

**RESOLUTION NO. 2018- 58****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, ADOPTING REVISED CITY COUNCIL “L” POLICIES REGARDING PUBLIC WORKS/TRAFFIC/UTILITIES**

**WHEREAS**, the City of Newport Beach (“City”) is governed, in part, by its Charter, Municipal Code, and adopted City Council Policies;

**WHEREAS**, at its August 8, 2017 meeting, the City Council directed the Planning Commission to review the City Council “L” Policies regarding Public Works/Traffic/Utilities for potential improvement and revision;

**WHEREAS**, the Planning Commission formed an ad hoc committee to review the City Council “L” Policies and present recommendations to the entire Planning Commission regarding revisions, additions and deletions to improve readability and efficiency;

**WHEREAS**, the ad hoc committee convened many times over the past months and diligently worked with City staff to review, revise, and remove multiple policies within the City Council “L” Policies;

**WHEREAS**, on June 21, 2018, the Planning Commission considered and approved the ad hoc committee’s recommendations and forwarded them to the City Council for consideration;

**WHEREAS**, the Planning Commission’s revisions, among other things, provide clarity, avoid ambiguity and simplify when possible;

**WHEREAS**, the Planning Commission recommends the City Council revise the City Council “L” Policies as shown in Exhibit 1; and

**WHEREAS**, the Planning Commission’s proposed revisions, among other things, deletes language that duplicates state laws and/or local laws, removes obsolete policies, combines related subject matters into a single policy and promotes efficiency within City government.

**NOW, THEREFORE**, the City Council of the City of Newport Beach resolves as follows:

**Section 1:** The City Council hereby amends the City Council “L” Policies as shown in Exhibit 1, which is attached hereto and incorporated herein by reference.

**Section 2:** All prior versions of City Council Policies that are in conflict with the revisions adopted by this resolution are hereby repealed.

**Section 3:** If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

**Section 4:** The recitals provided in this resolution are true and correct and are incorporated into the substantive portion of this resolution.

**Section 5:** Except as expressly modified in this resolution, all other City Council Policies, sections, subsections, terms, clauses and phrases set forth in the Council Policy Manual shall remain unchanged and shall be in full force and effect.

**Section 6:** The City Council finds the adoption of this resolution and the amendment of the specified City Council Policies is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

**Section 7:** This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.


**ADOPTED** this 14<sup>th</sup> day of August, 2018.

\_\_\_\_\_  
Marshall "Duffy" Duffield  
Mayor

**ATTEST:**

\_\_\_\_\_  
Leilani I. Brown  
City Clerk

**APPROVED AS TO FORM:**  
CITY ATTORNEY'S OFFICE

  
\_\_\_\_\_  
Aaron C. Harp  
City Attorney

(for)

Attachment: Exhibit 1 – Revised City Council "L" Policies

SIDEWALKS, CURBS, GUTTERS AND CITY OWNED UTILITIES

## I. GENERAL

- A. Nothing herein shall relieve the property owner from the burden of initially installing concrete sidewalks, curbs, and gutters.
- B. Nothing herein shall relieve the property owner of his obligation under Newport Beach Municipal Code ("NBMC") Section 13.01.100, or any successor section.
- C. Nothing herein shall prevent the City of Newport Beach ("City") from performing any repair work within the public right-of-way when it is in the best interest of the City to do so.

## II. COST SHARING OF REPAIRING SIDEWALKS, CURBS, AND GUTTERS AND OTHER CITY OWNED UTILITIES

- A. The City shall pay 100% of the cost of repairing concrete curbs and gutters.
- B. The City shall pay 100% for approaches at alley intersections.
- C. The City shall pay 100% of the cost of repairing standard concrete sidewalk adjoining private property where damage is caused by other than the adjacent property owner, including damage caused by City parkway trees.
- D. The property owner shall pay 100% of the cost of repairs to sidewalks, curbs, gutters, water services, water mains, sewer mains and laterals where the damage was caused by trees on private property, and/or where the damage was caused by acts or omissions of the property owner.
- E. The property owner shall pay 100% of the cost of repairs to non-standard improvements installed in the public right-of-way by the property owner or his predecessors in accordance with the terms of the non-standard improvement agreement, regardless of the cause of damage.
- F. The property owner shall pay 100% of the cost of repairs to non-standard improvements installed without a permit in the public right-of-way by the property owner or his predecessors, regardless of the cause of damage.

- G. Where ground cover and sprinkler systems, or standard flatwork installed in accordance with City policy and pursuant to an approved encroachment permit, are damaged as a result of City construction work, the repairs shall be performed by the City's Contractor and/or by City forces, as provided for in the contract.
- H. The City shall not pay for the cost of repairing private concrete driveway approaches within the City right-of-way, including the sidewalk areas; except that the City shall pay such costs if the damage was caused by City parkway trees (for standard approaches, only).
- I. A sum of money shall be appropriated every year in the Capital Improvement Budget to be applied to the City's share of concrete repair work.
- J. City participation under this policy shall be discretionary and subject to the availability of funds.

### III. LIDO ISLE

The City shall cooperate with the Lido Isle Community Association ("LICA") to replace specially colored and scored sidewalk in kind, provided that City costs shall not exceed that of plain concrete with standard scoring. LICA color is "Chromix Adobe Tan No. C-21" by the L.M. Scofield Company.

### IV. STREETS THAT ARE MORE THAN FIFTY PERCENT IMPROVED

It shall be the policy of the City Council to initiate street and sidewalk improvements on streets that are more than fifty percent (50%) improved and to assign the cost of these improvements to the adjoining property owners. The methods used to finance the improvements are as follows:

- A. Voluntary payment of construction funds by benefited property owners.
- B. Advancement of construction funds by the City.
- C. Use of Chapter 27 provisions of the 1911 Act (Cal. Streets and Highways Code Sections 5870 *et seq.*).

If the method whereby the benefited property owners advance the construction funds is used, the engineering, inspection, and incidental costs shall be borne by the City. Projects financed in this manner shall be given a high priority.

If the method whereby the City advances the construction funds is used, the engineering, inspection, and incidental costs shall be borne by the City. Under this method the City

shall advance the funds only after an agreement between the property owners and City has been signed in which the property owners agree to repay the construction costs over a three-year period at prevailing interest rates.

If the provisions of Chapter 27 of the 1911 Act are used, the cost of engineering and inspection and identifiable incidentals shall be borne by the adjoining property owners.

In cases where Chapter 27 of the 1911 Act is used to improve unpaved alleys, the staff may advance up to \$50,000 per year from the Street and Alley Maintenance Program for alley paving. All funds advanced for construction, engineering and inspection shall be collected from the benefited property owners using the legal provisions of Chapter 27.

On streets that are more than fifty percent (50%) improved, owners shall be required to construct/reconstruct the curb, gutter, sidewalks and/or pavement when obtaining building permits for remodeling, new construction or additions.

**Adopted - March 22, 1965**

**Amended - August 30, 1966**

**Amended - September 25, 1967**

**Amended - October 12, 1982**

**Amended - October 27, 1986**

**Amended - November 28, 1988**

**Amended - December 14, 1992**

**Amended - January 24, 1994**

**Amended - February 26, 1996**

**Amended - February 24, 1997**

**Corrected - June 9, 1997**

**Amended - October 10, 2006**

**Amended - August 14, 2018**

**Former City Council Policy L-5 is Combined in this Policy**

## DRIVEWAY APPROACHES

### I. GENERAL

- A. An encroachment permit shall be required prior to any driveway construction within the street right-of-way. All construction shall conform with the Standard Plans and Specifications of the City of Newport Beach, which may be amended from time-to-time. Brick, textured concrete or flat stone surfacing may be used subject to Public Works Department approval. Such brick, textured concrete or flat stone surfacing may not be used on Bayside Drive.
- B. The number and width of driveway openings shall be kept to a minimum allowed by City standards so as to preserve on-street parking and to reduce the points of traffic conflict.
- C. The term "Curb Opening" shall mean the total width of the approach including the slope distances on the curb. The term "Approach Bottom" shall mean the total width of the approach less the slope distances on the curbs.
- D. Curb openings shall not be constructed closer than five (5) feet to the beginning of the curvature of a curb return, crosswalk, fire hydrant, traffic signal/street light, utility pole/ anchor/ pedestal or trees, unless approved by the Public Works Department.
- E. The entire curb opening shall be within the prolongation of the property lines except when cross easements provide for a common driveway along the mutual property line.
- F. No permit shall be issued for driveways on Clubhouse Drive, Glen Drive, Balboa Island or on the ocean side of Ocean Boulevard without City Council approval. No curb openings shall be permitted on Ocean Boulevard when access is available from an existing alley, street or improved private roadway.
- G. No permit shall be issued if the driveway encroaches on a crosswalk area.
- H. No permit shall be issued if the driveway construction requires the relocation of any public facility such as fire hydrants utility pole/ anchor/ pedestal, street tree, vault, vent pipes, or street lights without prior written approved of the Public Works Department and a deposit has been made to cover the cost of relocation. The property owner shall pay all costs for the relocation of any public facilities.

- J. No permit shall be issued unless the applicant agrees to remove any existing driveway opening that is or will be abandoned, and reconstruct curb, gutter and sidewalk (if applicable) to City Standards at no cost to the City.
- K. Where practical, difficulties or hardships may result from the strict application of this policy, minor dimensional variances may be granted with prior written approval of the Public Works Director.
- L. Nothing herein shall be construed as preventing any person from appealing to the City Council for relief from the applications of this policy.
- M. No building permit shall be issued on a parcel whose access requires City Council review for an encroachment permit on public property, until said encroachment permit has been issued.

## II. RESIDENTIAL ZONES AND RESIDENTIAL USES - SPECIAL REQUIREMENTS

- A. The width of the driveway approach bottom shall not exceed twenty (20) feet except when the driveway is to serve an enclosed three (3) or four (4) car garage, in which case the driveway approach bottom may be increased to twenty-five (25) feet or thirty-two (32) feet, respectively.
- B. One (1) additional curb opening may be permitted to a single parcel subject to the following conditions:
  - 1. The total width for all openings shall not exceed fifty percent (50%) of the total frontage of the parcel; and
  - 2. The curb openings shall be separated by at least twenty (20) feet to retain maximum street parking.
- C. For new developments, proposed new street curb openings or retention of existing street curb openings shall not be permitted for residential property which abuts an alley. All vehicle access shall be from the alley.

An exception may be made in the case of corner lots where the street on which the proposed new or existing curb opening is not located on an arterial street and the street frontage is available for the full depth of the lot, subject to the one of the following conditions:

- 1. A new curb opening from the street shall be permitted where existing utility conditions, that cannot be removed/relocated, prevent alley access

and one (1) additional covered non-tandem off-street parking space beyond code required amount is being provided. The proposed new curb opening shall be located to maximize the remaining on-street parking; or

2. An existing curb opening can be maintained or relocated when one (1) additional covered non-tandem off-street parking spaces beyond code required amount is being provided and no loss of on-street parking is proposed.

In no case shall there be more than one (1) street curb opening on a residential property that abuts an alley.

- D. Driveway grades must not exceed the listed applicable maximum slope depending on application. Driveways to lowered or entrances to subterranean parking must rise above the flood level or a minimum of six (6) inches above the flow line of the street or alley, whichever is greater, before transitioning to a downward slope. Slope transitions shall be a minimum of five (5) feet in length and the change of slope cannot exceed eleven percent (11%).

Driveways providing only parking access - Fifteen percent (15%) maximum slope. Must have access directly from garage into residence.

Driveways providing vehicle and pedestrian access - Eight percent (8%) maximum slope.

Driveways providing required parking spaces on the driveway itself - Five percent (5%) maximum slope.

Minor variations from the listed maximum slopes and slope changes may be granted by the Public Works Director when unusual site conditions are encountered.

### III. COMMERCIAL USES

- A. The width of the driveway approach bottom shall not exceed thirty-five (35) feet.
- B. The total width of all driveways shall not exceed fifty (50%) of the frontage of the parcel.
- C. Commercial driveway approaches may use a curb return design with a maximum curb radius of twenty-five (25) feet and a driveway approach bottom of greater than thirty-five (35) feet if the following conditions are satisfied:



1. The driveway serves as an entrance to a parking area or structure for 200 or more vehicles.
  2. The number of driveways serving the parcel are at a minimum.
- D. The curb return commercial driveway approach may incorporate a divided exit and entrance if the separation structure (median island) is continued on-site in such a manner as to provide proper traffic design.

#### IV. CLOSURE OF ABANDONED DRIVEWAY APPROACHES BY CITY

The City may close any abandoned driveway approaches at locations where two (2) or more of the following criteria exist:

- A. The abandoned driveway approach is adjacent to a parcel of property where redevelopment and possible subsequent closure of the approach is not believed imminent;
- B. The driveway approach is at a location where there is a shortage of available on-street parking;
- C. The removal of the driveway approach is needed for safe pedestrian and/or bicycle passage;
- D. The closure of the abandoned driveway approach benefits not so much to the property owner as the pedestrian and vehicular traffic in the area;
- E. The parcel is adjacent to and can take access from a public alley.

When in the opinion of the Public Works Department, a curb cut or abandoned driveway approach should be closed, and the adjoining property owner protests the closing, the protester shall be notified that he shall have two (2) weeks to appeal the staff decision to the City Council. That appeal must be in writing and may be filed through the mail. If an appeal is not made, the City shall proceed with the closure. If an appeal is made, a hearing shall be held by the City Council, and the decision of the Council shall be final.

