

TOWN OF ATLANTIC BEACH

Dear Encroachment Applicant,

The Town of Atlantic Beach realizes that on occasion it may be necessary to consider encroachments into the public right of way. Section 2.25 of the Town of Atlantic Beach Unified Development Ordinance outlines the requirements for such an application.

In order to process such a request, it is necessary to completely fill out the required form and provide an attachment of a scaled drawing demonstrating the location, nature and size of the encroachment sought and any necessary utility relocation.

Once the application has been submitted and the review fee has been paid, staff will review the application with you and set a date for the Planning Board to review it. Comments are required from three departments on such an application (emergency services, planning and public works).

A copy of your application, staff comments and site plan will be forwarded to all property owners within 100-feet of the requested encroachment (no more than 45 days and no less than 10 days prior to the Planning Board meeting in which it will be reviewed).

The Planning Board will accept public comment on the proposal at this meeting. The Planning Board will then evaluate whether public use of the ROW will be impaired or not due to the requested encroachment. The Planning Board will then provide a recommendation to the Town Council to review at their next scheduled meeting on whether the application should be granted as presented, granted with conditions or denied.

At the Council meeting where the review takes place the applicant will have the opportunity to present their case to the Council. If the Council wishes to do so, they may entertain public comment on the case at this time as well.

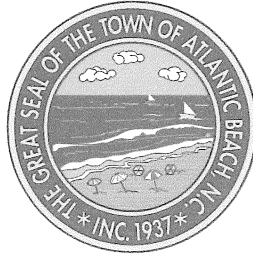
If you have any questions regarding your application, please direct them to the Planning Department at (252) 726-4456.

Best regards,

Town of Atlantic Beach Staff

Fee Paid:
Date Received:
Planning Review:
Emergency Review:
Public Works Review:
PB Review:
Council Review:

**Town of Atlantic Beach
REQUEST FOR ENCROACHMENT**



NOTE: Applicant is responsible for providing a scaled drawing showing the requested location, nature and size of the encroachment you are seeking. Your application will not be accepted without this attachment. (UDO Section 2.25 (A)).

Applicant's Name: _____
Date: _____
Property Address: _____
PIN Number: _____
Zoning District: _____

Please briefly describe the nature of this request:

Explain why you will not be able to make reasonable use of your property without the requested encroachment:

Provide any additional information you feel may be useful in the review of this request:

Applicant's Signature: _____

Date: _____

SECTION 2.25 ENCROACHMENTS

- (A) *Right of Way Encroachments.* Non-permanent encroachments into public rights-of-way may be allowed by the Town Council within the Town's municipal limits. An application for such encroachments must be submitted to the Town's Planning Department on a form provided by the Town and attended by an encroachment application fee. The application must include a detailed explanation of why the applicant will be unable to make reasonable use of his or her property without the requested encroachment and a scaled drawing showing the requested location, nature and size of the encroachment sought and the necessary relocation of any public services facilities, if any. The Planning Department will forward the application to the public works/utilities director for review, and the public works/utilities director shall forward the application to the emergency services director for similar review. Each of these directors will make written comment on the requested encroachment and these written comments will thereafter attach to the application as an addendum. Within ten (10) days after the return of the reviewed application to the UDO Administrator, the UDO Administrator will hold a review meeting with the applicant and set a date for Planning Board review of the application within the next sixty (60) days. A copy of the reviewed application and addendum must be mailed by the applicant to all property owners within 100 feet of the encroachment site, such mailing to occur no earlier than forty-five (45) days prior to the Planning Board meeting date and no later than ten (10) days prior. The applicant will provide the UDO Administrator with evidence of such mailing. The Planning Board will hear from all those parties at the meeting that want to make comment on the application, will review the written application and addendum, and evaluate whether or not the public's use of the right-of-way will be impeded or not. The Planning Board will make its recommendation to the Town Council as to whether or not the application should be granted as presented, granted with conditions, or denied. Within ten (10) days of the date the Planning Board makes its recommendation, the UDO Administrator shall submit the recommendation to the Town Clerk and the Town Clerk will place the application for an encroachment upon the Town Council's next regular meeting agenda. The Town Council will review the application, all addendum, the determination of the Planning Board, and hear from the applicant before determining whether or not to grant the encroachment. A public hearing on the matter is not required; however, the Council may take public comment. The Council may grant the encroachment only if:
- (1) The encroachment is shown by the applicant to be necessary for the applicant's reasonable use of his or her property and no reasonable alternative is available.
 - (2) The encroachment will not interfere with the public's use of the affected right(s)-of-way and is not in violation of any state, federal, or local statute, ordinance, rule, or regulation.
 - (3) The encroachment will not interfere with any Town service or service from any public service company, including without limitation, provision of water, sewer, electricity, telephone, cable, drainage, garbage collection, or emergency services. Any relocation of service facilities must be bonded with the Town for full performance of such relocation within one year of the date of approval of the encroachment, and shall be in an amount equal to two times the estimated cost of such relocation, including the cost of restoring the right-of-way to its original or better condition and to the satisfaction of the Town public works, utilities, and emergency services directors.

- (4) The Town requires the applicant, and the applicant's heirs, successors, or assigns, to remove the encroachment within thirty (30) days of the Town's notice to do so, whether or not the Town provides a reason for such removal, and the removal will be without expense to the Town. If such removal is not completed within thirty (30) days of such notice from the Town, the Town may remove the encroachment and restore the right-of-way to its original or better condition and recover the costs incurred from the applicant, and the applicant's heirs, successors, or assigns.

If the Town Council shall determine to grant the encroachment application, it will instruct the Town Attorney to draft an Encroachment Agreement to be executed by the Town Manager and recorded in the records of the Carteret County Register of Deeds. The Town Council may require any conditions to be included with the Encroachment Agreement as it shall determine to be prudent for the protection of the public's continued and unobstructed use of the right(s)-of-way to be encroached upon. Once the Town Attorney has drafted and the Town Manager has executed a recordable Encroachment Agreement, the agreement will be provided to the applicant for recording with the Carteret County Register of Deeds office at the applicant's expense. The Encroachment Agreement shall not be deemed effective until such time as the applicant returns a recorded copy of the agreement to the Town Clerk and shall remain in effect until such time as the Town Council determines that the encroachment must be removed.

- (B) *Encroachment Into Setbacks.* No structure (except fences) or any part of a septic system shall be allowed within any setback area, except in encroachment areas of public rights-of-way approved and recorded in accordance with Section A. Setback lines shall be measured from the owner's property lines and not from adjoining easement lines.