

## CHAPTER 32

# ENCROACHMENTS INTO THE PUBLIC RIGHT-OF-WAY

### SECTION BC 3201 GENERAL

**3201.1 Scope.** The provisions of this chapter shall govern the encroachment of structures into the public right-of-way.

**3201.1.1 Encroachments removable.** All encroachments permitted beyond the street line by the provisions of this chapter shall be constructed so that they may be removed at any time without endangering the structural safety or fire safety of the building except that footings as permitted under Section 3202.1.1 of this code need not be removable.

**3201.2 Measurement.** The projection of any structure or appendage shall be the distance measured horizontally from the lot line to the outermost point of the projection.

**3201.3 Other laws.** The provisions of this chapter shall not be construed to permit the violation of other laws regulating the use and occupancy of public property.

**3201.3.1 Restrictions on construction and projections on certain streets, parkways, boardwalks and beaches.** Notwithstanding the provisions of this chapter, it shall be unlawful to build, erect, or make areaways, steps or other encroachments or projections prohibited by Sections 19-131, 19-132, 19-135, 18-109, 18-112 and 18-113 of the *Administrative Code*.

**3201.4 Drainage.** Drainage water collected from a roof, awning, canopy or marquee, other than canvas and flexible material, and condensate from mechanical equipment shall not flow over a public walking surface.

**3201.5 Permission revocable.** Any permission, expressed or implied, permitting the construction of encroachments within the area of the street under the provisions of this chapter shall be revocable, except footings as permitted under Section 3202.1.1.

**3201.6 Existing projections.** Any part of a building that projects beyond a street line on January 1, 1938, may be maintained as constructed until its removal is directed in accordance with applicable law.

**3201.7 Alteration of existing encroachments.** Alterations to existing encroachments beyond the street line may be permitted in whole or in part, provided that such alterations conform with the requirements of this chapter.

**3201.8 Definitions.** As used in this chapter, the following terms shall have the following meanings:

**CURB LINE.** The line coincident with the face of the street curb adjacent to the roadway.

**FOOTING.** A foundation element consisting of an enlargement of a foundation pier or foundation wall, wherein the soil materials along the side of and underlying the element may be visually inspected prior to and during its construction.

**PROJECTING SIGN.** A sign other than a wall sign, which projects from and is supported by a wall of a building or structure.

**SIGN.** Any letter, figure, character, mark, plane, point, marquee sign, design, poster, pictorial, picture, stroke, stripe, line, trademark, reading matter or illuminated service, which shall be constructed, placed, attached, painted, erected, fastened or manufactured in any manner whatsoever, so that the same shall be used for the attraction of the public to any place, subject, person, firm, corporation, public performance, article, machine or merchandise, whatsoever, which is displayed in any manner outdoors. Every sign shall be classified and conform to the requirements of that classification as set forth in this chapter.

**STREET.** A thoroughfare dedicated or devoted to public use by legal mapping or other lawful means, or a public way.

**STREET LINE.** A lot line separating a street from other land.

**VAULT.** Any space below the surface of the a street, that is covered over, except those openings that are used exclusively as places for descending, by means of steps, to the cellar or basement of any building.

### SECTION BC 3202 ENCROACHMENTS

**3202.1 Encroachments below grade.** Encroachments below grade shall comply with Sections 3202.1.1 through 3202.1.4.

**3202.1.1 Footings.** Exterior wall and column footings may be constructed to project beyond the street line not more than 12 inches (305 mm), provided that the top of the footing is not less than 8 feet (2438 mm) below the ground or sidewalk level. Foundation walls required to support permitted projections may be constructed to project not more than the permitted projection beyond the street line.

**3202.1.2 Vaults.** Vaults may be permitted in accordance with the New York City Charter and Chapter 19 of the *Administrative Code*. Such vaults shall comply with the provisions of this code and other applicable laws and rules.

**3202.1.3 Areaways.** Areaways, subject to approval by the Commissioner of the Department of Transportation, shall be protected by grates, guards or other approved means.

**3202.1.4 Tunnels between buildings.** Tunnels connecting buildings and projecting beyond street lines may be constructed subject to the approval of the Commissioner of the Department of Transportation. Such tunnels shall comply with the provisions of this code and other applicable laws and regulations.