**Adopted - January 24, 1966**

**Amended - February 26, 1968**

**Amended - July 24, 1972**

**Amended - November 14, 1977**

**Amended - October 25, 1982**

**Amended - July 13, 1987 Amended - November 27, 1989**

**Amended - December 14, 1992**

**Reaffirmed - January 24, 1994**

**Amended - February 26, 1996**

**Amended – May 8, 2001**

**Amended – October 10, 2006**

**Amended - August 14, 2018**

### PRIVATE STREETS

- A. Private streets shall be allowed in new developments where their use is logically consistent with a desire for neighborhood identification and control of access, and where special overall design concepts may be involved. The use of private streets shall be subject to review and approval by the Planning Commission and the City Council.
- B. Private streets shall be permitted only where a satisfactory means of providing for their on-going maintenance and operation is demonstrated.
- C. The use of private streets as a device for permitting inadequate design shall not be allowed.
- D. The use of private streets is ordinarily limited to cul-de-sacs and to minor local streets not carrying through traffic.
- E. The design of all private streets shall be reviewed and approved by the Public Works Department; and the construction shall be inspected by the Public Works Department, with a standard inspection fee to be paid.
- F. Private street design shall conform in all respects to the requirements established for city public streets, except as may be otherwise permitted below.
  - 1. Where special circumstances exist, deviations from the standards shall be subject to approval by the Public Works Department after an individual review.
  - 2. Streets shall be adequately designed to provide for lane delineation, street sweeping, and drainage control.
  - 3. Concrete sidewalks shall be provided in the right-of-way, unless other means of accommodating pedestrian traffic which would normally use the street are provided in the development.
  - 4. Minimum street width with parking on one (1) side only or no parking is thirty-two (32) feet curb to curb.
- G. Adequate provision for public utilities shall be made. A separate document dedicating exclusive public utility easements to the City shall be provided when required in order to eliminate any conflict of rights between City utilities and other

public utilities. Where surfaces other than standard concrete (gray) and asphalt cement are to be constructed over City utilities and storm drains, a non-standard improvements agreement shall be executed to provide for the replacement of non-standard surfacing by the owner or community association.

- H. Adequate provision shall be made for trash pick-up and for emergency vehicle access.
- I. Adequate signs, subject to the approval of the City, shall be provided and maintained at all entrances to private streets clearly designating the private status of such streets.
- J. A traffic control plan shall be prepared for review and approval by the City Traffic Engineer. The plan shall show all signs, striping and curb markings.
- K. Access Control
  - 1. Gates to control vehicular access into a private community shall be of a type approved by the Fire Department, Police Department, and the Public Works Department.
  - 2. A turn-around prior to the control gate shall be provided so that vehicles are not required to back out onto the adjacent public street.
  - 3. Adequate vehicular storage space shall be provided on the private street prior to the control gate so that vehicles shall not block the adjacent public street.
- L. Vehicle Code Enforcement
  - 1. New Development - Vehicle code enforcement may be a condition of development.
  - 2. Existing Development - Consideration shall be given by the City Council for police enforcement of the Vehicle Code on private street systems when the following conditions have been met:
    - a. The City has received a formal request in compliance with the California Vehicle Code.
    - b. The request is accompanied by a written report and recommendations from both the Police Chief and Traffic Engineer.

3. If the City Council decides to approve the request, the following minimum conditions shall apply:

- a. All applicable provisions of the Vehicle Code shall be enforced.
- b. All non-standard traffic control devices shall be removed by the applicant, e.g., speed bumps, traffic signs and traffic striping.
- c. All unnecessary sight obstructions and encroachments shall be removed.

**M. Planning Commission Review**

The Planning Commission shall consider the recommendations of the Police Department in all tentative map or use permit proceedings where a private street system is proposed.

- 1. The City shall not assume any responsibility for enforcement of traffic control unless specifically requested and approved.
- 2. Solid waste contractor shall perform trash pick-up on private streets, provided such streets are fully accessible to and usable by the company's trash trucks.
- 3. The City shall not provide pavement maintenance or sweeping services on private streets.
- 4. The City may agree to operate and maintain street lights on private streets only if design and construction of the street lighting system are fully in accord with all City standards, an appropriate utility easement has been dedicated, and the system is fully accessible to City forces for maintenance.

**N.** Separate street improvement plans shall be reviewed and approved by the Public Works Department prior to permit issuances.

**O.** A Public Works encroachment permit shall be required when connecting to or relocating public utilities.

**Adopted - November 23, 1964**

**Amended - March 9, 1970**

**Amended - August 9, 1971**

**Amended - August 9, 1976**

**Amended - November 27, 1978**

**Amended - October 12, 1982**

**Amended - October 28, 1991**

**Amended - December 14, 1992**

**Reaffirmed - January 24, 1994**

**Amended - February 27, 1995**

**Amended - February 26, 1996**

**Amended - February 24, 1997**

**Amended - August 14, 2018**

### ENCROACHMENTS IN PUBLIC RIGHTS-OF-WAY

It is the general policy of the City that the public rights-of-way shall be reserved for public use or open space; and that the rights of the public, present and future, shall not to be diminished by the installation of private improvements within the public rights-of-way. For any project located within the Coastal Zone also look to Newport Beach Municipal Code Title 21, or any successor title.

Categories of encroachments and improvements are listed below, together with the permit requirement for each category.

A. Prohibited private encroachments.

1. All structural encroachments not otherwise listed; including, but not limited to, fences, walls, patios, raised planters, landscaping, etc., which encroach in excess of one (1)-foot into the public right-of-way, or exceed three (3)-feet in height, measured from the top of curb elevation/or from sidewalk elevation where sidewalk exists.
2. Driveway approaches not conforming to Council Policy L-2.
3. Modifications to original design concepts approved by the City.
4. Private signs except as provided for in the Building Code.
5. Lighting.
6. Parkway walkway surfacing of loose rock, gravel, or any surfacing other than standard or colored/textured concrete or flat stone/brick/pavers installed at grade.
7. Private dwellings and appendages including raised patios decks and bay windows, except as provided for in this section and the Building Code.
8. Pay telephones and private mail carriers drop boxes.

B. General private encroachments that require an encroachment permit and if applicable an encroachment agreement from the Public Works Department.

1. Drive approaches conforming to Council Policy L-2.
2. Standard sidewalks.
3. Carriage walks (not to exceed twenty-five percent (25%) of the parkway area).
4. Parkway surfacing (standard or colored/textured concrete or flat stone/brick) installed at grade(not to exceed twenty-five percent (25%) of the parkway area).
5. CATV and public utility facilities.
6. Structural encroachments not otherwise listed; including, but not limited to, fences, walls, patios, raised planters, etc., which encroach one (1) foot or less and do not exceed three (3) feet in height within the public right-of-way. If, however, in the opinion of the Public Works Department, the nature or location of this type of encroachment is such that Council review is warranted, the Department may forward the item to the Council for action.
7. Mailboxes, when required by the U.S. Postal Service. Mailboxes shall be installed per U.S. Postal Service requirements. Mailbox base construction length and width shall not exceed the length of the mailbox, or twenty-four (24) inches, whichever is less.
8. The placement of utility pedestals shall be at the back of sidewalks on arterials and major pedestrian thoroughfares without zero setbacks. There shall be at least four (4) feet of clear sidewalk width and/or pedestals shall be placed in the parkway outside of walk area.
9. When connecting to or relocating public utilities.
10. Artificial Turf (permeable) up to 100% of the required parkway landscape area. Artificial turf grass shall be installed in accordance to manufactures' recommendations. Material must be securely anchored and maintained so as to eliminate disrepair, fading, tearing, wrinkling and or edge curling or any other type of material performance. Material shall be replaced prior to the aforementioned conditions occur. *Prohibited application:* Indoor and outdoor carpet, green in color or otherwise. The Director of Public Works shall from time to time update the standards for this application. See Artificial Turf Material and Installation Standards.

11. Tree and shrub planting and removal.

12. Median landscaping.

If, in the opinion of the Public Works Departments, the approved planting is not being maintained for view, safety clearance and sight distance, Newport Beach Municipal Code Chapter 10.50, "Public Nuisance Abatement," or any successor statute, shall be used to remove offending plant material.

The permit applicant shall reimburse the City of Newport Beach for the value of any City tree removed by this process. This value shall be determined by the City Arborist using the International Society of Arboriculture's "Guide for Plant Appraisal" or a minimum forty-eight (48) inch box tree replacement value.

C. Area specific private encroachments requiring an Encroachment Permit from the Public Works Department and subject to the execution of an agreement for non-standard improvements.

1. Structural encroachments not otherwise listed which do not exceed three (3) feet in height measured from the top of curb elevation/ or from sidewalk elevation where sidewalk exists, including, but not limited to fences, walls, and raised planters in public rights-of-way in areas that are more than eight (8) feet behind the face of curbs on the following streets:

a. Santa Ana Avenue from Cliff Drive to Fifteenth Street.

2. Permitted Structural Encroachments on Balboa Island along South Bay Front, North Bay Front, Grand Canal, and East Bayfront are as follows:

a. Planters that do not exceed one (1) foot in height may be installed between the back of existing sidewalk and property line, planted with ground cover and shrubs not to exceed two (2) feet in height measured from sidewalk elevation;

b. Fences and walls with a minimum setback of two (2) feet six (6) inches from back of sidewalk.

i. For patios constructed at grade elevation to one (1) foot above sidewalk grade elevation, fences and walls may be three (3) feet high above sidewalk grade.



- ii. For patios constructed greater than one (1) foot above sidewalk grade elevation, fences and walls must be set back a minimum of three (3) feet from back of sidewalk, not exceed two (2) feet six (6) inches in height above the patio, have at least forty percent (40%) visibility through them, and not to exceed four (4) feet in height above existing public sidewalk grade.
- c. Patios with a minimum setback of two (2) feet six (6) inches from the back of sidewalk.
  - i. Raised Patios are permitted provided they have a maximum height of two (2) feet six (6) inches above sidewalk grade, are set back a minimum of two (2) feet six (6) inches from back of sidewalk, and provided all bulkhead deadman and tiebacks supporting the Bay front bulkhead are replaced "If required by the Public Works Department" in conformance with the requirements of the Public Works Department; Stairs located a minimum of two (2) feet six (6) inches from back of sidewalk.
- 3. Structural encroachments not otherwise listed which do not exceed three (3) feet in height, including, but not limited to fences, walls, patios and raised planters in public rights-of-ways in areas that are five (5) feet behind the face of curb on the following streets:
  - a. Southerly side of West Bay Avenue between 8th Street and 15th Street.
- 4. Non-standard encroachments, including, but not limited to fences, walls, and raised planters within City easements as approved by the Public Works Director.
- 5. Buena Vista Boulevard – Bay Avenue to Edgewater Avenue. The street right-of-way in this reach is ten (10) feet wide, with private property on both sides of the public way. Improvements allowed at this location shall consist of the following:
  - a. A minimum six (6) foot wide public sidewalk along the inland side of the right-of-way line maintained by the City.
  - b. Landscaping under twenty-four (24) inches in height and park-like improvements in the remaining portion of the right-of-way shall be

allowed if installed and maintained by the adjoining property owners. Private improvements such as walls, fences, gates, signs and living areas such as cabanas and other roofed structures shall not be allowed.

- c. Access to existing private piers and floats shall be allowed where a harbor permit has been granted, but such access structures shall not be expanded beyond the original permit dimensions.
6. Edgewater Avenue – Buena Vista Boulevard to Island Avenue. The street right-of-way in this reach is forty (40) feet wide with private property on the inland side. The bay side is improved with a privately constructed bulkhead on public property. Improvements allowed at this location shall consist of the following:
- a. A minimum six (6) foot wide public sidewalk along the inland side of the right-of-way line maintained by the City.
  - b. Landscaping under twenty (24) inches in height and park-like improvements in the remaining portion of the right-of-way (between the sidewalk and the bulkhead) shall be allowed if installed and maintained by the adjoining property owner. Private improvements such as fences, gates, signs, and living areas shall not be allowed.
  - c. Access to private piers and floats shall be allowed where a harbor permit has been granted, but such access structures shall not be expanded beyond the permit dimensions.
7. Edgewater Avenue – Island Avenue to Alvarado Street. The street right-of-way in this reach is forty (40) feet wide with private property on the inland side. The bay side is improved with a sloping beach leading to the waters of the bay. Improvements allowed at this location shall consist of the following:
- a. A minimum six (6) foot wide public sidewalk along the inland side of the right-of-way maintained by the City.
  - b. The remaining portion of the right-of-way shall be reserved as a public beach and no private improvements, impediments or boat storage shall be allowed except for access to existing piers and floats where a harbor or a mooring permit has been granted, but such

access structures shall not be expanded beyond the original permit dimensions. Any existing permits to encroach on the right-of-way shall be rescinded

8. Edgewater Avenue – Alvarado Street to Fernando Street. The street right-of-way in this reach is fifty (50) feet wide. The bay side is improved with a sloping beach leading to the waters of the bay. The private lots bayward of the public right-of-way are under water and within State Tidelands. Improvements allowed at this location shall consist of the following:
  - a. A minimum six (6) foot wide public sidewalk along the inland side of the right-of-way maintained by the City.
  - b. The remaining portion of the right-of-way shall be reserved as a public beach and no private improvements, impediments or boat storage shall be allowed except for access to existing piers and floats where a harbor permit has been granted, but such access structures shall not be expanded beyond the original permit dimensions.
9. Bay Front Street Ends
  - a. Bay front street ends at beach level may contain two (2) foot wide planting areas bounded by redwood or concrete strips and containing hedges no more than two (2) feet in height above the adjacent surface. The planting areas may be installed:
    - i. At each side of the prolongation of the street and extending no more than fifteen (15) feet from the end of the paved street.
    - ii. At the end of the paved street, except that a twelve (12) foot wide opening must be left for City emergency and maintenance equipment, and pedestrians to enter the beach area.
  - b. Bay front street ends where tidal flow prevents standard installation may be landscaped, subject to the prior approval by the City of specific plans prepared by the applicant. Access to beach areas shall be provided for in any such specific plans.
  - c. Improvements shall be installed at the expense of the adjacent property owners.

