

177.106 Definition -- Highway encroachment prohibited without permit -- Removal -- Civil fines imposed and collected -- Permissible use of fines.

- (1) As used in this section, "encroachment" means any improvement to land including but not limited to buildings, fences, ditches, embankments, driveways, or signs, or any change from the original contour of land, that:
 - (a) Is constructed, created, or implemented under, on, or over the right-of-way of a state-maintained road; and
 - (b) May hinder or prevent use or maintenance of a road or right-of-way.
- (2)
 - (a) A person shall not cause an encroachment or allow an encroachment to remain under, on, or over any part of the right-of-way of a state-maintained road unless that person has first obtained an encroachment permit from the Department of Highways.
 - (b) If the department determines that an encroachment, for which an encroachment permit has not been issued, interferes with the safe, convenient, and continuous use and maintenance of a road, the department shall issue to the responsible party a notice of violation and order to remove or relocate the encroachment within seven (7) days, at the responsible party's expense.
 - (c) If the department orders the removal or change in location of any encroachment from the right-of-way and the responsible party fails to remove it or change its location within the time allotted in paragraph (b) of this subsection, the department shall:
 1. Cause the removal of the encroachment; and
 2. Recoup the cost of removal from the responsible party. Moneys recouped under this paragraph shall be deposited in the road fund.
- (3) In addition to any payment required to cover the costs of removal pursuant to subsection (2)(c) of this section, any person who fails to obtain a permit as required by subsection (2)(a) of this section shall, upon issuance of a notice of violation under subsection (2)(b) of this section:
 - (a) Be subject to a civil fine of:
 1. Five hundred dollars (\$500) for the first violation;
 2. One thousand dollars (\$1,000) for the second violation within a three (3) year period; and
 3. Two thousand dollars (\$2,000) for a third or subsequent violation within a three (3) year period;
 - (b) After a third violation within a three (3) year period, be prohibited from receiving an encroachment permit from the department for a period of six (6) months, from the date of notice of the third violation; and
 - (c) Be responsible for payment, within twenty-four (24) hours of notice from the department, for any safety measures determined to be necessary by the department.
- (4) Any civil fines imposed pursuant to subsection (3)(a) of this section shall be:

- (a) Collected by the municipality in which the violation occurred; and
- (b) Used by that municipality for public safety or infrastructure purposes.

Effective: June 29, 2021

History: Amended 2021 Ky. Acts ch. 148, sec. 1, effective June 29, 2021. -- Created 1962 Ky. Acts ch. 202, sec. 2.