**3202.2 Encroachments above grade.** Encroachments into the public right-of-way above grade shall be prohibited except as provided for in Sections 3202.2.1 through 3202.2.3.

**3202.2.1 Encroachments subject to the area limitations.**

Encroachments that are subject to area limitations are those elements listed in Sections 3202.2.1.1 through 3202.2.1.8, generally of an architectural character, that form an integral part of the building facade. The aggregate area of all such elements constructed to extend beyond the street line shall not exceed 10 square feet (0.93 m<sup>2</sup>) within any 100 square feet (9.1 m<sup>2</sup>) of wall area, except that a veneer may be applied to the entire facade of a building erected before December 6, 1968, if such veneer does not project more than 4 inches (102 mm) beyond the street line. The area of any such projection shall be measured at that vertical plane, parallel to the wall, in which the area of the projection is greatest. This plane of measurement may be at the street line, the line of maximum projection or any point in between.

**3202.2.1.1 Entrance details.** Entrance details, including steps and doors when fully open, may be constructed to project beyond the street line not more than 18 inches (457 mm). Entrance steps that project beyond the street line shall be guarded at each end by railings or check pieces at least 3 feet (914 mm) high or by other members of the entrance detail providing equivalent protection.

**3202.2.1.2 Architectural details.** Details such as cornices, eaves, bases, sills, headers, band course, opening frames, sun control devices, rustications, applied ornament or sculpture, grilles, windows when fully open, air conditioning units, and other similar elements may be constructed:

1. To project not more than 4 inches (102 mm) beyond the street line when less than 10 feet (3048 mm) above the ground or sidewalk level.
2. To project not more than 10 inches (254 mm) beyond the street line when more than 10 feet (3048 mm) above the ground or sidewalk level.

**Exception:** Architectural details that are more than 10 feet (3048 mm) above the sidewalk and that project more than 10 inches (254 mm) may be permitted subject to the approval of the Commissioner of the Department of Transportation.

**3202.2.1.3 Balconies.** Balconies, including railings and supporting brackets, no parts of which are less than 10 feet (3048 mm) above the ground or sidewalk level, may be constructed to project not more than 22 inches (559 mm) beyond the street line. When permitted by the provisions of this code, fire escapes that are part of a required exit may be constructed to project not more than 4 feet 6 inches (1372 mm) beyond the street line provided no part, including any movable ladder or stair, is lower than 10 feet (3048 mm) above the ground or sidewalk level when not in use.

**3202.2.1.4 Marquees.** Marquees may be constructed to project beyond the street line provided that they comply with Section 3106 and Sections 3202.2.1.4.1 through 3202.2.1.4.5.

**3202.2.1.4.1 Height.** Marquees shall receive structural support only from the building and shall be at least 10 feet (3048 mm) above the ground level or sidewalk.

**3202.2.1.4.2 Projection.** Marquees shall project no closer to the curb line than 2 feet (610 mm).

**3202.2.1.4.3 Thickness.** Marquees shall be no thicker nor shall the fascia be higher than 3 feet (914 mm) when measured from top to bottom.

**3202.2.1.4.4 Dimensions.** Dimensions shall include all decoration but shall exclude any tension supports suspending the marquee from the wall.

**3202.2.1.4.5 Occupancy restrictions.** Marquees may be erected on:

1. Buildings of an essentially public nature, including but not limited to the following:
  - 1.1. Public buildings.
  - 1.2. Theatres.
  - 1.3. Hotels.
  - 1.4. Terminals.
  - 1.5. Large department stores.
  - 1.6. Supermarkets.
  - 1.7. Multiple dwellings.
2. Warehouses or markets in one of the following established market areas:
  - 2.1. Bronx.
    - 2.1.1. Edgewater Road and Halleck Street between Lafayette Avenue and East Bay Avenue.
    - 2.1.2. Lafayette Avenue between Edgewater Road and the Bronx River.
    - 2.1.3. East Bay Avenue between Halleck Street and the Bronx River.
    - 2.1.4. Hunt's Point Avenue between East Bay Avenue and the Bronx River.
    - 2.1.5. Exterior Street between East 149th Street and East 157th Street.
    - 2.1.6. Cromwell Avenue between East 150th Street and East 153rd Street.
    - 2.1.7. East 150th Street between Exterior Street and River Avenue.
    - 2.1.8. Westchester Avenue between St. Ann's Avenue and Bergen Avenue.