- d. Landscape maintenance and watering shall be provided by the adjacent property owners to the satisfaction of the City. A sprinkler system connected to the adjacent property shall be installed in each planter

10. Unimproved Ocean Front Street Ends

- a. Improvements shall be installed at the expense of the adjacent property owners.
- b. Landscape maintenance and watering shall be provided by the adjacent property owners to the satisfaction of the City. A sprinkler system connected to the adjacent property shall be installed in each planter.
- c. All work shall be installed to grades established by the Public Works Department.
- d. A four (4) foot wide sidewalk shall be provided on each side of the street right-of-way adjacent to the property line.
- e. A minimum of twelve (12) feet of unobstructed access to the beach in the center of the right-of-way shall be surfaced with brick, asphalt, concrete or artificial turf, or an equivalent surfacing approved by the City.
  - i. Portland Cement Concrete. A minimum six (6) inches over native compacted material.
  - ii. Asphalt Concrete. A minimum two (2) feet six (6) inches of asphalt concrete over a six (6) inch thick aggregate.
  - iii. Brick. Brick installed over four inches of imported aggregate base. A dry mix of one-to-one cement and clean plaster sand to be swept into the one-quarter (1/4) to one-half (1/2) inch space between bricks. The dry mix shall be moistened with a fine spray of water after it is in place.
- f. Planters five (5) feet wide shall be provided between the side and the center access along a portion of each side of the street with a heavy emphasis on drought resistant plant materials. Plant materials shall be installed to City specifications. A six (6) inch to eighteen (18) inch

high lip of concrete, brick or rock may be installed as part of the planter.

- g. Special provisions shall be made in the design when garage access is required from street ends.
- h. Where unusually large quantities of sand exist in a street end area, the City shall assist the adjacent owners by moving the sand to an area determined by the City.

#### 11. Unimproved Alleys that End at the Ocean Front

- a. Improvements shall be installed at the expense of the adjacent property owner.
- b. All work shall be installed to grades established by the Public Works Department.
- c. Landscaping of potted plants shall be permitted in the portion of the alley right-of-way that terminates at the ocean front sidewalk. A six (6) foot wide inviting passageway shall be maintained for pedestrian access.
- d. Where vehicles or pedestrians will travel, alleys may be surfaced with brick, asphalt, concrete or equivalent surfacing.
- e. Improvements shall extend from the nearest street of alley improvement to the northerly line of the ocean front

If, in the opinion of the Public Works Department, the nature or location of this type of encroachment is such that Council review is warranted, the Department may forward the application to the City Council for original action.

The City Manager is authorized to execute, on behalf of the City, agreements for non-standard improvements which are entered into pursuant to this section or other authorization.

#### D. Private encroachments not requiring a permit:

- 1. Parkway lawn, ground cover and drought tolerant planting. Parkway areas with the exception of carriage walks/parkway paving/artificial turf shall be entirely planted with lawn, ground cover and/or drought tolerant planting.

2. Parkway sprinkling systems.
3. Use of public streets and projections over public property which are covered by the latest adopted edition of the California Code of Regulations Title 24 under a valid building permit issued by the City.

E. Encroachments on Public Sidewalks

Newport Beach sidewalks are a desirable place to walk, stroll and jog and it is, therefore, the policy of the City that public sidewalks are to provide unobstructed passage whenever possible.

Sidewalks shall be reserved for public use and the rights of the public shall not be diminished by the installation of benches, planters, bicycle racks, etc., by private entities nor by the installation of facilities by public utilities or other public agencies. It is the policy of the City that encroachments on public sidewalks shall be subject to the following:

1. General
  - a. Permitted encroachments shall not reduce the sidewalk width available for normal pedestrian movement.
  - b. Permitted encroachments may be located in areas between tree wells or other existing improvements as long as they do not interfere with pedestrian travel.
  - c. Permitted encroachments shall be located at least eighteen (18) inches from the curb face. In areas where vehicles do not park or otherwise extend over the sidewalk, this setback may be reduced.
  - d. Permitted encroachments shall not be located within thirty-six (36) inches of a parking meter or street light, nor shall they be located where they will interfere with the normal use of other facilities.
  - e. Encroachments shall not block access from parked cars.
  - f. They shall not be located within ten (10) feet of a crosswalk, fire hydrant or driveway.

- g. Encroachments may not be chained or otherwise anchored to any tree, streetlight, parking meter or other property.
- h. Applicant shall pay all costs for City and/or the California Department of Transportation ("CalTrans") permit processing where necessary.
- i. Applicant shall pay all costs associated with the installation and maintenance of the encroachments by the City or private installer.

## 2. Public Benches

- a. When applying the above requirements to benches, allowance shall be made for the space required for a person sitting on the bench.
- b. Benches to be installed in an area where there is a theme or bench style shall conform to that theme or style.

## 3. Public Bicycle Racks

- a. Bicycle racks shall be located to allow bicycles to extend five (5) feet from the center of the rack and comply with the above requirements.

- F. Application for any permit as required by this policy shall be filed with the Public Works Department on a form to be provided by the City and shall show the proposed planting or work and the nature thereof. If the application is for a permit required under Section A, it shall be forwarded to the City Clerk for submission to the Planning Commission. Drawings for encroachment permits requiring Planning Commission review shall be prepared to scale. Plan and elevation drawings shall accurately depict location, height, and extent of the proposed encroachments. No building permit shall be issued on a parcel whose access requires City Council review for an encroachment permit on public property, until said encroachment permit has been issued. Notwithstanding anything above, if an application for any permit required by this policy is part of a larger approval requiring Zoning Administrator or Planning Commission approval then the Zoning Administrator or Planning Commission, as applicable, is authorized to review and approve or deny the permit.

- G. Variances from the strict application of this policy shall not be granted unless individual circumstances indicate that approval shall be consistent with the public interest.

**Adopted - August 25, 1969**  
**Amended - February 14, 1972**  
**Amended - August 11, 1975**  
**Amended - February 9, 1981**  
**Amended - November 23, 1981**  
**Amended - October 27, 1986**  
**Amended - January 26, 1987**  
**Amended - July 13, 1987**  
**Amended - February 13, 1989**  
**Amended - August 14, 1989**  
**Amended - November 27, 1989**

**Amended - December 9, 1991**  
**Amended - December 14, 1992**  
**Amended - July 12, 1993**  
**Amended - January 24, 1994**  
**Amended - May 9, 1994**  
**Amended - February 27, 1995**  
**Amended - February 26, 1996**  
**Amended - May 8, 2001**  
**Amended - January 27, 2015**  
**Amended - August 14, 2018**

**Portions of City Council Policies L-7, L-8, and L-15 are Combined in this Policy.**



## CITY ENTRANCE AND VILLAGE SIGNS

### I. General

- A. Two types of signs are approved for various interior and exterior entrances to the City.
- B. One sign shall be known as the City entrance sign as depicted by the attached diagram. This sign shall be used at locations of exterior entrance to the City, i.e., entering the City from another jurisdiction.
- C. A second sign, the village sign, also depicted by the attachment, shall be used to identify various interior entrances to specific areas of the City such as Corona del Mar, etc.

### II. Cost Sharing of Sign Manufacture

- A. A community or business association may request by letter to the City Manager a sign or signs be manufactured and installed to identify a specific area. This letter should include the number and type of signs requested as well as the recommended sign locations or other incidental information.
- B. The association requesting said sign shall be responsible for one-half (1/2) the cost of manufacturing the sign. The City shall be responsible for the remaining one-half (1/2) of the cost and shall approve any design changes, purchase requisition, manufacturing mode, etc., associated with sign manufacture. The letter of request should also acknowledge the cost sharing provision.

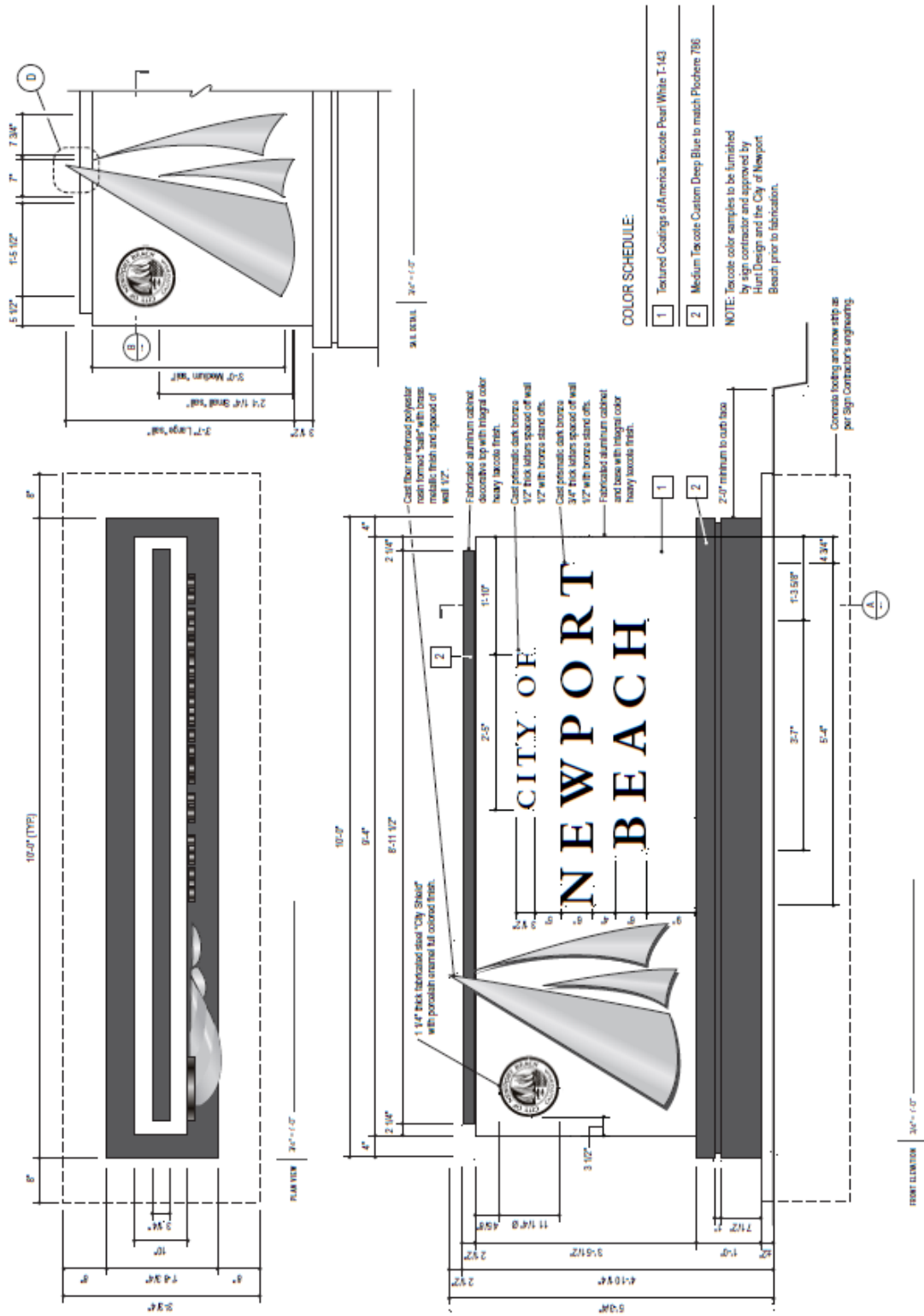
### III. Installation

- A. The Council shall approve all locations for entrance or village signs.
- B. The City shall be responsible for the installation and maintenance of signs.
- C. The City Traffic Engineer shall be responsible for acquiring sign installation permits from County or State agencies when necessary.

