



# City of Palo Alto

Public Works Engineering

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[https://www.cityofpaloalto.org/gov/depts/pwd/forms\\_and\\_permits/default.asp](https://www.cityofpaloalto.org/gov/depts/pwd/forms_and_permits/default.asp)

## Encroachment Permits and Temporary Leases

### When are Encroachment Permits required?

An *Encroachment Permit* is required whenever private structures will be placed under, on, or over property in which the City has property rights, such as rights of way, utility easements, or owned property. These permits are required regardless of any other approvals, such as building permits or Planning Department entitlements.

Below is a list of the types of *Encroachment Permits*:

#### Non-Residential:

Type	Description
Standard	Awnings, sidewalk closures, pedestrian protection structures, structural or architectural features, etc.
Short-Term	Sidewalk/street/alley encroachments, unloading of materials, etc. lasting 5 days or less.
1-Day	Sidewalk or lane closure lasting 1 day or less.
Minor	Placement of dumpster or restaurant tables & chairs within downtown districts.

#### Residential:

Type	Description
Standard	Architectural, structural, decks, spas, etc. in a Public Utilities Easement (PUE) or City right-of-way (ROW).
Fence, Dumpster or Storage Container	Placement of a fence in a PUE or ROW, dumpster or storage container in ROW <sup>1</sup> .

<sup>1</sup> No insurance certificate is required.

For some operations in the City right-of-way, the issuance of a *Street Work Permit* may include permission for temporary Encroachment activities by the contractor, and a separate *Encroachment Permit* would not be required.

#### Encroachment Permit Fees

Fees are based on the current year's Municipal Fee Schedule. For the current Fiscal Year Adopted Municipal

Fee Schedule, please see

<https://cityofpaloalto.org/gov/depts/asd/budget.asp>.

### When are Temporary Leases required?

A *Temporary Lease* is required when the property is owned by the City fee-simple, such as parks or parking lots. This lease is required regardless of any other approvals, such as building permits or Planning Department entitlements.

A *Temporary Lease* is subject to fees determined by Real Estate, although most such fees are set to match encroachment permit fees.

### How long are these permits & leases good for?

*Encroachment Permits* and *Temporary Leases* are either temporary or indefinite. Debris boxes, tables on the sidewalk, and such are, by their nature, temporary. "Hot tubs" in utility easements and awnings on buildings are long-term. However, the City retains the right to require that the encroachment be removed upon thirty days notice. Failure to comply may result in the City removing the encroachment and placing a lien on the benefitted property for expenses.

### Who takes out the permit or lease?

Permits or leases are taken out in the name of the person or organization which will control the encroachment, normally the owner or tenant of the property benefiting from the encroachment. Permanent architectural structure encroachment permits must be issued to the property owner since the owner will be ultimately responsible for it when the tenant vacates. Certain "work-related" encroachments might be issued to a contractor or sub-contractor. For instance, permits for contractor's debris boxes or drill rigs would be issued to the contractor. It may take more than one permit to do a job. For instance, a contractor installing water monitoring wells might need a permit to use its drill rig on a City parking lot, while the contractor's client will need another permit for the long-term encroachment of the well.

The Palo Alto Municipal Code requires that permits for restaurant tables or florist's displays on the sidewalk have the property owner's written permission. This should be provided at application submission.

### What paperwork is required to apply?

Public Works will provide the applicant with an permit application form. Along with the filled-out form, the applicant should supply a reasonably accurate drawing showing the location and nature of the encroachment, along with any supporting documents that will make the application self-explanatory. If the encroachment will be on a sidewalk or in the street, a vehicular or pedestrian traffic

control plan meeting City requirements must be supplied. If the drawing is too large to be copied onto 11x17 copier paper, the applicant is required to submit eight copies.

Evidence of insurance coverage will be required. This insurance must be maintained for the life of the encroachment. Below is a brief description of the insurance requirements. A pamphlet titled "*Insurance Certificate Submission Requirements*" details in depth these requirements. This pamphlet is available from the Public Works-Engineering staff at the Development Center located at 285 Hamilton Avenue (it may be faxed to the applicant upon request).

### **What are the insurance requirements?**

A certificate of insurance must be issued to the City of Palo Alto, Public Works Engineering, as Certificate Holder, which:

1. Provides minimum liability coverage of \$1,000,000 each for personal injury and property damage. These minimums may be raised, based on evaluation by the City Risk Manager.
2. The explicit naming: The City of Palo Alto, its Officers, Officials, Employees, Agents and Volunteers are named as additional insured. This statement may be placed in a comments section on the face of the certificate or be on a standard insurance industry form for naming additional insured such as CG 20 12 11 85 (*Additional Insured - State or Political Subdivision - Permits*) or CG 20 13 11 85 (*Additional Insured - State or Political Subdivision - Permits Relating to Premises*), whichever is appropriate. The form must state the policy numbers to which it applies and have the wet signature of an authorized insurance agent.
3. The insured to be the same party as the applicant. If the application is made for a "d.b.a." name, that name must also appear on the certificate as an insured.
4. There must be a definite period of applicability. "Open" or "Continuous" are not acceptable expiration dates.
5. Relevant policy numbers must be shown on the face of the certificate and all attachments.
6. An endorsement and statement on the certificate specifying: "This insurance is primary coverage and that any city insurance is excess coverage only".
7. The provision for thirty (30) days notice to the City of Palo Alto for cancellation or change of coverage.
8. The liability insurance policy shall include a contractual liability endorsement providing insurance coverage for the Permittee's agreement to indemnify the City.
9. Where work involves a crane, the permit must be issued to the crane company. Riggers coverage shall be provided in the amounts above.

Certificates may be faxed or mailed to the address at the top front of this document, or may be brought to Public Works at the City of Palo Alto Development Center at 285 Hamilton Avenue in Palo Alto.

### **Why do I have to insure the City? Doesn't it have its own insurance?**

Should someone suffer injury related to a permitted encroachment, and a lawsuit be filed, it is likely that the plaintiff will name the City as one of the defendants, because the encroachment is on city property with City approval. When the City is named as an additional insured, the applicant's insurance company will be required to defend the City, relieving the City of the burden and cost of defending itself, or of going to the expense of having itself removed from the suit.

### **How long does this all take?**

If there is already an approved insurance certificate on file and the encroachment is fairly simple, it may be possible to issue the permit immediately. In general, though, it is necessary for other City departments to review for possible impact in their areas of responsibility. For instance, Light and Power may find it necessary to recommend against issuance of a permit for construction of a pool deck over an easement containing an underground power line.

It could take as much as two weeks or more to get all departmental reviews done, although most permits get approved within five to ten working days.

There are two items which cause the greatest delays in permit approval:

- a. Insurance documents which do not conform to all of the requirements listed above, and
- b. Failure to provide an adequate traffic control plan when the permitted activity will impact pedestrian or vehicular traffic. The traffic control plan submittal shall be a detailed plan showing such things as cone placement and spacing dimensions, sign placement and wording, etc.

### **What happens if I sell the property?**

The Permittee has a contractual relationship with the City and may remain responsible for the encroachment after the property is sold. To make this simpler, the City may request a more formal permit or temporary lease which will be recorded with the County Recorder, thereby becoming legal notice to successors in interest, and passing the obligation on to the purchaser. There is no additional charge for this.

*This publication is intended to be an informal means of informing the public about a City process. Although it is assumed the information provided is accurate, the sheet is not intended to create any sort of legal obligation on the City's part. The actual process is governed by City ordinances, regulations and procedures, and the reader should make specific inquiry to the City for specific cases.*