

REVOCABLE CONSENT

Encroachments into the Public Right-of-Way



Photo: Samantha Modell

REVOCABLE CONSENT

Applications

Revocable Consent, by New York City Charter, Chapter 14 §362(d), shall mean a grant of a right, revocable at will, for allowable private use or improvements on, over and under New York City's Streets and Sidewalks.

The NYC Charter, Chapter 14 §364

- a. A revocable consent shall not be granted for a use that would interfere with the use of inalienable property of the city for public purposes, nor shall a revocable consent be granted for a purpose for which a franchise may be granted.
- b. All revocable consents shall be revocable at any time by the responsible agency, shall be granted for a fixed term, and shall provide for adequate compensation to be annually provided to the city during the continuance of the consent.
- c. Revocable consents, other than for telecommunications purposes, may be granted by the Department of Transportation with respect to property under its jurisdiction or by such other agency as may be authorized by law to grant revocable consents. Revocable consents for telecommunications purposes may be granted by the Department of Information Technology and Telecommunications (DOITT). All revocable consents shall require the approval of the Department of Transportation.
- d. Every petition for the grant of a revocable consent shall be filed with the Department of Transportation. Each petition shall state the location of the proposed revocable consent and shall be in such form and contain such other information as the Department of Transportation and Other Responsible Agencies, if any, shall require by rule. Petitions for each type of revocable consent shall be distributed to and reviewed by the agencies required to do so by local law or executive order of the mayor. If, in the judgment of the Department of City Planning, a proposed revocable consent has land use impacts or implications, the petition for the proposed revocable consent shall be subject to review and approval pursuant to Section 197-c and Section 197-d (ULURP-Uniform Land Use Review Procedure) of the *Administrative Code*.

REVOCABLE CONSENT

Applications

- e. Notwithstanding any provision of this charter or the administrative code, revocable consents to construct and operate Sidewalk Cafes shall be reviewed pursuant to subchapter six of chapter two of title twenty (Consumer Affairs) of the *Administrative Code*.

New York City Building Code

Building code chapter 32 sets forth standards and specification for encroachments into the public right-of-way for new construction, and is also applicable to work on existing buildings pursuant to AC §28-101.4.3, Item 6. Any encroachment into the public right-of-way that exceeds the limitation provided for in BC 32 shall require the approval of the Department of Transportation (BC [3201.9](#)).

Department of Transportation (DOT) Revocable Consent rules

No permanent installation that is designed primarily for private use of the abutting property owner is allowed within New York City's right-of-way (roadway or sidewalks) except as authorized through DOT's Revocable Consent process. This process may take approximately six months and will be required prior to obtaining a DOB permit.

Office of the Mayor

Maintenance of sidewalk corner quadrant clearance of ten feet of either side of the corner is required. No revocable consent or other similar approval, or contract, within the jurisdiction of such agency shall be granted or renewed that would authorize placement of any structure or object in the corner and the corner quadrant pursuant to Executive Order No.22 Section 4 paragraph (a).

This publication is an overview of the requirements for this type of work. There may be additional, applicable Zoning Resolution, Construction Code or other Laws and Regulations.

REVOCABLE CONSENT

Applications

FIRST STEPS

- Identify any proposed encroachments that exceeded the limitations set forth in Building Code Chapter 32 that require revocable consent.
- Identify any proposed encroachments that require revocable consent per DOT Rules Related to Revocable Consent Title 34 RCNY Chapter 7.
- Finished floor elevations at entrances and sidewalks serving such entrances shall be indicated on the site plan and corresponding construction documents. Any encroachment not identified on the construction documents prior to approval but filed later as a Post Approval Amendment at the DOB may be rejected by DOT's revocable consent process, and such encroachment(s) may have to be incorporated within the building's footprint.
- PW1 – job description to include encroachment(s) that require revocable consent.
- Lot diagram (*dimensions of lot, building, yards, distance to corner street inter-section, street names, zoning use group, building occupancy group, construction classification, number of stories, buildings on adjacent lots, distance to nearest fire hydrant, width of sidewalk, curb cut application numbers*).
- Contact DOT's Office of Franchises, Concessions and Consents at 212-839-6550 to begin the revocable consent process. Visit <http://www.nyc.gov/html/dot/html/infrastructure/revconif.shtml> for more information on the Revocable Consent process.

ADMINISTRATIVE

DOB Forms

- [PW1](#) State revocable consent in Section 9D Other.

Technical Documents

- Initial property survey
- Site plan and construction documents to include finished floor elevations at entrances and sidewalks serving such entrances.
- Standard Builders Pavement Plan/detailed site plan required for every BPP filing
- Flood Emergency Plan where removable flood shields and/or temporary stairs and

REVOCABLE CONSENT

Applications

ramps are used as part of a flood mitigation system (ASCE 24 Section 6.2.3 as modified by BC Appendix G, G501).