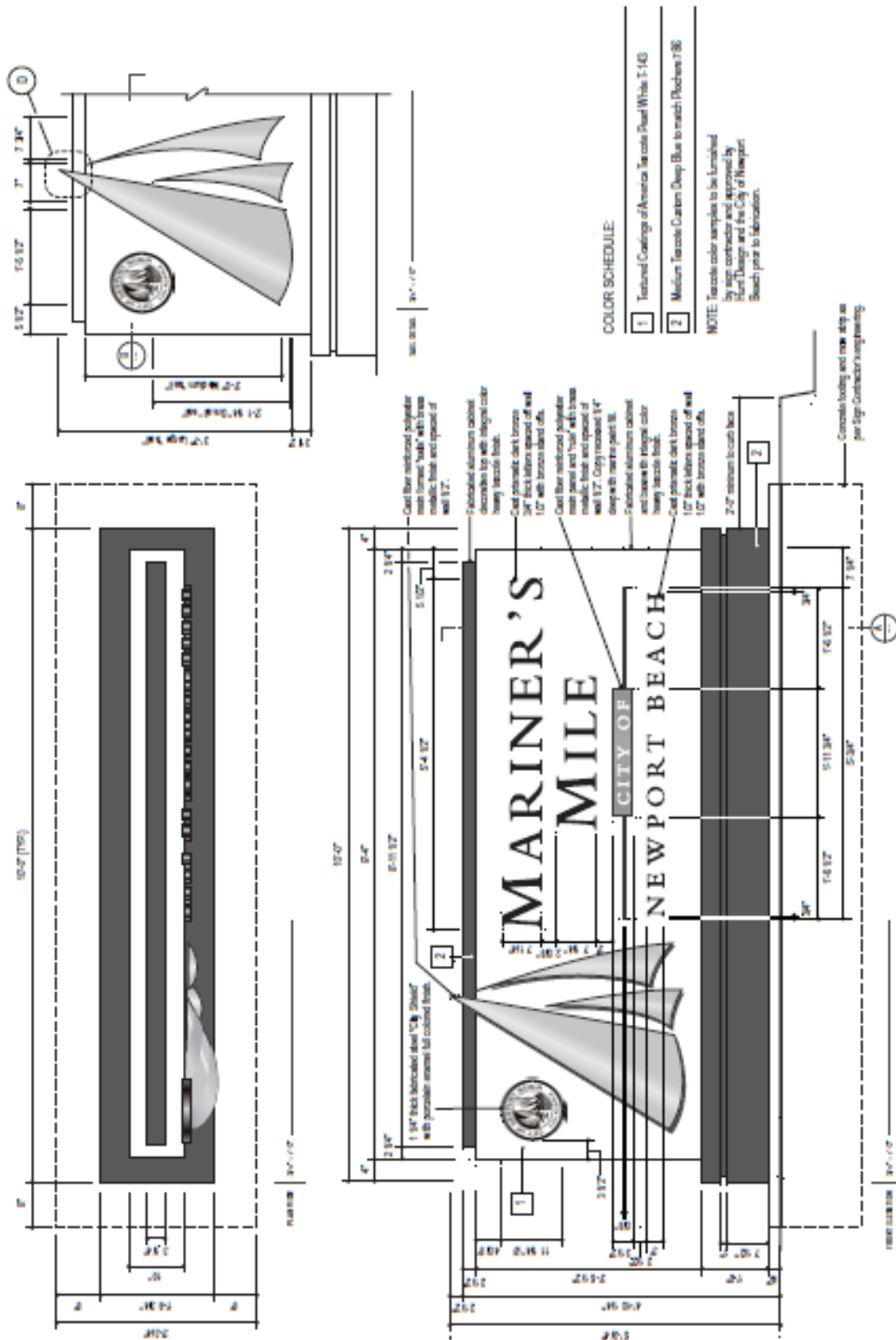
[Attachment]

**Adopted - October 28, 1991**  
**Reaffirmed - January 24, 1994**  
**Amended - August 14, 2018**  
**Formerly L-16**

ENTRANCE SIGN



## VILLAGE SIGN



TEMPORARY BANNERS EXTENDING OVER OR WITHIN  
THE PUBLIC RIGHT-OF-WAY

I. FINDINGS AND PURPOSE

Temporary banners and signs pose risks to the public in the form of potential physical obstructions in or over the right-of-way and by distracting an individual who otherwise would, and should, focus on other users. The City Council also finds that, in the absence of the size and number limits specified in this policy, temporary banners or sign could reduce property values, adversely impact land uses, and interfere with the recreational objectives of visitors to the City of Newport Beach. A total prohibition on the installation of temporary banners and signs within the public right-of-way is appropriate with the exception of the provisions of this Policy and Newport Beach Municipal Code Chapter 20.42 because there are adequate alternative means of communication for those wishing to engage in commercial or non-commercial speech except for temporary real estate signs and non-profit groups organizations conducting community wide events that are co-sponsored by the City of Newport Beach and open to the general public. Finally, the City Council has determined that the restrictions contained in this policy and the provisions of Newport Beach Municipal Code Title 20 are the least restrictive means available to accomplish the public safety, economic and aesthetic objectives of the City Council.

II. GENERAL PROVISIONS

Temporary banners and signs shall not be permitted within or over any public street or pedestrian right-of-way with the exception of temporary real estate signs as specified in Newport Beach Municipal Code Chapter 20.42, or any successor statute, and banners notifying the general public of a community wide event, open to the general public, conducted by a non-profit corporation or organization, and co-sponsored by the City of Newport Beach. Temporary banners and signs shall be installed in strict compliance with the provisions of this Policy and any conditions imposed on the permit by the Public Works Director and, if required, by the Utilities Director.

III. PERMIT PROCESS

- A. Except as provided in Newport Beach Municipal Code Title 20, or any successor statute, no person shall install any temporary banner or sign within any public right-of-way without first obtaining a permit issued by the Public Works Department.
- B. Applications for a temporary banner permit shall be submitted to the Public Works Department on a form supplied by the City, and prior to thirty (30) days of planned installation date.

- C. The Public Works Director shall determine if the application complies with the standards specified in this policy.
- D. The Public Works Director shall approve/deny/recommend City Council approval of the application within five (5) working days. If City Council approves the request, subsequent requests for the same event maybe approved by the City Manager, provided that the size, number, location and banner type (language and graphics) are unchanged.
- E. The Public Works Director shall approve the permit if the application conforms with the standards contained in this policy.
- F. The Public Works Director shall deny the permit if the application does not conform to the standards in this policy and shall give the applicant written notice of, and the reasons for, the denial.
- G. The Public Works Director may impose a refundable security deposit to be applied to any damages, repairs to standards, poles or City property not corrected by permittee within fourteen (14) days of banner removal or any special services required by City.
- H. The Permittee shall agree to indemnify and hold harmless the City of Newport Beach.
- I. The Permittee shall maintain a minimum of \$1,000,000 in liability insurance from a company with a Best's Key Rating Guide parameter of "A" or better and a financial size category of "VIII" or higher.

#### IV. STANDARDS

##### A. Manner of Installation

- 1. Permittee shall install no more than 100 banners;
- 2.
  - a) Banners on streetlight poles shall be no more than two-and-one-half (2.5) feet wide and eight (8) feet high. Wind load calculations, determined by a registered engineer, shall be required for banners greater than twenty (20) square feet;
  - b) Banners other than streetlight pole banners shall be no more than four (4) feet by eight (8) feet wide and are subject to review and approval for safety sight distance and clearance issues.

3. No more than one (1) banner shall be installed on any pole or standard and banners may not be installed between poles or standards;
4. The banners shall contain only the name of the permittee and if applicable, the date, time and the name of the event to be conducted by the permittee;
5. All banner brackets on streetlight poles shall be mounted at least fourteen (14) feet above the ground surface;
6. All banner brackets on streetlight poles shall be installed using stainless steel band clamps and the brackets must be sufficiently strong to withstand wind-load generated by ninety (90) mile per hour winds. Each banner shall have a minimum of two (2), five (5) inch half circle wind slits;
7. Poles or standards shall be wrapped with forty-five (45) milliliter thick black rubber sheet or other pre-approved material under all stainless steel brackets and clamps and no portion of any bracket shall be in direct contact with the surface of any street light pole or standard. In addition, all street light pole(s) being used shall be inspected and approved by the Utilities Department;
8. Banners shall be installed only at locations specified on the permit;
9. Permittee shall install and remove banners in strict compliance with the traffic control, signage and warning device criteria specified in the WATCH handbook and/or the California Manual on Uniform Traffic Control Devices; and
10. If more than one permittee requests the use of the same street light pole(s) at the same time, the City may require removal of some of the banners to allow other organizations to install banners authorized under City policies.

B. Time of Installation

1. Permittee shall contact the Public Works Department at least forty-eight (48) hours prior to the installation of any banner on streetlight poles pursuant to the permit;
2. All banners and supporting material shall be removed within thirty (30) days after the date of installation;

C. Place of Installation

1. Banners shall only be installed on City owned poles and standards, or approved locations in roadway medians, in City parks, and on other City owned facilities;
2. Banners shall not be installed on any pole or standard which could create sight distance problems for pedestrian or vehicular traffic;
3. Banners shall not be installed on poles or standards in any residential district.
4. Banners shall only be installed at the approved locations indicated on the plan submitted with the banner application.
5. City owned poles within Caltrans right-of-way shall require an additional review/approval process with Caltrans Permit Department.

**Adopted - January 24, 1994**

**Amended - February 26, 1996**

**Amended - February 24, 1997**

**Amended - May 8, 2001**

**Amended - April 8, 2003**

**Amended - October 10, 2006**

**Amended - May 14, 2013**

**Amended - May 12, 2015**

**Amended - August 14, 2018**

**Formerly M-4**



## SIDEWALK CAFE STANDARDS AND PROCEDURES

### I. PURPOSE

These standards and procedures are adopted pursuant to Municipal Code Chapter 13.18, and any successor chapter, to encourage appropriate outdoor activities in the public right-of-way, to ensure that the space used for outdoor dining in the public sidewalk shall serve a public purpose, to ease the process of obtaining permission to operate an outdoor dining facility, and to ensure adequate space for pedestrians on the sidewalk adjacent to sidewalk cafes.

### II. DEFINITIONS

Sidewalk Café. An outdoor dining area on a public sidewalk where patrons may consume food and/or beverages provided by an abutting food service establishment. Such establishments may either provide table service in the outdoor dining areas or sell take-out items to be consumed in the outdoor dining area.

These regulations do not apply to outdoor dining on private property.

### III. GENERAL PROVISIONS

- A. Permit required. Outdoor dining on a public sidewalk may occur only pursuant to a Sidewalk Cafe License Encroachment Permit (hereinafter “Encroachment Permit”).
- B. Prohibited locations. Outside dining shall not be permitted on sidewalks designated by City Council resolution as shared bicycle and pedestrian facilities.
- C. Permit transfer. An Encroachment Permit may be transferred to a subsequent operator of the same establishment subject to approval by the Public Works Director and payment of an Encroachment Permit transfer fee established by the City Council. Prior to approval of the transfer the Public Works Director may modify the terms of the permit as deemed appropriate to protect public health, safety and welfare.
- D. Zoning requirements. Outdoor dining on a public sidewalk shall be subject to the requirements provided in Municipal Code Section 20.48.090 (Eating and Drinking Establishments), or any successor statute. An Encroachment Permit may be processed concurrently with any permits required by the Zoning Code.
- E. Conditions of approval. The Public Works Director shall have the authority to apply conditions to the approval of Encroachment Permits as appropriate to

ensure compliance with the provisions of this policy. Standard conditions of approval are provided in this Council Policy. In addition to these standard conditions, special conditions may be applied as deemed appropriate by the Public Works Director.

- F. Authority of the Public Works Director; Appeal. The location and configuration of any sidewalk cafe shall be subject to approval by the Public Works Director, who shall consider public safety issues unique to the pedestrian and vehicular needs of the specific location when reviewing Encroachment Permit applications. Notwithstanding any other provisions of this policy, the Public Works Director shall have the authority to deny any Encroachment Permit application or revoke any existing permit if it is determined to be detrimental to public health, safety or general welfare. The decision of the Public Works Director may be appealed to the City Manager by the applicant. The decision of the City Manager shall be final.
- G. Indemnification. The Permittee shall defend, indemnify and hold the City and its employees harmless from and against any loss or damage arising from the use or existence of the improvements or encroachment authorized under an Encroachment Permit.
- H. Insurance. The Permittee shall obtain and maintain in force comprehensive general liability, broad form property damage and blanket contractual liability insurance in a combined single limit amount, per claim and aggregate, of at least one million dollars (\$1,000,000.00) covering the Permittee's operations on the sidewalk. Such insurance shall name, on a Special Endorsement form, the City, its elected and appointed boards, officers, agents and employees as additional insureds. A Certificate of Insurance shall contain provisions that prohibit cancellations, modifications, or lapse without thirty (30) days prior written notice to the City.
- I. Revocation. The Public Works Director may revoke this permit at any time if it is determined that continued operation of the sidewalk café is detrimental to the public interest or the Permittee is in violation of conditions to the permit.

- J. Abatement. In the event that the Permittee fails to abide by the terms and conditions of this permit, the Public Works Director may summarily abate any prohibited improvements and the Permittee shall pay all costs incurred by the City in such abatement.
- K. Inspection. The Public Works Department may inspect improvements within the public right-of-way at any time without notice to the Permittee.
- L. Indemnification. The Permittee shall defend, indemnify and hold the City and its employees harmless from and against any loss or damage arising from the use or existence of the improvements or encroachment authorized under this permit.
- M. Insurance. Permittee shall obtain and maintain in force comprehensive general liability, broad form property damage and blanket contractual liability insurance in a combined single limit amount, per claim and aggregate, of at least \$1,000,000 covering the applicant's operations on the sidewalk. Such insurance shall name, on a Special Endorsement form, the City, its elected and appointed boards, officers, agents and employees as additional insureds. A Certificate of Insurance shall contain provisions that prohibit cancellation, modifications, or lapse without thirty (30) days prior written notice to the City.
- N. Permit limitations. This permit is issued in conformance with Newport Beach Municipal Code Chapter 13.18 and Council Policy L-21, or any successor statute or policy, relating to outdoor dining on public sidewalks. However, issuance of this permit does not imply that all governmental agency requirements for starting a new restaurant or expanding an existing one have been satisfied. Business owners are responsible for securing and complying with all required licenses and permits from other agencies including the state Alcoholic Beverage Control Board, the County Health Department, and the City of Newport Beach. Sale of alcoholic beverages in outdoor dining areas shall comply with Newport Beach Municipal Code Section 10.04.010 and Council Policy K-7 (Determination of Convenience and Necessity of Alcoholic Beverage Outlets), or any successor statute or policy.
- O. No alterations. The floor of the outdoor dining area shall be maintained at the same level as the sidewalk, and no alterations to the sidewalk or coverings on the sidewalk (e.g., borings for recessed sleeves) shall be installed unless expressly approved by the Public Works Director.

