

## Encroachments

In order to encourage the creation of character downtown, the City of Salem allows encroachments subject to the guidelines below. All encroachments require a permit from the Department of Community Development.

An annual encroachment permit fee of \$100 must be paid before the permit is issued and is renewed every year.

### Guidelines:

- (A) These guidelines for encroachments shall apply to the following streets:
  - 1. West Main Street – From Shanks Street to Broad Street
  - 2. East Main Street – From Broad Street to Craig Avenue
  - 3. College Avenue – From Clay to Boulevard
  - 4. Boulevard – From South Market to College
- (B) The following encroachments may be allowed, by permit, at the discretion of the administrator:
  - 1. Planters holding seasonal plantings – Not smaller than one cubic foot, and not larger than two cubic feet. To be placed on the sidewalk, adjacent to the entrance door or otherwise against the face of the building. Plantings shall be maintained and replaced by the owner or lessee.
  - 2. Decorative flags – No smaller than 2'X 3' and mounted such that the lowest point (flag or mount) is at least 10 feet above the sidewalk. The flag may contain advertising for the business without counting against signage limits.
  - 3. An outdoor merchandise display – A rack or shelf of merchandise no larger than 4' long, 4' high, and 2' deep. Extending no more than 2' out from the building. May be placed on the sidewalk.
  - 4. An outdoor menu board – An 'A' style menu board not taller than 4', and no wider than 3'. Content shall relate to the business and be changed regularly. It can be on sidewalk and does not count against signage limits.
  - 5. Window boxes – Attached below windows on any story and filled with seasonal plantings.

6. Awnings – Awnings over all windows or doors. May include the name of the business, does not count against signage limits.
7. Decorative light fixtures – Must be of a historic decorative character and must be lit at night. May extend over the sidewalk not more than 1' and must be placed 7' or higher. May illuminate signage.
8. Projecting Signs – Not more than 40 sq. ft. total, and not more than 4' from the face of the building. Materials may include carved wood, metal, and neon. Only external, neon, or halo illumination is allowed. External lighting must be decorative metal sconce type. Supports must be decorative metal. Must be engineered for wind loading.
9. Balconies – Iron, or other historic materials and design based on original character evidenced in photographs. Not extending more than 5 feet over the sidewalk.
10. Canopies – Must have decorative metal posts, may have signage on all sides, must have at least 8' of open space below the bottom and the sidewalk.
11. Marquee Sign – Allowed only for a theatre, club, similar venues, or when historical documentation shows that the building originally had one.
12. Murals – Historic murals advertising products, services, or business, no longer sold or operated at a specific location may be restored or displayed in its original condition when historical documentation shows that it existed. Small signage of less than 10% of the original area may be displayed recognizing the owner or restorer of the sign.
13. Sidewalk Dining – Outdoor dining may be allowed on the City's sidewalk via the sidewalk dining program.

(C) Regulations for Sidewalk Dining Areas

1. Usable Space and Allowable Hours of Use

The dining area shall not reduce the sidewalk area for pedestrians to less than the ADA required 5 feet (60 inches), excluding curb width, between any obstruction (such as trees, light fixtures, trash receptacles, traffic control devices, benches, or street signs) and the outer edge of the sidewalk dining area. Permittee shall frequently monitor the approved area to ensure proper sidewalk clearance is maintained. One or more violations of sidewalk

clearance requirements that reduce sidewalk clearance, excluding curb width, to less than 5 feet between obstructions may result in revocation of the permit. Any sidewalk dining area must include the area that is contiguous to the Permittee's business location. If a Permittee wishes to use space that is in front of an adjoining property owner, the Permittee must obtain consent from the adjoining property owner.

In no case shall the Permittee be allowed to use the sidewalk space for sidewalk dining without a valid permit. Upon expiration of the permit, Permittee is responsible for immediate removal of all objects.

The City reserves the right to use all bump-out space. Proper notice shall be given to the applicant, by the City, prior to any event.