- 2.1.9. Brook Avenue between East 150th Street and East 156th Street.
- 2.1.10. Bergen Avenue between East 149th Street and East 156th Street.
- 2.1.11. East 152nd Street between Bergen Avenue and Brook Avenue.
- 2.1.12. East 153rd Street between Bergen Avenue and Brook Avenue.
- 2.2. Brooklyn.
  - 2.2.1. North 6th Street between Berry Street and Wythe Avenue.
- 2.3. Manhattan.
  - 2.3.1. John Street to Fulton Street between South Street and Front Street.
  - 2.3.2. Fulton Street to Dover Street between South Street and Water Street.
  - 2.3.3. South Street and Front Street between John Street and Dover Street.
  - 2.3.4. Water Street between Fulton Street and Dover Street.
  - 2.3.5. Horatio Street to West 14th Street between West Street and 9th Avenue.
  - 2.3.6. West Street, Washington Street, Greenwich Street
  - 2.3.7. 9th Avenue and 10th Avenue between Horatio Street and West 14th Street.
  - 2.3.8. West 16th Street, north side, and West 17th Street, south side, between 10th Avenue and 11th Avenue.
  - 2.3.9. West 24th Street to West 26th Street, south side, between 11th Avenue and 12th Avenue.
  - 2.3.10. West 27th Street, north side, to West 28th Street between 11th Avenue and 12th Avenue.
  - 2.3.11. 12th Avenue and St. Claire Place between 125th Street and 132nd Street.
  - 2.3.12. 12th Avenue, west side, between 132nd Street and 133rd Street.

## 2.4. Queens.

- 2.4.1. 95th Avenue, north side, between Sutphin Boulevard and 148th Street.

**3202.2.1.4.6 Change of occupancy.** When the occupancy or use of a building with a marquee is changed to an occupancy or use for which a projecting marquee is not permitted, the marquee shall be removed.

**Exception:** Where such marquee is subject to the jurisdiction of the Landmarks Preservation Commission such marquee shall not be removed without the prior approval of the Landmarks Preservation Commission.

**3202.2.1.4.7 Other agency approvals.** An applicant wishing to erect a marquee shall provide proof that the Commissioners of the Departments of Transportation, Consumer Affairs, and Environmental Protection have not permitted the use of a space or structure on or under the sidewalk beneath the proposed marquee in such a manner that the construction of the proposed marquee shall interfere with the removal or repair of any such permitted use or structure.

**3202.2.1.5 Light fixtures.** Light fixtures that are supported entirely from the building may be constructed to project not more than 2 feet (610 mm) beyond the street line, provided no part of the fixture is less than 8 feet (2438 mm) above the ground or sidewalk level.

**3202.2.1.6 Flagpoles.** Flagpoles that are supported entirely from the building may be constructed to project not more than 18 feet (5486 mm) beyond the street line, but not closer than 2 feet (610 mm) to the curb line, provided that no part of the flagpole is less than 15 feet (4572 mm) above the ground or sidewalk level.

**3202.2.1.7 Wall signs.** Wall signs may be constructed to project not more than 12 inches (305 mm) beyond the street line when conforming to the requirements of this code and Section H111 of Appendix H.

**3202.2.1.8 Projecting signs.** All permitted projecting signs may be constructed to project not more than 10 feet (3048 mm) beyond the street line, but not closer to the curb line than 2 feet (610 mm), when conforming to the requirements of this code and Section H112 of Appendix H, and provided that no part of the sign is less than 10 feet (3048 mm) above the ground or sidewalk level.