- P. Disabled access. The outdoor dining area shall be accessible to the disabled, and buildings adjacent to these dining areas shall maintain building egress as defined by the latest adopted editions of the California Code of Regulations Title 24 Disabled Access Standards, or any successor statute.
- Q. Management. Restaurant management shall operate the outdoor dining areas in compliance with the terms and conditions of this permit and shall not delegate or assign the responsibility. The Permittee shall ensure that sidewalk café patrons do not disturb persons on the adjacent right-of-way by loud, boisterous, and unreasonable noise, offensive words or disruptive behavior.
- R. Maintenance. Restaurant management shall keep the outdoor dining area clear of litter, food scraps, and soiled dishes and utensils at all times. Trash receptacles shall be provided in outdoor dining areas used for consuming take-out items unless public trash receptacles located nearby are determined to be adequate by the Public Works Director. At the end of each business day, establishments are required to clean (sweep and wash) the entire sidewalk in and around the outdoor dining area and remove debris to a closed receptacle. No debris shall be swept, washed, or blown into the sidewalk, gutter or street. If disposable materials are used, the establishment shall comply with all applicable City recycling programs. Awnings and umbrellas shall be washed whenever they are dirty and, in any event, no less than two times each year. Private trash receptacles shall be emptied daily.
- S. Furniture removal. When the establishment stops serving for the day and patrons already seated in it leave, further seating in the outdoor dining area shall be prohibited and the outdoor dining furniture shall be removed from the right-of-way unless otherwise approved in the Encroachment Permit.
- T. Plans and permits. All City-approved plans and permits for the outdoor dining area shall be kept on the premises for inspection at all times when the establishment is open for business.
- U. Smoking. Restaurant management may permit smoking in the outdoor dining area consistent with all applicable statutes and regulations. Management may also prohibit smoking in the outdoor dining areas.

- V. Permit transfers. This permit may be transferred to a subsequent operator subject to approval by the Public Works Director and payment of a transfer fee as established by the City Council. Prior to approval of a transfer the Public Works Director may modify the terms of the permit as deemed appropriate to protect public health, safety and welfare.
- W. Termination. Upon termination of the Encroachment Permit, the Permittee shall immediately remove the barriers around the outdoor dining area, return the sidewalk to its original condition, and remove all personal property, furnishings, and equipment from the sidewalk. Any personal property remaining on the premises shall be removed pursuant to the laws of the State of California and the City.
- X. Locations where sidewalk cafes are prohibited. Sidewalk Cafes shall be prohibited in Shared Bicycle/Pedestrian Facilities. Locations of shared bicycle/pedestrian facilities are as follows:

Campus Drive – south side	Von Karman Ave. to Jamboree Rd.
Irvine Avenue – east side	Orchard Ave. to Bristol St.
Jamboree road – west side	Eastbluff Dr. North to Campus Dr.
Mac Arthur Boulevard – east side	Jamboree Rd. to Campus Dr.
Ocean Front	F St. to McFadden Place & westerly line of Ocean Front parking lot to 36 <sup>th</sup> St.
Riverside Avenue – North side	Cliff Dr. to 150 feet north of Avon Ave.
San Joaquin Hills Road – south side	MacArthur Blvd. to Marguerite Ave.
San Miguel Drive – west side	Port Sutton Dr. to San Joaquin Hills Rd.
San Miguel Drive – both sides	San Joaquin Hills Rd. to Avocado Ave.

#### IV. APPLICATION PROCEDURE

- A. An Encroachment Permit shall be required for all encroaching furniture and improvements. The application shall be filed with the Public Works Department on a form provided by the Public Works Department. The application shall be

signed by the owner of the property, or his authorized agent. Authorized agents shall submit written authorization. The application shall be accompanied by a site plan, drawn to scale and fully dimensioned, which accurately depicts the location, height, nature and extent of all proposed improvements and objects within the encroachment zone. All fixed features such as tree wells, signposts, parking meters, fire hydrants, news racks, etc. within twenty (20) feet of the encroachment zone shall be depicted on the site plan.

- B. Prior to issuance of the Encroachment Permit the applicant shall provide both the Certificate of Insurance and the completed standard Special Endorsement in a form meeting the approval of the Public Works Director and the City Attorney.

## V. TERM

Valid encroachment permits shall remain in effect until modified or revoked.

## VI. SIDEWALK CAFE DEVELOPMENT STANDARDS

- A. Horizontal Clearance. A clear, continuous pedestrian path not less than six (6) feet in width shall be required for pedestrian circulation outside of the outdoor dining area, provided that the Public Works Director may require more than six (6) feet if necessary to protect the public safety. Areas with heavy pedestrian traffic shall be required to maintain a minimum of eight (8) feet clear width on the sidewalk. As used herein, pedestrian path means a continuous obstruction-free sidewalk area, paved to City standards, between the outside boundary of the dining area and any obstruction, including but not limited to parking meters, street trees, landscaping, street lights, bus benches, public art, and curb lines. These requirements may be modified at the discretion of the Public Works Director in locations where unusual circumstances exist and where public safety would not be jeopardized.
- B. Allowable uses. An outdoor dining area may incorporate street trees or street furniture, provided that the required pedestrian path is maintained outside of the outdoor dining area.
- C. Setbacks from corners, streets and alleys. When an outdoor dining area is located at a street corner, a ten (10) foot setback from the corner of the building shall be maintained along both frontages. When an outdoor dining area is located adjacent to a driveway or an alley, a five (5) foot setback shall be maintained from the driveway or alley. These requirements may be modified at the discretion of the Public Works Director in locations where unusual circumstances exist and where public safety would not be jeopardized (e.g., the sidewalk adjacent to the proposed outdoor dining area is wider than usual or the perimeter of the building has an unusual configuration).

- D. Extension to adjacent properties. Subject to approval of the Public Works Director and the limitations of Newport Beach Municipal Code Section 20.48.090(D), or any successor statute, an outdoor dining area may extend onto the sidewalk in front of an adjacent business with the written consent of both the adjacent business owner and property owner.

## VII. DESIGN STANDARDS

### A. Barriers

1. No barrier shall be required if the applicant proposes to limit the outdoor dining area to one row of table and chairs abutting the wall of the establishment and if no alcohol shall be served.
2. Establishments that serve alcoholic beverages in the outdoor dining area shall provide a physical barrier that meets the requirements of this policy and of the Alcoholic Beverage Control Board.
3. Barriers should compliment the building facade as well as any street furniture and be somewhat transparent (such as wrought iron) and shall be able to withstand inclement weather. Barriers must be seventy percent (70%) transparent and shop drawings showing the design must be submitted to the Public Works Department for approval upon request.
4. Barriers shall conform to the Public Works Department installation standards and be removable. Barriers and furniture shall be removed at the end of each business day unless otherwise approved by the Public Works Department. Barriers shall be designed to be sectional in nature and easily removed by no more than two people. Barriers may be anchored through the use of recessed sleeves and posts, by wheels that can be locked into place, or weighted bases, however, when they are removed, the resulting surface must be flush with the sidewalk.
5. The height of any barrier shall not exceed three (3) feet six (6) inches.

- B. Awnings and Umbrellas. The use of awnings over the outdoor dining area and removable table umbrellas may be permitted, provided they do not interfere with street trees. No portion of an awning shall be less than eight (8) feet above the sidewalk and no portion of an umbrella shall be less than seven (7) feet above the sidewalk. Awnings may extend up to five (5) feet from the building front or cover up to fifty percent (50%) of the outdoor dining area, whichever is less. Awnings shall have no support posts located within the public right-of-way. A building

permit must be obtained prior to installation of an awning. Heaters, electrical lighting, and/or planting shall not be attached to the awning structure.

- C. Lighting. Outdoor lighting fixtures shall compliment the style of the building. Lighting fixtures shall not be glaring to motorists or pedestrians on the adjacent right-of-way, and shall illuminate only the outdoor dining area. Outdoor lighting may be installed on the facade of the building. Electrical fixtures shall not be permitted in the public right-of-way. Lighting shall be installed by a licensed electrician under an electrical permit from the Building Department. Battery operated lamps or candles shall be permitted.
- D. Design. The design, material, and colors used for chairs, tables, umbrellas, awnings and other fixtures shall compliment the architectural style and colors of the building facade and street furniture.
- E. Signs. Notwithstanding any other provision in the Newport Beach Municipal Code, signs and logos shall be permitted on umbrellas in outdoor dining areas.
- F. Heaters. Portable propane heaters shall be allowed within the outdoor dining area.
- G. Landscaping. Any landscaped pots or planters, if desired, shall be placed within the permitted barrier. Such planters shall be portable and not line the barrier in a continuous fashion. The height of planter and plantings shall not exceed forty-two (42) inches. Barriers and awnings shall not be planted with vines. All planters and pots shall be placed on the interior of the barrier.

Plants shall be properly maintained and stressed or dying plants shall be promptly replaced. Because plant fertilizers contain materials that can stain the pavement, water drainage from any plants onto the adjacent sidewalk shall not be allowed. Potted plants shall have saucers or other suitable systems to retain seepage and be elevated to allow for air flow of at least one (1) inch between saucers and sidewalk.

## VIII. FEES

- A. Application fee. An application fee established by resolution of the City Council shall be paid at the time an Encroachment Permit application is submitted to the Public Works Department.
- B. Transfer fee. A transfer fee established by resolution of the City Council shall be paid at the time an Encroachment Permit transfer application is submitted to the Public Works Department.



- C. Annual use fee. An annual use fee established by resolution of the City Council shall be paid upon annual renewal of an Encroachment Permit. No use fee shall be charged during the first year of operation.

#### IX. VIOLATION/REMEDY

In the event that a Permittee fails to abide by the provisions of this policy or the terms and conditions of an encroachment permit, the Public Works Director may summarily abate any encroachment or improvement that is in violation of this policy. The Permittee or property owner shall pay all costs incurred by the City in abating the encroachment or improvement. The Permittee or property owner may appeal the decision of the Public Works Director to the City Manager. The determination of the City Manager with respect to abatement shall be final.

**Adopted - March 11, 1996**

**Corrected - May 28, 1996**

**Amended - March 22, 1999**

**Amended - April 23, 2002**

**Amended - August 11, 2018**

**Note: This policy was adopted as L-19 on 3-11-96, however this number was already assigned to Leased Street Lights (approved 2-26-96)**

## THE SITING OF WIRELESS TELECOMMUNICATIONS EQUIPMENT ON CITY-OWNED PROPERTY

### I. PURPOSE

To describe the manner in which specific city-owned or city Trust properties may be used as locations for wireless telecommunications devices that transmit voice or data.

### II. POLICY

It is the policy of the City to effectively balance the needs of its residents, visitors, and businesses to use and have access to state-of-the-art wireless telecommunication systems (such as wireless Internet, voice, and other data communications) with the needs of residents to safely and effectively enjoy their property. This Policy shall be used when considering applications to install wireless communications devices on City-owned or City-held property by any wireless telecommunications provider or siting company.

### III. AGREEMENT REQUIRED

All telecom facilities located on City-owned property or City-held Trust property must have an agreement approved as to form by the City Attorney and approved as to substance (including, but not limited to, compensation, term, insurance requirements, bonding requirements, and hold harmless provisions) by the City Manager or their designee prior to the submittal of an application for the necessary permits pursuant to Section IV of this policy. The agreement shall be executed prior to the issuance of a street construction permit (encroachment permit).

### IV. PERMIT REQUIRED

A. Unless otherwise exempt, all telecom facilities proposed to be located on City-owned or City-held trust property must apply for and receive a permit under the provisions of Chapter 20.49, or any successor chapter prior to the issuance of an encroachment permit.

B. All proposals affecting City-owned or City-held trust property shall be processed via this Policy through the Community Development Department and Public Works Department pursuant to the Municipal Code requirements.

### V. CITY SITES ELIGIBLE OR INELIGIBLE FOR FACILITY PLACEMENT

A. Sites Eligible for Use. The City Council has determined that the following City locations are acceptable for placement of wireless devices:

1. Fire Stations
  2. Newport Beach City Hall
  3. Parks
  4. Police Headquarters
  5. Lifeguard Headquarters
  6. The Community Centers
  7. Medians and parkways along public streets
  8. The Central Library and Branch Libraries
  9. The Corporate Yards
  10. Qualifying City-held easements
  11. Streetlights (following certification and acceptance by the Utilities Department of an effective test of the facility's impacts to the light standard under various environmental conditions), which may be located upon the right-of-way, City-trust held property.
  12. Leased City property, subject to the lease provisions.
- B. Sites Ineligible for Use. The City Council has determined that the following City locations are unacceptable for placement of wireless devices in accordance with the entirety of this Policy:
1. Open space areas owned by the City where placement of facilities in these areas would aesthetically impair the pristine nature of the area.
  2. Other properties owned by the City where the placement of facilities would conflict with existing structures, including utilities, or impede views, or otherwise impact use of the facility or property for its designated purpose.
  3. Traffic Signal Poles

## VI. COMPENSATION AND TERM

The City Manager shall follow these rules when developing any Agreement for the placement of any wireless device on City property:

- A. Compensation shall be equal to fair market value, taking into account rent charged by owners of public or private properties within Newport Beach or neighboring cities for a similar type of facility and location. Such compensation shall be determined via a Rent Survey conducted by the City every five (5) years, as adjusted by the Consumer Price Index (CPI) each calendar year during non-survey years.

- B. The Agreement shall provide for a specific term to be determined by the City Manager. Where the term exceeds five (5) years, at the fifth year and every five years thereafter, rent shall be adjusted to fair market value using the Rent Survey ("Market-Based Adjustment"), or the adjusted rate as prescribed by the lease terms, whichever is greater.
- C. The Agreement shall provide for the following rent adjustments:
  - 1. Rent shall be adjusted annually by the Consumer Price Index (CPI) for All Urban Consumers, Anaheim-Riverside-Los Angeles or a similar index; and
  - 2. At the end of five (5) years of the Agreement term and every five (5) years thereafter, the Market-Based Adjustment described above; or
  - 3. Optionally, the License Fee shall automatically increase four percent (4%) each year, and adjust to market rate upon the first renewal term, or the License Fee shall automatically increase five percent (5%) each year, and adjust to market rate upon the second renewal term.
  - 4. The Agreement shall require the applicant to post a bond, letter of credit, or other financial security/securities ("Financial Security") in an amount that equals or exceeds the anticipated cost of removing the facility or facilities and repairing any damage to City property at the completion of the Agreement term or in the event that the applicant ceases use of or abandons the facility or otherwise does not remove the facility including any equipment or cabinet whether underground, in the public right-of-way, or on City or private property. The Financial Security shall name the City as eligible for receipt of the Financial Security's proceeds in the event that the applicant ceases use of or abandons the facility.
  - 5. If the facility is located upon park property, the City may require as a component of the rent a one (1) time upfront payment in addition to the annual/monthly rent. The amount shall be at the recommendation of the City Manager and the Director of Recreation and Senior Services, or their designee(s).