Related Applications

- Petition to DOT for Revocable Consent for encroachment(s). Revocable Consent must be obtained prior to permit issuance by DOB.
- Builders Pavement Plan
- Curb cut application number if new curb cut is proposed

BUILDING CODE CHAPTER 32

- Encroachments removable – BC [3201.1.1](#)
- Measurement – BC [3201.2](#)
- Other laws – BC [3201.3](#)
- Restrictions on construction and projections on certain streets, parkways, boardwalks and beaches – BC [3201.3.1](#)
- Drainage – BC [3201.4](#)
- Permission revocable – BC [3201.5](#)
- Existing projections – BC [3201.6](#)
- Alteration of existing encroachments – BC [3201.7](#)
- Definitions – BC [3201.8](#)

Encroachments below grade that require revocable consent by DOT – BC [3202.1](#)

- Vaults (under sidewalks and/or streets) - BC [3202.1.2](#)
- Areaways shall be protected by means approved by DOT BC [3202.1.3](#)
- Tunnels connecting buildings and projecting beyond street lines- BC [3202.1.4](#)

Encroachments above grade – BC [3202.2](#)

- Encroachments subject to area limitations - BC [3202.2.1](#)
- Encroachments not subject to area limitations – BC [3202.2.2](#)

REVOCABLE CONSENT

Applications

Temporary encroachments not subject to area limitations – BC [3202.4](#)

- Temporary flood shields, stairs and ramps in areas of special flood hazard and shaded X-Zones – BC [3202.4.3](#)

DOT - RULES RELATED TO REVOCABLE CONSENTS

Section 7-04: Eligible Improvements (a):

- (1) Accessibility Lift to Provide Access for People with Disabilities
- (2) Bench
- (3) Bridge
- (4) Cable, above-ground
- (5) Cellar door, including stair
- (6) Clock
- (7) Conduit and underground cable
- (8) Electrical socket
- (9) Enclosure for trash receptacle, adjoining a building, for private use
- (10) Fenced or walled-in area, including the enclosing structure, not used for planting or parking, including a fenced or walled-in area containing a drainage basin or a shopping cart storage area.
- (11) Flagpole
- (12) Guard booth

REVOCABLE CONSENT

Applications

- (13) Information sign or kiosk
- (14) Litter receptacle for public use
- (15) Overhead Building Projection in excess of that allowed by the Building Code
- (16) Parking area for private use for non-residential property (if there is no charge to vehicle operator)
- (17) Pipe or fuel pipeline, above-ground
- (18) Planted area, including any surrounding fence or wall
- (19) Planters
- 20) Post, pole or bollard not otherwise governed by permit procedures contained in section 19-125 of the Administrative Code
- (21) Public service corporation facility ancillary to, but not within, a franchise granted prior to July 1, 1990
- (22) Railroad tracks for private use
- (23) Ramp intended to provide access for people with disabilities
- (24) Retaining Walls
- (25) Sidewalk plaque or logo
- (26) Socket with removable poles, posts, or similar devices, including any connecting devices such as ropes, ribbons, horizontal poles, and the area thereby enclosed
- (27) Stoop, step, ramp, vestibule or other entrance detail extending beyond limits set in Chapter 32 of the Building Code, other than a ramp described in section 7-04(a)(23) hereof or a stoop or other improvement described in section 7-04(a)(28) hereof

REVOCABLE CONSENT

Applications

- (28) Stoop or any other improvement eligible for a revocable consent pursuant to these rules and adjacent to a building which is located within a designated New York City historic district or which is a designated New York City Landmark.
- (29) Street lamp or light fixture
- (30) Tunnel
- (31) Vault extending beyond the curbline or underground improvement not otherwise governed by license procedures contained in section 19-117 of the Administrative Code
- (32) Any improvement listed in section 7-04 for which a consent is proposed to be granted where the grantee has filed an application concerning the subject property pursuant to section 4-105 of the Administrative Code, or any improvement listed in section 7-04 of these rules where the construction of such improvement was funded 50 percent or more by a City agency.
- (33) Any improvement listed in section 7-04 which has been approved for use for security purposes by the New York City Police Department.
- (34) Upon approval by the Public Design Commission, any work of art that is fully integrated into an improvement listed in section 7-04.
- (35) Portions of the street used in connection with loading docks, bays or other like facilities for loading and unloading of goods and materials of or for the use of foreign, domestic or multinational governmental entities, where, in the judgment of the New York City Police Department, the location of such facility is necessary due to security concerns applicable to such entity.
- (36) Bicycle Racks
- (37) Components of flood mitigation systems
 - (b) Other improvements approved by the Board of Estimate.
 - (c) Compliance with requirements.

REVOCABLE CONSENT

Applications

- Standards and fees are regulated also under Section 7-04
- Revocable consents for telecommunications purposes – Section 7-05
- Required clearances for above ground structures. – Section 7-06
- Application requirements – Section 7-07

OTHER AGENCY REQUIREMENTS AND APPROVALS

Sidewalk cafes provided beyond the building line shall comply with the requirements of building code, the NYC Zoning Resolution, the Commissioners of the Department of Consumer Affairs and Department of Transportation, and with the projection limitations of Building Code Chapter 32.

An applicant wishing to erect a marquee shall provide proof that the Commissioners of DOT, Consumer Affairs, and Environmental Protection have not permitted the use of a space of 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 – BC [3202.2.1.4.7](#)

- Department of Information Technology and Telecommunications (DoITT) regulates antennas on kiosks and bus stops
- Department of City Planning (DCP) regulates sidewalk cafes
- Department of Consumer Affairs (DCA) regulates sidewalk cafes
- Board of Standards and Appeals (BSA) regulates encroachment onto public right of way
- The Metropolitan Transit Authority (MTA) regulates sidewalk grates, subway entrances and bus stops.
- The NYC Department of Parks and Recreation (DPR) regulate sidewalk tree and plantings.
- Design Commission regulates encroachment onto public right of way
- Landmarks Preservation Commission regulates encroachment onto public right of way related to landmarked structures, historic districts, and scenic landmarks

REVOCABLE CONSENT

Applications

- Utility companies' involvement is required when utility poles must be relocated or removed.
- United States Postal Service's written consent may be required to relocate or remove a mailbox.

Department of City Planning (DCP) Determination Regarding Land Use Impacts Required Prior to Revocable Consent

- Bridge
- Guard Booth
- Information Sign/Kiosk
- Pedestrian Tunnel
- Overhead Pipe, Conduit, Cable
- Railroad Tracks (certain types exempted)