2. General Design - The design and style of all furniture, planters, barriers and other objects placed in the right of way shall be architecturally compatible with all buildings adjoining the sidewalk dining area and with other buildings on the street block face. All items shall be similar colors, materials, and design style whenever possible. Do not purchase any items prior to receiving a permit from the Community Development Office. The City shall approve the style, design, materials and color of all chains, barriers, tables, chairs, planters and trash containers placed on the sidewalk or the street.
  - a. Fences, chains, and barriers should be sturdy wrought iron, metal or wood, and must meet all International Building and Fire Code sections (widths and the swing of any gate). If the Permittee intends to serve alcohol in the outdoor area, the design of the barrier should also comply with the Virginia Department of Alcoholic Beverage Control's (ABC) regulations. You should contact ABC for more information: 540-562-3604.
  - b. Tables and chairs should be made of sturdy wrought iron, metal or wood, or any combination thereof.
  - c. Two one square foot planters are required and shall be maintained by the applicant. Planters should be compatible in terms of design, scale, materials and color with other elements of the sidewalk dining area. They also should be easily removed during periods of non-use. City planters located within the City's bump-outs shall be watered by the applicant utilizing the space.
  - d. Serving Station – any serving station should be compatible in terms of design, materials and color with other elements of the outdoor restaurant and should be located within the dining area. The station also should be easily removed during periods of non-use.
  - e. Umbrellas. The umbrellas must have a minimum of a seven-foot sidewalk clearance and must remain within the leased area, including overhead spread. The size of the umbrellas also must comply with the

regulations of the Board of Health for outdoor food preparation. For more information, please contact the Board of Health at 540-387-5530.

- f. If new objects are purchased that were not described in the original application, then the Permittee must submit the description of the new objects for approval.
  - g. Any of the items listed above may contain advertising as approved through this permit process. This advertising will not count towards the total allowable signage as allowed by Chapter 66 of The Code of the City of Salem.
- 3. Rules and Regulations. The Permittee must comply with all applicable rules, regulations, ordinances, laws or statutes, including the Americans with Disabilities Act and those regulations promulgated or enforced by the Virginia Alcoholic Beverage Control Board and the Board of Health. Sidewalk dining permits shall be revocable with or without cause of the discretion of the City Manager or the City Manager's designee.
- 4. Repairs. The City maintains the right to enter the sidewalk dining area at any time to inspect the area, ascertaining compliance with conditions of the permit or making any repairs to the sidewalks or streets. The Permittee shall keep and maintain the sidewalk dining area in good and complete state of repair and condition, except for ordinary wear and tear.
- 5. Environmental Matters
  - a. The Permittee agrees that it will not introduce onto the sidewalk dining area any toxic, hazardous or dangerous materials unless such material is stored, safeguarded, or used in accordance with applicable laws and regulations. If use of such materials becomes necessary, at no time shall any toxic, hazardous or dangerous materials be left unattended, nor be allowed to leave the area of use by spillage, leaks, drips, over-application or other means.
  - b. The Permittee shall frequently monitor the area for garbage, trash, refuse and other waste materials. The Permittee shall maintain the sidewalk dining area in a clean and usable state and must protect the right of way from damage. Any food, drink or other items spilled on right of way must be properly cleaned and removed for the safety of pedestrians and for environmental concerns. It is not permissible to sweep, rinse or otherwise move any such waste materials to the street, gutter or any portion of the municipal storm sewer system. Tables, chairs and other objects shall not be stacked or stored outdoors on the public right of way.
  - c. The Permittee hereby agrees to use and occupy the sidewalk dining area in a safe and reasonable manner and in accordance with

- applicable laws.
- d. Additional lighting shall be pre-approved by City staff.
- e. Space heaters may be utilized by the applicant so long as the use and operation of any such heater is in compliance with all applicable building and fire codes and does not present a threat to the health, safety or welfare of the public.
- f. Musical entertainment shall be allowed within any sidewalk dining area. Permittee shall be subject to the city's noise regulations, Sec. 30-1, 30-2 and 30-3 of The Code of the City of Salem. Should amplification be requested, please contact the Salem Police Department at (540) 375-3078 for permit application instructions.

(D) Required Documents:

1. Insurance – This permit shall be conditioned upon the permittee's maintaining general commercial liability insurance.
2. Board of Health approval (sidewalk dining only)
3. Virginia Department of Alcoholic Beverage Control Authority approval (sidewalk dining only)
4. Please submit a drawing showing the dimensions of the dining area, exit paths and the layout of all objects (trees, poles, fire department connections, etc.) within the dining area.
5. Please describe in detail and attach photos or drawings of objects which will be placed on the sidewalk or street, including chains, barriers, tables, chairs, planters, and trash containers. Must depict compliance with ADA standards.