees shall be paid prior to the commencement of the encroachment. (Ord. 701 § 2 (Exh. 1), 2012; Ord. 650 § 1, 2003)

**12.04.070 Revocation.**

The encroachment permit may be revoked by the public works director if the applicant fails to comply with any of the requirements or conditions of the permit or if the director finds that such action is necessary to protect the public interest. (Ord. 701 § 2 (Exh. 1), 2012; Ord. 650 § 1, 2003)

**12.04.080 Standard encroachments.**

Any person applying for a standard encroachment permit shall obtain approval from the public works director or his or her designee before a permit may be issued. (Ord. 701 § 2 (Exh. 1), 2012; Ord. 650 § 1, 2003)

**12.04.090 Nonstandard encroachments.**

Any person applying for a nonstandard encroachment permit shall obtain approval from the planning commission before a permit may be issued. The decision made by the planning commission may be appealed to the city council. (Ord. 701 § 2 (Exh. 1), 2012; Ord. 650 § 1, 2003)

**12.04.100 Appeals.**

The decisions of the public works director in connection with the encroachment permit may be appealed to the city council. (Ord. 701 § 2 (Exh. 1), 2012; Ord. 650 § 1, 2003)

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**The Palos Verdes Estates Municipal Code is current through Ordinance 13-702, passed September 10, 2013.**

Disclaimer: The City Clerk's Office has the official version of the Palos Verdes Estates Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

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