**Exceptions:** Permanent projecting signs are prohibited on buildings in the areas indicated below:

1. Borough of Manhattan.
  - 1.1. Projecting signs. No permanent projecting sign shall be erected on any building on:
    - 1.1.1. 5th Avenue between Washington Square north and 110th Street;
    - 1.1.2. 34th Street between Park Avenue and 7th Avenue;

- 1.1.3. Madison Avenue between 23rd Street and 96th Street;
- 1.1.4. 57th Street between Lexington Avenue and Broadway;
- 1.1.5. Vanderbilt Avenue between 42nd Street and 47th Street;
- 1.1.6. Park Avenue between 32nd Street and 40th Street;
- 1.1.7. Park Avenue between 45th Street and 96th Street;
- 1.1.8. 33rd Street between Lexington Avenue and 5th Avenue;
- 1.1.9. 35th through 41st Streets between Lexington Avenue and 5th Avenue;
- 1.1.10. 43rd through 56th Streets between Lexington Avenue and 5th Avenue;
- 1.1.11. 58th Street between Lexington Avenue and 5th Avenue;
- 1.1.12. 60th Street between Lexington Avenue and 5th Avenue;
- 1.1.13. Nassau Street between Wall Street and Frankfort Street; or
- 1.1.14. John Street between Broadway and William Street.
- 1.2. Illuminated projecting signs. No permanent illuminated projecting sign shall be erected on any building on:
  - 2.1. Projecting signs. No permanent projecting sign shall be erected on any building on:
    - 2.1.1. 72nd Street between Central Park West and River Drive.
- 2. Borough of Brooklyn.
  - 2.1. Projecting signs. No permanent projecting sign shall be erected on any building on:
    - 2.1.1. Fulton Street between Flatbush Avenue and Joralemon Street and Wiloughby Street.
  - 2.2. Illuminated projecting signs. No permanent illuminated projecting sign shall be erected on any building on:
    - 2.2.1. Fulton Street between Flatbush Avenue and Prospect Street and Henry Street;
    - 2.2.2. Washington Street between Myrtle Avenue and Prospect Street;

- 2.2.3. Court Street between Fulton Street and Livingston Street;
- 2.2.4. Pierrepont Street between Fulton Street and Clinton Street;
- 2.2.5. Montague Street between Court Street and Clinton Street;
- 2.2.6. Remsen Street between Court Street and Clinton Street; or
- 2.2.7. Joralemon Street between Court Street and Clinton Street.

### 3202.2.2 Encroachments not subject to area limitations.

**3202.2.2.1 Ramps.** When a building erected prior to December 6, 1969, is altered to provide access to individuals who use wheelchairs, ramps constructed to provide such access may, with the approval of the commissioner, project beyond the street line for a distance of not more than 44 inches (1118 mm). Ramps shall comply with the applicable provisions of Chapter 11.

**3202.2.2.2 Bridges between buildings.** Bridges connecting buildings and projecting beyond street lines may be permitted in accordance with applicable law. Such bridges shall be of a construction class that is at least equal to the higher class of the two buildings connected and shall otherwise comply with the provisions of this code and other applicable laws and rules.

**3202.2.3 Awnings.** Awnings constructed in accordance with Section 3105 and supported entirely from the building may project beyond the street line as follows:

**3202.2.3.1 Store front awnings.** Store front awnings may project beyond the street line not more than 8 feet (2438 mm), provided no part of the awning is less than 8 feet (2438 mm) above the ground or sidewalk level, except for a flexible valance which may be not less than 7 feet (2134 mm) above the ground or sidewalk level, and provided that the awning box or cover does not project more than 12 inches (305 mm).

**3202.2.3.2 Awnings over windows or doors.** Awnings over windows or doors may project beyond the street line not more than 5 feet (1524 mm), provided that no part of the awning is less than 8 feet (2438 mm) above the ground or sidewalk level.

### 3202.3 Reserved.

**3202.4 Temporary encroachments.** Encroachments of temporary nature shall comply with Sections 3202.4.1 and 3202.4.2.

**3202.4.1 Sidewalk cafés.** Enclosures for sidewalk cafés, where permitted by the Commissioner of the Department of Consumer Affairs pursuant to applicable law and constructed in compliance with Section 3110, may be constructed beyond the street line.

**3202.4.2 Storm enclosures.** Storm enclosures projecting not more than 18 inches (457 mm) beyond the street line may be permitted during the period between November 15 and the following April 15. Such enclosures shall be removed at the end of this period. Construction of storm enclosures must comply with the requirements of this code including the fire-resistance rating of the building to which it is appurtenant and Chapter 11 of this code.

