

Amend Title 10

Add Chapter 9. Encroachments



- To establish an administrative process for issuing encroachment licenses and to allow downtown outdoor dining licenses in the B-1 district.
- To authorize Community Development to review, issue, and enforce encroachment licenses.
- To provide that encroachment licenses are revocable by the Director of Community Development and/or City Council.



**ORDINANCE ENACTING TITLE 10 – PLANNING AND
DEVELOPMENT, CHAPTER 9. – ENCROACHMENTS OF
THE CODE OF ORDINANCES CITY OF HARRISONBURG,
VIRGINIA**

Be it ordained by the Council of the City of Harrisonburg, Virginia:

Enact new Chapter 9. Encroachments as shown below.

Chapter 9. Encroachments.

Section 10-9-1.- Encroachments on public property in B-1.

- (a) In accordance with Section 15.2-2010 of the Code of Virginia, 1950, as amended, the City of Harrisonburg may issue licenses authorizing encroachments in, upon, or over public property and public rights-of-way within the B-1 Central Business District.
- (b) The Director of Community Development or designee (the "Director") is authorized to review, issue, and enforce the provisions of this chapter. The Director may establish administrative procedures, forms, and guidelines to implement this chapter.
- (c) Each authorization issued under this chapter shall constitute a revocable license, shall confer no property right or interest, and may be revoked by the Director at any time for noncompliance with this section or at the discretion of City Council.
- (d) Licenses for the following encroachments may be authorized within the B-1 Central Business District pursuant to this section:
 - (1) Permanent structures or facilities appurtenant to a building, including but not limited to signs, marquees, awnings, canopies, fire escapes, and wall-mounted fixtures such as ATMs or kiosks;
 - (2) Non-permanent fixtures, such as planters, portable furnishings, and similar movable furnishings; and
 - (3) Outdoor dining facilities, including tables, chairs, railings, umbrellas, and similar movable furnishings.
- (e) Applicants for a license ("licensee") authorized by this section shall submit a completed application on a form established by the Director, accompanied by:
 - (1) A plan or drawing showing the proposed encroachment, including dimensions, clearances from curbs and pedestrian facilities, and relation to buildings, utilities, and property lines;
 - (2) A description of materials, installation method, and duration, if non-permanent;
 - (3) Any additional information the Director determines is reasonably necessary to ensure compliance with applicable safety and accessibility standards; and
 - (4) An application fee of one hundred dollars (\$100.00).
- (f) Each license issued under this section shall be subject to the following conditions:
 - (1) The encroachment shall be located on public property or city right-of-way immediately adjacent to the lawfully existing establishment;
 - (2) The licensee shall fully comply with all plans submitted and approved by the Director in issuing the license;
 - (3) The licensee shall comply with any applicable federal, state, and local laws and regulations;

- (4) The licensee shall agree to repair any damage caused to the sidewalk, pedestrian right-of-way, shared-use path, public utility, or public property in connection with the construction, installation, and maintenance of the encroachment at the expense of the licensee;
- (5) The license cannot be transferred, assigned, or assumed by any other person, firm, limited liability or corporation;
- (6) The licensee shall indemnify and hold harmless the City, its officers, agents, and employees from any and all claims, legal actions, and judgments arising out of or related to the encroachment, and shall at all times maintain liability insurance as required by the City's Purchasing Agent;
- (7) The licensee shall acknowledge that the license is made pursuant to 15.2-2010 of the Code of Virginia, as amended, and that (i) the Director may revoke the license for failure to comply with the requirements of this chapter or the terms of the license and (ii) City Council retains the authority to discontinue any individual license or all licenses issued under this chapter at any time, regardless of compliance;
- (8) The licensee shall acknowledge that the City reserves the right to remove, relocate, or require the removal of the encroachment at any time and without prior notice in the event of an emergency or for the purpose of maintaining, repairing, or installing public utilities or infrastructure. The City shall not be liable for any costs or damages resulting from such removal; and,
- (9) Any terms and conditions reasonably related to public safety, accessibility, or the protection of property, as determined by the Director.

This ordinance shall be effective from the __ day of ___, 2026. Adopted and approved this day of ___, 2026.

MAYOR

ATTESTE:

CITY CLERK

Summary Highlights of Proposed Regulations

- Authorization within B-1 to allow, but not limited to, the following:
 - Installation of Signs, fire escapes, ATMs, kiosks, planters, tables, chairs, umbrellas, etc.
- Application requirements:
 - Plans and drawings (dimensions, locations of utilities and property lines, etc.).
 - Description of the materials and planned installation method.
 - Any additional information reasonably necessary to ensure safety and accessibility standards.
 - Application fee of \$100.
- Each license is subject to the following:
 - Use and items shall be located on public property or ROW adjacent to the establishment and must comply with the submitted plans and other laws.
 - Licensee must repair damages to public property and ROW.
 - Licensee must indemnify and hold harmless the City.
 - Non-transferrable license.
 - The Director of CD and/or City Council may revoke the license for noncompliance.
 - The City may remove or relocate items during an emergency or for maintaining or repairing infrastructure.

Recommendation

Staff recommends approving the creation of the proposed ordinance.