## VII. EFFECTIVE DATE AND COUNCIL NON-CONSENT

- A. The City Manager shall notify (via memorandum or similar correspondence) the City Council as to a pending Agreement for telecommunications facilities on public land. The Agreement shall take effect forty-five (45) days after the City Manager's notification of the City Council unless called up by a City Council member within thirty (30) days of the City Manager's notification of City Council of a pending Agreement per this section.
- B. A City Council member reserves the right to, at any time and for any purpose, not consent to the City Manager's issuance of an Agreement under this Policy. The

City Council may do so by notifying the City Manager of the Council member's intent to bring the Agreement before City Council. The Council member must express this intent in writing or at a formal Council meeting not more than thirty (30) days after the City Manager has notified the City Council of a pending Agreement. Should the City Council not consent to the issuance of an Agreement, the Agreement shall not become effective.

#### VIII. PROPOSALS FOR EQUIPMENT IN THE CITY RIGHT-OF-WAY

This policy shall not apply to Encroachment Permits (Telecom) for the use of right-of-way. Newport Beach Municipal Code Title 13, or any successor statute, shall govern consideration of Encroachment Permits (Telecom).

#### IX. CITY COMMUNICATIONS SYSTEMS EXEMPT

This policy shall not apply to any communications system used by City personnel for communications deemed necessary for City operations.

**Adopted - September 24, 2002**

**Amended - October 10, 2006**

**Amended - August 14, 2018**

FLAGS ON PUBLIC BRIDGES, WITHIN OR EXTENDING OVER THE PUBLIC  
RIGHT-OF-WAY

The City supports the beautification efforts directed to improve the quality of life and economic vitality of various communities and commercial areas. Decorative flags shall be permitted to enhance the appearance of City Bridges and identify the areas of the City geographical commercial villages pursuant to this policy.

The City Council also finds that excessive numbers of flags bearing text can be distracting to drivers, detract from the City's unique environmental setting, and create a cluttered atmosphere on public property. In addition, the City Council does not intend to establish any limited public forum for speech on City fixtures that is inconsistent with the limits on categories of speech, classes of speakers, and venues for such limited speech established in Council Policy L-16, or any successor policy.

I. FLAGS ON PUBLIC BRIDGES

- A. Flags are permitted on the following public bridges: the (1) Lido Isle/Via Lido Bridge; (2) the Balboa Island/Marine Avenue Bridge; (3) Little Balboa Island/Park Avenue Bridge; (4) the Arches Interchange Bridge; and (5) any other bridge allowed by the City Manager. Flags shall be prohibited on all other public bridges.
- B. All flags shall be decorative in nature and shall not contain any text with the exception of the U.S. flag and geographical community designations (ex: Balboa Island, Lido Isle, etc.). Commercial, political, or religious messages or messages of any kind, including logos and symbols shall not be allowed.
- C. No person shall install, maintain or remove flags on City bridges without first obtaining an encroachment permit and agreement from the Public Works Department. The permit/agreement shall be valid for a period of one (1) year and shall be renewable annually.

II. AUTHORITY TO INSTALL, MAINTAIN AND REMOVE

- A. The Lido Isle Community Association shall be the designated agent of the City and shall be responsible for the installation, maintenance and removal of flags on the Lido Isle/Via Lido Bridge.
- B. The Balboa Island Improvement Association shall be the designated agent of the City and shall be responsible for the installation, maintenance and removal of flags on the Balboa Island/Marine Avenue Bridge.

- C. The Little Balboa Island Association shall be the designated agent of the City and shall be responsible for the installation, maintenance and removal of flags on the Little Balboa Island/Park Avenue Bridge.

### III. FLAGS PLACED WITHIN OR EXTENDING OVER THE PUBLIC RIGHT OF WAY

The City Council wishes to ensure that flags displayed within the three (3) geographical commercial villages are installed and displayed in a manner that does not damage City property, create a hazardous condition on public property, or incur increased installation or maintenance expense for the City. Encroachment permits shall be required on an annual basis, and all flags displayed pursuant to the provisions of this Policy shall be designed and installed consistent with the technical specifications and other requirements set forth under the encroachment permit.

### IV. DEFINITIONS

- A. The City of Newport Beach's commercial villages shall be defined as follows:

1. Balboa Village Business District, generally located between A Street and Coronado Street on the Balboa Peninsula;
2. Balboa Island Business District, generally the 200 and 300 blocks of Marine Avenue;
3. Corona del Mar Business District, generally located along East Coast Highway from Hazel Drive to Avocado Avenue; and
4. Any other Business Improvement District that is formed by the City under the California Streets and Highways Code.

- B. The City shall permit decorative flags to be installed by the three geographic commercial villages on City poles and standards approved by the Director of Public Works, within the geographic boundaries of the commercial villages. Except as permitted under this Policy, Newport Beach Municipal Code Chapter 20.42, and Council Policies L-16 (Temporary Banners Extending Over the Public Right-of-Way), or any successor statutes or policies, no decorative flags shall be installed within or over the public right-of-way in other geographic areas of the City.

- C. All flags permitted under this Policy shall be decorative in nature and shall not contain any text with the exception of geographical community designations. (ex: Balboa Island, Balboa Village, etc.) Commercial messages, noncommercial messages, or messages of any kind, including but not limited to logos and symbols associated with known religious, political, commercial, and/or nonprofit entities shall not be allowed. National flags of any nation shall be permitted.

D. No person shall install, maintain or remove flags on City poles, standards or other fixtures within the geographic boundaries of the commercial village areas without first obtaining an encroachment permit and agreement from the Public Works Department. The permit/agreement shall be valid for a period of one (1) year and shall be renewable annually.

1. Applications for an annual flag permit in a commercial village geographical area shall be submitted to the Public Works Department on a form supplied by the City. With its application for each annual permit, the Permittee shall include proposed locations, designs, materials, specifications and dimensions for all flags it intends to display with its application for the permit/agreement.
2. The Public Works Director shall review each application for consistency with Department standards, including but not limited to dimensions, materials, location, type of installation, and wind load considerations. The Public Works Director shall approve or deny the application within ten (10) business days from the date the Director deems the application complete.
3. All flags displayed under the annual permit/agreement shall be consistent with the specifications and other information included with the permit/agreement application. No change or deviation in location, design, material, specification or other information submitted to and approved by the Public Works Director shall be permitted under the annual permit/agreement unless first approved in writing by the Public Works Director.
4. Flags shall not encroach on or above any portion of a right-of-way utilized by motor vehicles.
5. No more than two (2) flags may be installed on any City pole or standard at any time. With the approval of the Public Works Director, up to two (2) flags may be permitted on a single pole. If the Permittee requests a permit for more than one (1) flag or banner on any single pole, only one (1) of the flags or banners on the requested pole may contain text. If a pole or standard designated by the Public Works Director for flag display under this Policy is also one that is designated for temporary banner display under Council Policy L-16, and more than one (1) Permittee or entity requests the use of the same pole or standard at the same time, the City may require temporary removal of some of the flags permitted under this Policy to allow other entities to install banners authorized under City policies.



6. The Permittee shall contact the Utilities Department of the City of Newport Beach at least forty-eight (48) hours prior to the installation of any flag on streetlight poles pursuant to the annual permit/agreement.
7. The Permittee shall employ a licensed contractor for installation and removal of any flags installed under the annual permit. The Permittee and any contractor employed by the Permittee shall agree to indemnify and hold harmless the City of Newport Beach.
8. The Public Works Director may impose a refundable security deposit to be applied to any damages and/or repairs to standards or poles not corrected by Permittee within fourteen (14) days of flag removal or any special service required by the City.
9. The entities applying for a permit shall be responsible for the installation, maintenance and removal of flags permitted under this Policy and installed within their geographic boundaries.

**Combined with City Council Policy L-27.**

**Adopted - June 22, 2004**

**Amended - August 14, 2018**

## DECORATIVE CONCRETE PAVERS IN ALLEYS

The City supports the beautification of public alleys by adjacent property owners. It is the intent of this policy to allow property owners to contribute funds to enhance the surface of alleys with decorative concrete pavers.

### I. GENERAL

- A. Installation is permitted in residential and commercial alleys upon approval of the Public Works Department. No person shall install decorative concrete pavers without first obtaining an encroachment permit from the Public Works Department.
- B. All improvements shall conform to City Standards and pavers shall conform to City Standard Drawing STD-144-L. The block choice, color scheme, and block pattern shall be approved by the Public Works Department. Traditional colors (ex: concrete gray, brick red) or blended color schemes that are readily available materials are required.
- C. The proponents for a decorative concrete paver project shall pay for the increased cost of the decorative concrete paver pavement section above the cost of standard improvements, if the alley is scheduled for alley replacement by the City. If the alley is not scheduled for replacement, the proponents shall be responsible for all costs associated with alley reconstruction (including design and construction services).
- D. Upon installation, the City shall be responsible for maintenance of the concrete pavers during the design life of the product (twenty (20) years). During the maintenance period, every effort shall be made to match shape and color of replacement pavers. At such time the Public Works Director determines that the concrete pavers have deteriorated to an unacceptable condition and/or suitable replacements are unavailable, the proponents shall be given an opportunity to replace said pavers or the Public Works Department shall have the option of replacing the alley pavement with alternative standard materials.

### II. PROCEDURE

- A. The Proponents shall appoint a treasurer, trustee, escrow agent or fiscal agent (hereinafter "agent") to collect and record individual property owner contributions at the property owners expense and notify the City of the appointed agent in writing.

- B. Proponents must circulate a City-provided petition to owners adjacent to the alley where decorative concrete pavers are desired. The petition shall include product specifications, color palette, paver layout pattern, estimated project costs, and expected contribution amounts. Proponents shall submit samples and manufacturers' specifications for review and approval. The petition shall be approved by the Public Works Department prior to initiating the project.
- C. More than sixty percent (60%) of the adjacent property owners per block where improvements are proposed must support the installation by signing the petition. However, support of the project does not make contribution mandatory, and the contributions among individual proponents may vary.
- D. Upon certification of the petition, City staff shall prepare construction documents or modify budgeted alley resurfacing projects to include pavers. At this time the City may require a non-refundable fee to cover the administration and design costs of the project. The design and administration fee can vary between five (5%) and fifteen (15%) percent of the anticipated construction cost.
- E. Upon completion of construction documents, the remaining portion of the proponent's contributions are due within thirty (30) days of invoicing from the City to the Proponents appointed agent. Said contributions shall be paid to the City by the agent in lump sum and deposited in a designated project trust account. Interest earned on the construction deposit, the project proceeds and on any proceeds received in excess of the cost of the project shall accrue to the benefit of the City. Once these funds are received, the City shall obtain bids for the proposed project. If the contributions are sufficient to cover the bid price of the project, construction management, inspection, administration and reasonable contingencies, City staff shall seek City Council approval to recognize the contributions, appropriate the expenditures for the project, award the contract to the successful bidder, and proceed with the construction. Any principal proceeds in excess of the design, construction and administration of project shall be returned to the appointed agent after the Public Works Department has accepted the project, the final retention has been paid and a final accounting of the project cost has been prepared.

**Adopted - August 24, 2004**

**Amended - April 12, 2005**

**Amended - August 14, 2018**

## TRAFFIC MANAGEMENT POLICY

The City has developed Traffic Management Guidelines in an effort to provide residents with traffic concerns access to traffic management measures that may serve to alleviate their concerns. It is the intent of this policy to identify traffic calming measures; establish speed and volume thresholds for the implementation of measures and; define step-by-step procedures to address traffic concerns.

### I. GENERAL

The Goals of the Traffic Management Program are:

- A. Manage the speed of vehicles on residential streets with “demonstrated speeding concerns” (as defined in this Policy) to levels consistent with residential speed limits, or other posted speed limits as determined by the California Vehicle Code or the City of Newport Beach Municipal Code.
- B. Discourage the use of local residential streets by non-local (cut-through) traffic by making the streets less attractive as commuter routes.
- C. Develop and emphasize focused neighborhood educational programs that can address residential traffic concerns. This shall be accomplished by the preparation of a traffic calming pamphlet; holding neighborhood meetings; and public hearings before the City Council.
- D. Implementation of selective police enforcement actions to address traffic related concerns.
- E. Minimize impacts on emergency vehicle response times, which may potentially be caused by implementation of traffic calming measures.
- F. Limit the potential for shifting traffic from one residential street (or neighborhood) to another when implementing traffic calming measures.
- G. Reduce the speed of vehicles on primary and secondary arterial roadways, and in school zones, through the use of devices, including, but not limited to, radar speed feedback signs when appropriate.
- H. Respond to concerns or complaints in a timely manner.

### II. DEFINITIONS

Traffic management measures for residential streets (as defined herein) generally fall into three (3) categories:

- A. Level 1 Tools are comprised of actions and programs that are primarily educational and enforcement based. These tools include neighborhood meetings, police enforcement, signing, and the use of a temporary speed radar trailer.
- B. Level 2 Tools include the construction of physical improvements on residential streets to address documented speed concerns. These tools include road narrowing, striping modifications, chokers, raised medians, gateways, neighborhood traffic circles, landscaping, speed bumps, speed tables, speed cushions and intersection channelization.
- C. Level 3 Tools include the construction of physical improvements to reduce traffic volumes on a local residential street. These tools include neckdowns, turn restrictions, cul-de-sacs, diagonal diverters, half-closures.
- D. A “residential street” is a local, two-lane street with a posted (or prima facie) speed limit of twenty-five (25) miles per hour (“mph”) or thirty (30) mph and a maximum width of forty-four (44) feet from curb-to-curb.

