

L-1

SIDEWALKS, CURBS, GUTTERS AND CITY OWNED UTILITIESI. 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 of the Newport Beach Municipal Code.
- 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

Formatted: Indent: Left: 0", Hanging: 0.5"

- A. The City ~~will~~ shall pay 100% of the cost of repairing concrete curbs and gutters.
- B. The City shall ~~will~~ pay 100% for approaches at alley intersections.
- C. The City shall ~~will~~ 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 p~~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 ~~ore~~ omissions of the property owner.
- E. ~~The P~~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 P~~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 ~~will~~shall be performed by the City's Contractor and/or by City forces, as provided for in the contract.

H. The City ~~shall will~~ 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 will~~ pay such costs if the damage was caused by City parkway trees (for standard approaches, only).

~~I. A list to prioritize the locations where work will be done with annual appropriations based on need, benefit to the public, and date of application shall be established by the General Services Department.~~

~~J. Property owners requesting their projects to be advanced to the top of the priority list shall be requested to contribute 50% of the cost.~~

~~IK.~~ 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.

~~IL.~~ City participation under this policy shall be discretionary and subject to the availability of funds.

III. LIDO ISLE

The City ~~shall will~~ cooperate with the Lido Isle Community Association ("LICA") to replace specially colored and scored sidewalk in kind, provided that City costs ~~shall will~~ 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.

Formatted: Indent: Left: 0", First line: 0"

Commented [KD1]: MERGER City Council Policy L-5 with minor edits

C. Use of Chapter 27 provisions of the 1911 Act (Cal. Streets and Highways Code Sections 5870 *et seq.*).

Formatted: Font: Italic

If the method whereby the benefited property owners advance the construction funds is used, the engineering, inspection, and incidental costs shall ~~will~~ 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 ~~will~~ 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

Commented [KD2]: City Council amended date. 7-11-18

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

DRIVEWAY APPROACHES

I. GENERAL

- A. An encroachment permit ~~will~~ 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~~ "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 ~~5-five~~ (5) feet to the beginning of the curvature of a curb return, crosswalk, fire hydrant, traffic signal/ ~~pedestrian~~ street light, utility pole/ anchor/ pedestal or ~~trees or vent pipe~~, 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 ~~will~~ 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 construction requires the removal of a street tree until such removal has been approved by the General Services Director.~~
- H.G. No permit shall be issued if the driveway encroaches on a crosswalk area.
- I.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 ~~until~~ approved of ~~by~~ the Public Works Department and a deposit has been made to cover the cost of

Commented [KD3]: Edits through out. Clarification and edits regarding residential driveways on corner lots. Deletion of private street section from this policy, applicable language moved to L-4, Private Streets.

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, that at no cost to the City,~~ he will 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 car~~ 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~~ will 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 sStreet curb openings or retention of existing street curb openings shall not be permitted ~~for~~ to residential property which abuts an alley. All vehicle access shall be from the alley.

An exception may be made in the case of ~~corner~~ corner lots where the street on which the proposed new-new or existing curb opening ~~is proposed~~ 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~~Access~~ from the street ~~will~~ shall be permitted where existing utility conditions, that cannot be removed/relocated, structures prevent full alley access, and/or 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. The width of the curb opening shall be limited to one half of the lot depth.
3. ~~In the case of duplexes, condominiums and condominium conversions, an additional driveway curb cut shall be permitted if the units are separated by a continuous vertical plane, from the ground to the rooftop, with one common wall and/or physically separated by open space. The resultant building product shall have the appearance of two distinct and separate units with a rear unit that has vehicle access from the alley and the front unit with vehicle access from the side street. No overlapping of between the front unit and rear unit floorplans shall be permitted.~~

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.

Formatted: Font:

Formatted: Indent: Left: 0.5", No bullets or

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

III. ~~PRIVATE STREETS SPECIAL REQUIREMENTS~~

~~A. A grading permit will be required prior to the construction of any driveway apron, sidewalk, curb, gutter or wall within the private street rights of way. The design parameters shall be in accordance with the City of Newport Beach Design Criteria and Standards for Public Works Construction.~~

~~Also, the Public Works Department shall perform a brief review of plans prior to permit issuance.~~

~~B. A Public Works encroachment permit will be required if improvements are to be constructed within 5 feet of a fire hydrant, street light or other public utility system appurtenance (i.e., valve boxes or manholes).~~

~~C. A Public Works encroachment permit will be required when connecting to or relocating public utilities.~~

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

Commented [KD4]: Applicable section moved to City Council Policy L-4 Private Streets

Formatted: Indent: Left: 0", Right: 0.03", Space After: 14.65 pt

The City may close any abandoned driveway approaches at ~~high priority~~ locations where two (2) or more of the following criteria ~~may~~ 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; ~~is~~

Formatted: Font:

~~D-E.~~ The parcel is adjacent to and can take access from a public alley.

When in the opinion of the ~~General Services Department and/or 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 ~~will~~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.

