

AN ORDINANCE GOVERNING RIGHTS OF WAY IN ALPINE. BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF ALPINE THAT:

Section I: Severability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate distinct and independent provision and such holding shall not affect the validity of the remaining portions of the ordinance.

Section II: Effective Date.

The effective date of this ordinance shall be upon the third and final reading.

Section III: Obstacles and Encroachment – Agreement Required

It is unlawful for any person to construct, place or maintain any object, obstruction, improvement, private building, or building foundation improvements, including building projections and canopies and building mounted signs within the Streets and Rights of way of the Town of Alpine without having first executed with the Town of Alpine an encroachment agreement setting forth the terms and conditions under which such object, obstruction or improvement may remain in place.

Section IV: Limited Exceptions

Notwithstanding the above prohibitions in Section III, adjacent landowners may place low level-grade based improvements (no more than 3 inches above grade) within the right of way such as maintained grass or gravel (no more than one inch diameter). No other improvement shall be allowed in the right of way. Landowners will be solely responsible for the maintenance and upkeep of such improvements and such improvements may be required by the Town, to be removed by the landowner at their expense upon three weeks written notice. No such improvements may impede or otherwise interfere with vehicular traffic in the right of way. Vehicles may remain in the right of way for periods of up to 48 hours, but may not impede travel in the right of way. Subject to the provisions of Ordinance No. 167 - 2008-23 (Snow Removal).

Section V: Encroachment Permit/Agreement

Any person or entity seeking to encroach in any manner in the Town streets and rights of way shall first have to obtain an encroachment permit from the Town as herein provided.

No encroachment permit shall be issued unless a written application for the issuance of an encroachment permit is submitted to the Town. The written application shall state the name and address of the applicant, the nature, location and purpose of the encroachment, the date of commencement and the date of completion of the encroachment, and other data as may reasonably be required by the Town. The Town inspector may make any inspections necessary to ensure compliance with this ordinance.

Section VI: Fees

[Council needs to determine what if any fees are associated with this type of permit]

Section VII: Routing of Traffic – Safety Requirements

The permittee shall take appropriate measures to assure that during the performance of the encroachment work, traffic conditions shall be maintained as nearly normal as practicable at all times so as to cause as little inconvenience as possible to the occupants of the abutting property and to the general public. The Town of Alpine may make any reasonable requirements to ensure the protection of traffic flows, utilities and neighboring properties and general safety.

Section VIII: Restoration

The permittee shall repair any and all damage done to existing improvements as a result of the encroachment. Should the permittee fail to restore the existing improvements, the Town shall have the right to do all work and things necessary to restore the improvements and the Permittee shall be liable for the actual costs thereof. The Town shall have a cause of action for all fees, expenses and amounts paid out and due it for such work and shall have the right to the recovery of reasonable attorney fees for the bringing of such cause of action.

Section IX: Emergency Repairs

In the event of an emergency in which a sewer, main, conduit or utility in or under any street breaks, bursts or is in such condition as to immediately endanger the property, life, health or safety or any individual, the person owning or controlling such sewer, main conduit, or utility, without first applying for and obtaining an encroachment permit hereunder, shall immediately take proper emergency measures to cure or remedy the dangerous conditions owning for the protection of property, life, health and safety of individuals. However, such person shall apply for an encroachment permit not later than the end of the next succeeding business day and shall not proceed with any permanent repairs without first obtaining an encroachment permit hereunder.

Section X: Liability of Town

This ordinance shall not be construed as imposing upon the Town or any official or employee any liability or responsibility for damages to any person injured by the performance of any encroachment work for which an encroachment permit is issued hereunder; nor shall the Town or any official or employee be deemed to have assumed any such liability or responsibility by reason of inspections authorized hereunder, the issuance of any permit or the approval of any encroachment work.

Section XI: Penalty for Violations

Any person violating any of the provisions of this chapter is guilty of a misdemeanor and upon conviction thereof may face a fine for up to \$750 per offence. Each day such violation is committed or permitted to continue constitutes a separate offense and shall be punishable as such hereunder. In addition to such penalties set forth, the Town may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate, or remove any encroachment activities taking place in violation of this ordinance.

Section XII: This ordinance passed and approved on the following dates:

Passed on first reading this 18th day of August, 2009.

Vote: 5 yes 0 no 0 abstain 0 absent

Passed on second reading this 1st day of September, 2009.

Vote: 5 yes 0 no 0 abstain 0 absent

Passed on third reading this 15th day of September, 2009.

Vote: 4 yes 0 no 0 abstain 1 absent

ATTEST: 
BRENDA BENNETT, CLERK

 SIGNED: 
VICTORIA DECORA, MAYOR

ATTESTATION OF THE TOWN CLERK

STATE OF WYOMING)
COUNTY OF LINCOLN)
TOWN OF ALPINE)

I hereby certify that the forgoing 196 Ordinance No. 2009-52 shall be duly posted for ten (10) days in the Town Clerk's Office.

I further certify that the foregoing Ordinance will be published at least once in the Star Valley Independent as soon as is practicable.

I further certify that the forgoing Ordinance was duly recorded in the BOOK OF ORDINANCES IV, TOWN OF ALPINE, LINCOLN COUNTY, WYOMING.

ATTEST:


BRENDA BENNETT, CLERK

