

CITY OF JAMESTOWN, NEW YORK
Encroachment Guidelines (C-3 Central Business District)
Permanent and Non-Permanent Encroachments

Intent

The intent of these guidelines is to create a safe and business friendly atmosphere throughout the central business district of the City of Jamestown, encouraging a vibrant and lively downtown area. Pedestrian activity and interest generated by sidewalk cafes and storefront displays will attract people to the central business district, encouraging them to patronize businesses throughout the downtown.

Location

These guidelines will apply in the C-3 Central Business District, as defined by the official Zoning Map of the City of Jamestown adopted on October 18, 1998. This area is presently considered the central business district of the city.

Allowed encroachments

Encroachments will be defined as ***non-permanent*** and ***permanent***.

1. **Non-Permanent Encroachments:** A non-permanent encroachment is an object that is not permanent in nature, not fixed or secured to the ground. The following are examples of non-permanent encroachments: tables; seating; signboards; planters; etc. (This list is not comprehensive) Although retractable awnings are attached to the buildings, for purposes of this Encroachment Application, retractable awnings will be considered non-permanent.
 - a. **Placement of Non-Permanent Encroachments:** A five-foot wide strip to be determined on a case-by-case basis at staff level must be maintained on the sidewalk at all times to allow for pedestrian traffic, and a two-foot strip against the curb shall be designated for vehicular traffic.
 - b. Any **non-permanent encroachment** is subject to the existing sign ordinance. If used for signage, it must be calculated in the total allowed signage area.
 - c. Any **non-permanent encroachment** that overhangs **any** part of the sidewalk area, a vertical space of seven-and-a-half feet from the existing sidewalk level to a point above must remain clear of any fixed or attached portions of the encroachment. This area shall be free of any overhanging objects so as not to create a hazard to any pedestrian.
2. **Permanent Encroachments:** A permanent encroachment is defined as an object that is permanently left in place, anchored to the ground or building. The following are examples of permanent encroachments: Stairs and stairwells, fire escapes, canopies or any object that projects into the right-of-way that is permanently attached or fixed in-place.
 - a. No **permanent encroachments** that project more than one foot into the right-of-way will be allowed on the front face of any structure.

Liability

All applicants with encroachments will provide liability insurance and hold harmless clause excluding the City of Jamestown from **any** liabilities regarding the encroachment(s). Liability insurance for \$300,000.00 will be required for non-permanent encroachments. Liability insurance for \$ 1,000,000.00 will be required for permanent encroachments.

Process

1. A formal Encroachment Application will be submitted to the Building/Zoning Code Enforcement Officer declaring that the ground floor business wishes to use a portion of the sidewalk area for business purposes.
2. The application must describe the intended use of the encroachment area and include a sketch of the proposed use showing the location of tables, chairs, planters, sales racks, overhanging sign, etc.
3. The application must also be accompanied by proof of liability insurance covering the intended use, holding the City of Jamestown harmless. Coverage must be renewed annually, with proof of insurance provided to the Department of Development office by January 1.
4. City staff, including the Director of Public Works, the Building/Zoning Code Enforcement Officer and the Principal Planner, will evaluate the intended use and its compliance with these guidelines.
5. The staff will approve/disapprove the request.
6. Appeals to staff decisions can be made to the City Public Safety Committee, if necessary.

The initial Encroachment Application applies to the business submitting the application. A new application must be made at a change of tenancy. A new application will be required if additional encroachments are to be added to the initial application.

Fees

An Encroachment Application fee of seventy-five dollars (\$75.00) per calendar year or any portion thereof payable to the City Treasurer will be assessed to process the application and grant a Certificate of Appropriateness allowing the request. A yearly renewal fee of fifty dollars (\$50.00) per parcel payable to the City Treasurer will be assessed to maintain records of liability insurance for all approved and recorded encroachments. Failure to renew by January 31st will require a new application.

Maintenance

All applicants will maintain encroachments in good condition or be subject to appearance proceedings and fines.

CITY OF JAMESTOWN, NEW YORK
Encroachment Guidelines
Permanent and Non-Permanent Encroachments

Chapter 245, SIGNS AND ENCROACHMENTS

ARTICLE I, Application and Permit

§ 245-1. Permit required; installation restrictions.

No person shall within the city construct, erect, install or maintain advertising signs, electrical or otherwise, awnings, canopies and marquees temporarily or permanently attached to the buildings which extend over the public sidewalks, public alleys, public highways or other public property, nor shall any person within the city construct, erect, install or maintain sidewalk elevators, hoistway openings, cellar openings, sidewalk vaults, areaways, gasoline pumps, gasoline storage tanks, fire escapes, building entrances, walls, fences, planters, barberpoles, lamps, grates, telephone poles, newspaper stands or steps temporarily or permanently in, on, over or under the public sidewalks, public alleys, public highways or other public properties of the city, without having obtained a permit to install, construct or maintain the same. No sign, awning, canopy or marquee or other suspended installation shall be erected over any public property, and no permit to install the same shall be issued, unless the description for installation and actual installation provide a clearance above the public sidewalk, public alley, public highway or other public property of at least seven and one-half (7½) feet.