Definitions for the various traffic calming tools are included in the City’s Traffic Management Guidelines document, or any subsequent successor document.

### III. CRITERIA

- A. The implementation of Level 2 Tools on residential streets shall be considered for those public streets meeting **all** of the following criteria:
  - 1. The street segment shall be at least 800 feet in length, and have no intermediate STOP signs.
  - 2. The two-way volume of traffic on the street shall be between 500 and 4000 vehicles per day.
  - 3. A speed survey must demonstrate that the eighty-five (85) percentile speed is equal to or greater than thirty-two (32) mph on a posted (or prima facie) twenty-five (25) mph street, or equal to or greater than thirty-seven (37) mph on a posted thirty (30) mph street. Speeds above these thresholds indicate a “demonstrated speed concern.”

4. The street must have a sustained longitudinal grade of six percent (6%) or less. The street must have a horizontal and vertical alignment such that there is adequate sight distance, as determined by the City Traffic Engineer.
  5. Level 2 measures shall not be installed if, in the opinion of the City Traffic Engineer, they shall result in excessive diversion of traffic to parallel local residential streets.
  6. Proposed Level 2 measures shall be reviewed by the Police and Fire Departments for potential impacts to public safety response times.
- B. The implementation of Level 3 Tools shall be considered for those residential streets meeting criteria 1, 5, and 6 , as noted above, and as required by Level 2 Tools. In addition the following criteria must be met:
1. The volume of traffic on the street shall be greater than 4000 vehicles per day.

#### IV. PROCESS

The following step-by-step procedures shall be used by the City to address traffic concerns on residential streets:

- A. A resident shall inform the City of a potential problem area. Any traffic calming request is required to include a petition signed by at least five (5) residents within the immediate vicinity of the problem area.
- B. The City shall review the roadway conditions and collect the appropriate traffic speed and volume data. If it is determined that an immediate safety issue exists, staff shall initiate a project to address the situation. Otherwise, staff shall initiate the appropriate Level 1 traffic calming measures.
- C. The Level 1 measures shall be in place for a minimum of three (3) months. If the Level 1 measures do not address the resident's concerns, the City shall review the traffic data that has been collected, discuss the issues with the Police and Fire Departments, and determine if the street qualifies for Level 2 or Level 3 measures. The residents shall be informed of the results of the traffic analysis.
- D. If the traffic data indicates that the residential street(s) may qualify for Level 2 or Level 3 measures, a letter shall be mailed out to the neighborhood asking residents to identify specific concerns. After responses to the letter are received, a neighborhood meeting shall be held. This meeting may be used to develop

recommended Level 2 or Level 3 implementation measures. A representative of the Public Works Department and the Police Department shall attend the meeting.

- E. Based upon resident input and staff analysis, a draft improvement plan shall be prepared and submitted to the residents together with an approved petition for signatures.
- F. A neighborhood representative shall be responsible for circulation of the petition and draft improvement plan. The petition shall be prepared by City staff together with the neighborhood representative, and shall be approved by the City Traffic Engineer prior to circulation. The City shall provide a map of the affected area and/or a listing of all affected addresses to the designated neighborhood representative. The petition should include only residences or businesses within the affected area. Person(s) circulating the petition shall attempt to obtain signatures from all affected residences or businesses that are either an owner or tenant and at least eighteen (18) years old. The petition must include the current address, printed name, and signature for person signing the petition. The petition requesting Level 2 or Level 3 traffic management measures must be supported by seventy percent (70%) of the total number of residential units/businesses. In the event that a traffic calming tool may increase traffic noise, one resident for each residence immediately adjacent to a proposed location of such traffic calming tool must sign the petition in favor of the draft improvement plan.
- G. If neighborhood support is demonstrated through the petition process, the project shall be forwarded to City Council for approval. All Level 2 or Level 3 measures on residential streets shall be approved by City Council prior to final design or construction. If the petition process is unsuccessful, City staff shall continue undertaking the appropriate Level 1 actions.

#### V. PRIORITY

Requests for the installation of traffic calming measures on residential streets using City funds shall be prioritized by the City Traffic Engineer considering the following factors:

- A. Date of petition submittal.
- B. Volume of traffic using the street.
- C. Percentage of traffic exceeding the threshold speed limit.
- D. Other factors including, but not limited to, number of houses, presence of parks or schools, street width, and number of residential driveways.

The City shall also take into account any letters of interest from the residents (or Homeowners Associations) to provide funding for all or part of the costs of the design and construction of the improvements.

#### VI. GUIDELINES FOR THE USE AND INSTALLATION OF FIXED RADAR SPEED FEEDBACK SIGNS

Radar speed feedback signs are installed to provide a real-time dynamic display of a driver's vehicular speed at a particular location. In locations where traffic-calming features such as speed humps or chokers are not appropriate for the roadway, radar speed feedback signs can be an effective installation. This policy applies to signs in fixed locations, as opposed to radar speed feedback signs on trailers. A radar speed feedback sign shall be considered for use when all of the following minimum thresholds are met:

- A. The roadway under consideration is designated on the Master Plan of Streets and Highways as a primary or secondary arterial road.
- B. The average daily traffic (ADT) volume for the roadway segment is greater than 10,000 vehicles per day.
- C. The posted speed limit is thirty-five (35) mph or greater; or
- D. Within a school zone area, after review and recommendation of the City Traffic Engineer and Public Works Director.

Staff has developed a point system using the factors listed below. This point system can be used to establish a priority ranking for future fixed location sign installations on primary or secondary arterial roads that meet the minimum thresholds. To address resident or Newport-Mesa Unified School District requests for a radar speed feedback sign in a school zone, factors # 3 through # 7 shall be used during the review process.

			Points
A. Daily Traffic Volume	10,000 – 15,000		1
	15,000 – 20,000		2
	20,000 – 25,000		3
	25,000 +		2
Posted Speed Limit	35 mph		1
	40 mph		2
	45 mph		3
	50 mph		1



C.	85% speed over limit	0 mph – 2 mph over posted speed	1
		2 mph – 4 mph over posted speed	3
		4 mph – 6 mph over posted speed	5
D.	Speed related accidents	0 accidents in previous 3 years	0
		1-2 accidents in previous 3 years	1
		3-5 accidents in previous 3 years	2
		6-8 accidents in previous 3 years	3
		9 + accidents in previous 3 years	4
E.	Near School	Greater than 1/2 mile	1
		Between 1/4 to 1/2 mile	2
		Within 1/4 mile	3
F.	Percent grade	0% - 4%	1
		5% - 9%	2
		10% +	3
G.	Street Conditions	Sidewalks both sides	0
		Sidewalks one side	1
		No pedestrian facility	3
		Curves with advisory signing	3
H.	Bicycle Facility	Next to Designated Bicycle Sidewalk	1
		Next to Existing/Planned Bike Route	2
		Next to Existing/Planned On-street Bike Lane	3

Priority should always be given to those roadways where the number of speed related accidents is relatively high. In addition, the severity of the accident history should be strongly considered in the review of all locations.

Radar speed feedback signs shall only be placed where they improve safety and do not create objections from residents. All residents near a proposed sign location shall be contacted. Any sign to be placed in front of a home should receive support from the property owner. Any signs to be placed in school zones should be activated only for two (2) hours at the start and at the end of the school day.

**Adopted - September 12, 2006**  
**Amended - May 12, 2015**  
**Amended - August 14, 2018**

ASSESSMENT DISTRICT BALLOTING GUIDELINE  
FOR PROPOSED NEW OR INCREASED SPECIAL ASSESSMENTS

I. INTRODUCTION

The following guidelines (these “Assessment Balloting Guidelines”) shall govern the preparation, distribution, return, handling and tabulation of assessment ballots in any proceeding of the City of Newport Beach (the “City”) in which the City Council is considering a proposed new or increased special assessment. These Assessment Balloting Guidelines are intended to assure compliance with the provisions of California Constitution Article XIID Section 4 (“Section 4”) and California Government Code Section 53753 (“Section 53753”) and to improve understanding of the Assessment Balloting Guidelines by affected property owners and other interested persons.

While these Assessment Balloting Guidelines seek to provide general guidance to the City Clerk and to anticipate situations which may arise, the City Clerk is granted discretion to exercise judgment and to seek further guidance from the City Attorney and bond counsel for the Assessment District in question before determining how to proceed in the event circumstances arise which are not expressly provided for in these Assessment Balloting Guidelines.

II. DESIGNATION OF CITY CLERK TO OVERSEE ASSESSMENT BALLOT CUSTODY AND TABULATION

- A. Pursuant to Section 53753 subsection (e)(1), the City Clerk is hereby designated as the impartial person to oversee and coordinate all matters pertaining to the receipt and custody of returned assessment ballots and, following the close of the public hearing, the opening and tabulation of assessment ballots. The City Clerk may be assisted by members of the City Clerk’s staff and by an outside consultant providing services under the supervision of the City Clerk, and the City Clerk may designate a member of the City Clerk’s staff to discharge the responsibilities of the City Clerk as established by these Assessment Balloting Guidelines.
- B. In the event that, for any reason, the City Clerk has a vested interest in the outcome of the proposed assessment proceedings, whether by virtue of ownership of property within the subject assessment district which is proposed to be assessed or otherwise, the City Clerk shall so advise the City Council, and

the City Council of the City (the "City Council") shall designate another person to serve those functions which would otherwise be served by the City Clerk for that assessment district.

- C. As used in these Assessment Balloting Guidelines, the term "City Clerk" shall be deemed to include the City Clerk's designee, if any, or the City Council's designee, if any, as established pursuant to the foregoing provisions of this Section II.

### III. PREPARATION OF ASSESSMENT BALLOTS

- A. The preparation of assessment ballots, together with the related notice of hearing, shall be under the supervision of the City Clerk, with such assistance as the City Clerk may request from the City Attorney, as well as the City's bond counsel and the City's assessment engineer for the subject assessment district.
- B. Both the assessment ballots and the notices of hearing shall contain those matters specified by Section 4 and by Section 53753.
- C. The term "proposed assessment," as used in Section 4 and Section 53753, shall mean the amount proposed to be assessed against each parcel as set forth in the written engineer's report (the "Engineer's Report") which is prepared, submitted and preliminarily approved by resolution of the City Council, whether as submitted by the assessment engineer (the "Assessment Engineer") or as modified by the City Council prior to such preliminary approval. The amount of the proposed assessment, as derived from the Engineer's Report (including any modification to the amount of any given proposed assessment, if any, by action of the City Council prior to preliminary approval of the Engineer's Report), shall remain the amount of the proposed assessment for purposes of weighting of assessment ballots following the close of the public hearing.

### IV. DISTRIBUTION OF ASSESSMENT BALLOTS

- A. The City Clerk shall distribute or cause the distribution of assessment ballots, together with the related notice of hearing, to the record owner of each parcel (the "Record Owner") for which an assessment is proposed to be levied in the subject assessment. Such distribution shall be made by mail, postage prepaid, with the return address of the City Clerk set forth on the mailing envelopes to facilitate the return of any envelope which is deemed not deliverable as addressed.
- B. The term "Record Owner," as used in this Section IV, shall have the meaning

set forth in Section 53750 of the Government Code.

- C. Each envelope mailed to a Record Owner shall include, in addition to the notice of hearing and the assessment ballot or ballots respecting the parcel or parcels of that Record Owner, a self-addressed, return envelope by which the Record Owner may mail completed assessment ballots to the City Clerk. The return envelope shall be marked in such manner as shall be determined by the City Clerk so as to inform staff in the City Clerk's office that it contains an assessment ballot and should therefore remain unopened prior to the close of the public hearing for the subject assessment district.
- D. In the event that, for any reason, a return envelope containing an assessment ballot is opened prior to the close of the public hearing, the envelope shall be re-sealed immediately and in such manner as will assure that the contents of the assessment ballot shall remain concealed until the close of the public hearing.
- E. Mailing of the notices of hearing and assessment ballots shall be completed not less than forty-five (45) days prior to the date of the public hearing, and the City Clerk (or other person designated to serve the functions of the City Clerk) shall complete a certificate of mailing, evidencing compliance with the requirements of Section 4 and Section 53753 with respect to such mailing.

#### V. COMPLETION OF ASSESSMENT BALLOTS

##### A. Who may complete an assessment ballot?

An Assessment Ballot may be completed by the Record Owner of the parcel to be assessed or by an authorized representative of the Record Owner. For purposes of this subsection A, the term "Record Owner" shall be deemed to include the following:

- 1. A person meeting the definition of "Record Owner" as set forth in Section 53750;
- 2. Any person who is shown as a transferee of title to the subject parcel on a copy of a recorded grant deed or similar instrument of conveyance of title, as established by a copy of such instrument submitted with the Assessment Ballot which is completed by such person; and
- 3. An authorized representative of a person qualifying as a Record Owner pursuant to the aforementioned subparagraphs (1) or (2), as established by documentation submitted with the Assessment Ballot which is completed by the authorized representative.

If the Record Owner of the parcel is a partnership, joint tenancy, or tenancy in

common, an Assessment Ballot may be completed by any of the general partners, joint tenants, or tenants in common. If there are multiple Record Owners of a parcel, an Assessment Ballot may be completed by any one of the multiple Record Owners.

Except as provided in the following subsection B for the circumstance of multiple Record Owners of a parcel, only one Assessment Ballot may be completed for each parcel.