§ 245-2. Application information.

- A. The owner of any such sign, awning, canopy or marquee and the owner or lessee of any such sidewalk elevators, hoistway openings, cellar openings, sidewalk vaults, areaways, gasoline pumps, gasoline storage tanks, fire escapes, building entrances, walls, fences, planters, barberpoles, lamps, grates, telephone poles, newspaper stands or steps in, on or under the public sidewalks, public alleys, public highways or other public properties of the city shall make and file an application with the Building/Zoning Code Enforcement Officer for a permit to maintain the same.
- B. Such application shall contain a description of such sign, opening or other installation referred to in § 245-1 of this chapter and the precise location upon which it is to be maintained.
- C. Where the application maintains more than one (1) of the installations, structures or openings authorized by this chapter, one (1) application only need be filed which shall describe all of the installations, structures or openings. A separate permit shall be issued to maintain each such installation, and the fee provided for in this chapter shall be paid for each permit.
- D. Each application shall provide as a condition to receiving a permit or any renewal thereof that the applicant agrees to maintain such installation in good condition and that the applicant agrees as additional consideration for receiving a permit to indemnify and hold the City of Jamestown and its agents, servants, officers and employees harmless from any and all damages, including but not limited to reasonable attorney's fees and disbursements which may result to the City of Jamestown or its agents, servants, officers and employees by third parties for property damage, personal injury and/or death which may result to such third parties by virtue of the installation for which a permit is being requested. Each application shall additionally provide as a condition to receiving a permit or any renewal thereof that the applicant agrees to assume sole responsibility for damages which may result to the installation for which a permit is being applied for by virtue of city work forces in the performance of normal and customary duties, including but not limited to snow removal operations and street and sidewalk maintenance.
- E. No application shall be accepted unless signed by the legal or equitable owner of any such installation or installations, which signature shall be acknowledged in the presence of a notary public.

§ 245-3. Action on application; term of permit; city records; notice for renewal.

- A. The Building/Zoning Code Enforcement Officer within ten (10) days after the filing of such application shall act thereon, and if he approves the same, he shall grant a permit.
- B. All permits granted shall expire on December 31 of each year.
- C. The Building/Zoning Code Enforcement Officer shall keep an accurate record of all applications made and permits issued, and on or before the first day of December in each year, beginning with the year following the granting of each permit, the Building/Zoning Code Enforcement Officer shall notify each person holding a permit to renew the same for the ensuing year beginning January 1.
- D. For purposes of this chapter, the permit referred to throughout this chapter shall be known as an "encroachment permit."

§ 245-4. Denial; appeals; removal of encroachments.

If the Building/Zoning Code Enforcement Officer denies the application, the applicant shall eliminate the encroachment for which a permit was applied within ten (10) days after such denial unless the applicant, within ten (10) days after the denial, appeals to the City Council; and in such case, if the City Council sustains the ruling of the Building Inspector, the encroachment for which the permit was applied shall be eliminated ten (10) days after a resolution by the City Council has been adopted sustaining the decision of the Building Inspector.

§ 245-5. Issuance of permit; fees.

- A. Upon approval by the Building Inspector of an application pursuant to this chapter, such application shall be filed with the City Clerk, who shall issue such permit.
- B. Every applicant, upon receiving a permit, shall pay the City Clerk a fee as provided in Chapter 175, Licenses and Permits, for issuing the same, and the amount as provided in Chapter 175, Licenses and Permits, shall be paid upon each renewal thereof.

CITY OF JAMESTOWN, NEW YORK
Application for Encroachment Permit

Property Address: _____

Zoning District: _____

Property Owner: _____

Address: _____

Phone: () - _____

Applicant: _____

Address: _____

Phone: () - _____

Type of Encroachment:

A) Permanent: ____

B) Non-Permanent: ____

Description of Encroachment proposed:

Liability

All applicants with encroachments will provide liability insurance and hold harmless clause excluding the City of Jamestown from any liabilities regarding the encroachment(s). Liability insurance for \$300,000.00 will be required for non-permanent encroachments. Liability insurance for \$1,000,000.00 will be required for permanent encroachments.

Fees

An Encroachment Application fee of seventy-five dollars (\$75.00) per calendar year or any portion thereof payable to the City Treasurer will be assessed to process the application and grant a Certificate of Appropriateness allowing the request. A yearly renewal fee of fifty dollars (\$50.00) per parcel payable to the City Treasurer will be assessed to maintain records of liability insurance for all approved and recorded encroachments. Failure to renew by January 31st will require a new application.

I hereby agree to comply with all City of Jamestown regulations regarding Encroachments. Failure to comply with these regulations will result in an appearance ticket being issued to appear in Jamestown City Court.

Signature: _____

Date: _____

CITY OF JAMESTOWN, NEW YORK
Application for Encroachment Permit

Please provide a sketch of the proposed encroachment(s) and provide all required sizes and dimensions.