B. Multiple-owner assessment ballots

If a parcel has multiple Record Owners, any one of them may request the City Clerk to provide Multiple-Owner Assessment Ballots to all of the owners of the parcel.

Such request must be in writing, must specify the names and mailing addresses of all of the multiple Record Owners, must include evidence, satisfactory to the City Clerk, of each owner's proportional rights in the parcel (including percentages), and must be delivered to the City Clerk at 100 Civic Center Drive, Newport Beach, California 92660. Upon the receipt of such a request, complete with the information prescribed in the foregoing sentence, the City Clerk shall prepare and mail a Multiple-Owner Assessment Ballot to each Record Owner, along with a copy of the notice of hearing and the self-addressed, return envelope.

To ensure that the City Clerk has sufficient time to notify each Record Owner prior to the public hearing, all requests for Multiple-Owner Assessment Ballots must be received by the City Clerk no later than fourteen (14) calendar days prior to the public hearing date, and the City Clerk shall not be obligated to provide Multiple-Owner Assessment Ballots in response to requests received after that deadline.

III. REPLACEMENT ASSESSMENT BALLOTS

- A. If an Assessment Ballot is lost, destroyed or never received, or if a Record Owner wishes to change his or her ballot, the City Clerk shall provide a Replacement Assessment Ballot upon request of the Record Owner, whether prior to or at the public hearing. As soon as reasonably possible following receipt of such a written request, the City Clerk shall provide a Replacement Assessment Ballot to the Record Owner.
- B. If mailed delivery of the Replacement Assessment Ballot is requested, the request must be received no later than 14 calendar days prior to the public hearing date, and the mailed Replacement Assessment Ballot shall be accompanied by a copy of the notice of hearing and the self-addressed, return envelope. If the request is received after that deadline but before the public hearing, the Record Owner shall

be obligated to pick up the Replacement Assessment Ballot at the City Clerk's office.

- C. If the request is made at the public hearing, the City Clerk shall provide the Record Owner with the Replacement Assessment Ballot by personal delivery for completion and submission prior to the close of the public hearing.
- D. If both a Replacement Assessment Ballot and an original Assessment Ballot are received for a given parcel, the Original Ballot shall be considered to be withdrawn and the Replacement Ballot shall be counted.

#### IV. MARKING AND SIGNING THE ASSESSMENT BALLOT

To complete an Assessment Ballot, the Record Owner must (1) mark the appropriate box to express either support or opposition to the proposed Assessment District and (2) sign the statement on the Assessment Ballot, under penalty of perjury, that the person completing the Assessment Ballot is a Record Owner (as defined in Section V(A) above to include an authorized representative of the Record Owner). Only one box may be marked on each Assessment Ballot.

##### A. Return of Assessment Ballots

- 1. An Assessment Ballot may be returned by a Record Owner of the parcel to which the Assessment Ballot pertains, as the term "Record Owner" is defined in Section V(A) above.
- 2. Assessment Ballots may be mailed or delivered in person to the City Clerk's office at 100 Civic Center Drive, Newport Beach, California 92660. Assessment Ballots may also be delivered to the City Clerk via facsimile transmission so long as there is no evidence on the face of the Assessment Ballot that raises questions as to its validity. Finally, Assessment Ballots may be delivered in person at the public hearing, provided that Assessment Ballots must be received by the City Clerk prior to the close of the public hearing.
- 3. The City Clerk must receive all Assessment Ballots which are returned by mail and by facsimile transmission by the end of the business day on the public hearing date. Postmarks shall not be counted.

Assessment Ballots may be hand delivered to the City Clerk at any time prior to the close of the public hearing. The City makes no representation whether the public portion of the public hearing shall be concluded on the public hearing date or continued to a later date. If for any reason the public hearing is continued, the entitlement to submit Assessment Ballots shall

likewise be continued until such time as the public hearing is closed.

4. After returning an Assessment Ballot to the City, the Record Owner who returned the Assessment Ballot may request that it be withdrawn. If the Record Owner is not known personally to the City Clerk, the City Clerk may require that the request be in writing, which shall include information to enable the City Clerk to identify the parcel to which the Assessment Ballot pertains. Such request must be received by the City Clerk prior to the close of the public hearing.

If an Assessment Ballot has been withdrawn, the Record Owner requesting the withdrawal may request a Replacement Assessment Ballot, in which case the provisions respecting timeliness of the request set forth in Section III above shall apply.

The City Clerk shall retain all withdrawn Assessment Ballots, together with any applicable written requests pertaining thereto, and shall indicate on each such Assessment Ballot that it has been withdrawn.

#### B. Handling and Tabulation of Returned Assessment Ballots

1. Upon receipt of returned Assessment Ballots, the City Clerk shall place all such returned Assessment Ballots together in a secure location, where they shall be accumulated and shall remain unopened until the close of the public hearing. In the event that the envelope containing a returned Assessment Ballot is inadvertently opened, the envelope shall be immediately re-sealed in a manner to assure that the contents of the Assessment Ballot remain concealed until the close of the public hearing.
2. Only Assessment Ballots which are completed and returned in compliance with these guidelines prior to the close of the public hearing shall be counted. Assessment Ballots shall not be counted if any of the following is true:
  - a. The City Clerk receives the Assessment Ballot after the close of the public hearing on the Assessment District.
  - b. The Assessment Ballot has not been signed.
  - c. The Assessment Ballot either (1) has not been marked to indicate either support for or opposition to the Assessment District or (2) has been marked for both.
  - d. The Assessment Ballot has been withdrawn in accordance with these procedures.



3. The City Clerk shall keep a record of each Multiple-Owner Assessment Ballot or Replacement Assessment Ballot provided to a Record Owner and shall verify that only one Assessment Ballot has been returned (or, in the case of Multiple-Owner Assessment Ballots, no more than the applicable number of Multiple-Owner Assessment Ballots have been returned, as applicable) for the parcel. If the City Clerk has received both the original Assessment Ballot and a Replacement Assessment Ballot for a given parcel, the City Clerk shall count the Replacement Assessment Ballot and disregard the original Assessment Ballot. If the City Clerk has received both an original Assessment Ballot and a Multiple-Owner Assessment Ballot for a given parcel, the City shall count the Multiple-Owner Assessment Ballot and disregard the original Assessment Ballot.

The intention of the guidelines in the foregoing paragraph is to give cognizance to the latest expression of either support for or opposition to the Assessment District by a Record Owner for a given parcel.

4. The tabulation of Assessment Ballots shall be performed in a public place following the close of the public hearing, whether on the same day as the public hearing is closed or thereafter during normal business hours. In the event that the tabulation is not going to be performed on the same day as the public hearing is closed, the City Clerk shall announce forthwith following the close of the public hearing the date, time and place for commencement of the tabulation. The public shall have access to the place where the Assessment Ballots are tabulated and may observe the process of the tabulation. The City Clerk may impose reasonable restrictions upon the public's access in order to facilitate the orderly and accurate tabulation of the Assessment Ballots.
5. The Assessment Ballots shall be opened at such time as the tabulation is being commenced following the close of the public hearing, and the tabulation shall be conducted under the supervision of the City Clerk and in a public place which provides the opportunity for any interested person to observe. Assessment Ballots may be counted by hand, by computer or by any other tabulating device.

Assessment Ballots shall be weighted according to the amount of the proposed assessment, as the term "proposed assessment" is defined in paragraph C above.

With respect to Multiple-Owner Assessment Ballots, if only one Multiple-Owner Assessment Ballot is returned, then it shall be weighted with the full amount of the proposed assessment pertaining to the applicable parcel. If more than one Multiple-Owner Assessment Ballot is returned and not all

of the returned Multiple-Owner Assessment Ballots are marked the same (whether in support of or in opposition to the Assessment District), then the assessment amount shall be allocated among the Multiple-Owner Assessment Ballots returned, as follows:

- a. In accordance with Section 53753(e)(1), and any successor statute, if the ownership interests are shown on the County Assessor's records or, if the ownership interests are not shown on the record, as established to the satisfaction of the City Clerk by documentation provided by one of those multiple owners, then the assessment amount shall be allocated among the Multiple-Owner Assessment Ballots returned in proportion to those ownership interests.
  - b. Otherwise and in the event that the ownership interests cannot be established in accordance with the foregoing subparagraph (a), then the assessment amount shall be evenly split among the Multiple-Owner Assessment Ballots returned.
6. Assessment Ballots may be tabulated by the City Clerk or by any representative authorized by the City Clerk.
  7. Upon completion of the tabulation, the City Clerk shall announce the results of the tabulation to the City Council, whether at the meeting on the day the public hearing is closed or at the first regular meeting of the City Council following the completion of the tabulation, and such results shall be entered in the minutes of the meeting.

If a weighted majority of the Assessment Ballots returned are opposed to the new or increased assessments (which means that a "majority protest" exists), then the new or increased assessments shall not be imposed.

If a majority protest does not exist, then the City Council shall have the discretion whether or not to proceed to impose the new or increased assessments.

8. In cases in which the results of the Assessment Ballot tabulation is so close that a retabulation of the Assessment Ballots could assist in giving credibility to the tabulation, the City Council, in its sole discretion, may order a retabulation of the Assessment Ballots in a manner consistent with these guidelines and the presentation of the results at the next regular meeting of the City Council or at a special meeting of the City Council called for that purpose.

#### C. Resolution of Disputes

1. Property ownership
  - a. In the event of a dispute regarding whether the signer of an Assessment Ballot is a Record Owner of the parcel to which the Assessment Ballot pertains, as the term "Record Owner" is defined in Section V(A) above, the City Clerk shall resolve the dispute to the best of the City Clerk's ability on the basis of the information and documents available to the City Clerk as of the close of the public hearing, and the City Clerk's determination shall be final and conclusive as to all persons.
  - b. In the event of a dispute regarding whether the signer of an Assessment Ballot is an authorized representative of a Record Owner of the parcel, the City Clerk may rely on the statement on the Assessment Ballot, signed under penalty of perjury, that the person completing the Assessment Ballot is an authorized representative of a Record Owner, together with the documentation submitted with the Assessment Ballot in accordance with Section V(A) above. The City Clerk shall be under no duty to obtain or consider any other evidence as to whether the signer of the Assessment Ballot is an authorized representative of a Record Owner, and the City Clerk's determination shall be final and conclusive.
2. Assessment Calculation Appeals
  - a. If a Record Owner disagrees with the calculation of the amount of the assessment on the basis that such calculation has not been made in accordance with the method of assessment described in the Engineer's Report, as finally approved by the City Council following the close of the public hearing, then the property owner may appeal the calculation to the Director of Public Works of the City (the "Director") by providing written documentation explaining the reason why the assessment should be changed. The Director may designate a member of the Public Works staff or the Assessment Engineer as the "Director's Designee" to conduct a review of the calculation in question. The Director or the Director's Designee shall review the information pertaining to the calculation and make a determination as to whether the amount of the assessment in question has been correctly calculated, and if not what the correct amount should be. The appeal provided for in subsection (C)(2) shall be strictly limited to objections based upon the calculation of the amount of the subject assessment. Any objections to the method of assessment itself must be raised prior to the close of the public hearing and shall not be considered or reviewed pursuant to this subsection (c)(2).

- b. In the event that the Director or the Director's Designee determines that the amount of the assessment in question has been incorrectly calculated, appropriate steps shall be taken to modify the amount to the correct amount, including but not limited to the preparation and recordation of an appropriate addendum to the recorded notice of assessment.

#### D. General Provisions

1. In the event that the envelope containing the notice of hearing, Assessment Ballot and self-addressed return envelope is returned to the City Clerk by the U.S. Postal Service with the notation "undeliverable" or like notation, the City Clerk shall make use of such information resources as are reasonably available in a reasonable effort to establish either (a) a new address for the Record Owner or (b) a new name and address for the Record Owner; provided that the City Clerk shall not be required to purchase title reports or like information documents in the effort to establish possible new information.

In the event that the City Clerk is able to identify either a new address for the Record Owner or a new name and address for the Record Owner, the City Clerk shall send copies of the returned materials to the Record Owner as soon as practicable, using the new information; provided that the City Clerk shall have no obligation to assure that the new mailing is received in time to enable the recipient to complete, sign and return the Assessment Ballot in a timely manner.

The City Clerk shall retain any such returned envelope and the materials enclosed in it.

2. Prior to commencement of the tabulation, all Assessment Ballots received shall be kept together in a secure location by the City Clerk. Pursuant to Section 53753(e)(1) of, during and after the tabulation, all returned Assessment Ballots are public records and shall be available for review by the public. A complete listing of Assessor's Parcel Numbers for which "Yes" or "No" Assessment Ballots are received shall be available for public information.

#### E. Voting of City Land

The City Council recognizes and is sensitive to the fact that assessments are a cost to the taxpayer, either directly as an assessment against the taxpayer's property or

through the payment of assessments for benefits to City-owned land. As a result, the voting of City land in favor of an assessment can have significant impact on property owners. On the other hand, the City Council is also sensitive to benefits that can be provided to taxpayers, property owners and the City as a whole through the proper use of the assessment process. As a result, the decision of how to vote City land, either for an assessment or against an assessment, is a policy decision that must be made by the City Council on a case by case basis.

The City Council reserves to itself the authority to vote City land. The City Council shall determine how to vote City land in an assessment district proceeding at the time of its preliminary approval of the assessment engineer's report and the setting of the protest hearing. The City Council shall instruct the City Manager to act consistently with the City Council's determination. The decision by the City Council on how to vote City land shall not bind the City Council on the issue of whether to approve the assessment district once all of the protest ballots are tabulated at the public hearing on the matter. The City Council shall make that final determination based upon the balloting and the testimony it receives in that public hearing.

**Adopted - November 24, 2009**

**Amended - August 14, 2018**