~~Nothing in this section shall be construed as relieving adjoining property owners from the responsibility for closure of abandoned curb cuts as a condition of permit approval for new construction or for obtaining a curb cut permit for an alternative driveway location on the same parcel.~~

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

L-2

Amended - August 14, 2018

Commented [KD5]: City Council adoption date. 7-11-18

~~CITY LANDSCAPING RESOTRATION IN CONJUNCTION WITH
PUBLIC WORKS CONSTRUCTION PROJECTS~~

~~Public works contracts will provide that where any beautified City property area becomes marred or damaged as a result of the construction work, the contractor shall restore both irrigation and landscaping to its former condition, and also avoid any unnecessary destruction to adjacent plant material.~~

~~The General Services Department shall be notified immediately of any problems to City-owned property caused by construction work. All repairs will be performed in a timely manner by qualified personnel under the direction and inspection of the Public Works Inspector. The contractor shall be held liable for any problems occurring or associated, as a result of the original damage.~~

~~Adopted—April 11, 1966~~

~~Amended—October 26, 1976~~

~~Amended—January 24, 1994~~

Commented [KD6]: Recommend deletion of the policy as landscape, re-landscape and repair of damaged is standard practice.

PRIVATE STREETS

- A. Private streets ~~will~~ 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 ~~will~~ shall be subject to review and approval by the Planning Commission and the City Council.
- B. Private streets ~~will~~ 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 ~~will~~ 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. The following design standards shall be used for new private streets:~~

GENERAL

~~F.A. Private street~~ ~~Where streets other than minor local streets are proposed to be private, the~~ design shall conform in all respects to the requirements established for city public streets, except as may be otherwise permitted ~~under Number 2~~ below.

1. ~~B.~~ Where special circumstances exist, deviations from the standards ~~will~~ shall be subject to approval by the Public Works Department after an individual review.

2. ~~C.~~ Streets shall be adequately designed to provide for lane delineation, street sweeping, and drainage control.

~~A standard crown section with concrete curb and gutter on both sides will be required.~~

~~D. Depressed approaches shall be used at all driveways where streets have curb and gutter.~~

Commented [KD7]: Edits throughout. Design of private street shall be per City Standards (E). City standard designs requirements removed since they are included in the City's Design Criteria, Standard Special Provisions & Standard Drawings.

Formatted: Font: Book Antiqua, 12 pt

Formatted: Font: Book Antiqua, 12 pt

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted: Font: Book Antiqua, 12 pt

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted: Indent: Left: 0", First line: 0"

3. ~~E.~~ 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.~~

~~Curb return radius shall be 15' minimum.~~

F. ~~Lighting adequate for pedestrian and vehicle safety and sufficient to minimize police problems shall be provided.~~

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~~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.

MINIMUM PAVED WIDTHS

A. ~~With parking on both sides: 36' curb to curb.~~

B. ~~With parking on one side only or no parking: 32' curb to curb.~~

GRADES

A. ~~Desirable maximum 10%.~~

B. ~~Maximum 15% for special circumstances.~~

Formatted: Font: Book Antiqua, 12 pt

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted: List Paragraph, Indent: Left: 0", First line: 0"

Formatted: Font: Book Antiqua, 12 pt

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted: Font: Book Antiqua, 12 pt

Formatted: Font: Book Antiqua, 12 pt

Formatted: Font: Book Antiqua, 12 pt

Formatted: Font: Book Antiqua, 12 pt

Formatted: Left, Indent: Left: 0.5", Line spacing: Multiple 1.15 li, No bullets or numbering, Tab stops: Not at -0.5"

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"

Formatted: Font: Book Antiqua, 12 pt

- ~~C. Minimum 0.4%.~~
- ~~D. Provide vertical curves for grade breaks over 1%.~~
- ~~E. Cross fall between curb tops and/or gutters shall not exceed 0.20' per 10' of roadway width.~~

ALIGNMENT

- ~~A. Streets shall normally intersect at right angles and shall have at least 20' of tangent adjacent to intersections. The tangent length shall be increased where short radius curves are used near the intersections.~~
- ~~B. Cul de sacs shall not ordinarily exceed 400' in length. Curb radius at the turn-around shall be at least 40' with no on-street parking, 48' with on-street parking.~~
- ~~C. Centerline radius shall be 150' minimum for loop streets over 800' in length, and 100' minimum cul de sacs and for loop streets less than 800' in length. Where right angled bends are used in the street pattern, in lieu of the minimum radii required above, widening sufficient to accommodate truck turning movements shall be provided by use of knuckles or other appropriate means.~~
- ~~D. Curb return radius shall be 15' minimum.~~

K. Access Control

1. ~~A.~~ 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. ~~B.~~ 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. ~~C.~~ Adequate vehicular storage space shall be provided on the private street prior to the control gate so that vehicles ~~will~~shall not block the adjacent public street.

STRUCTURAL SECTION

Formatted: Font: Book Antiqua, 12 pt

Formatted: Normal, Indent: Left: 0", First line: 0"

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted: Font: Book Antiqua, 12 pt

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted: Font: Book Antiqua, 12 pt

Formatted: List Paragraph, Indent: Left: 0.75", First line: 0"

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted: Font: Book Antiqua, 12 pt

~~A. The minimum structural section shall ordinarily be 3" AC over 4" AB over 6" of compacted subgrade. The section shall be revised as required by accepted standards of engineering design in accordance with the results of soil tests on the native subgrade material.~~

L. Vehicle Code Enforcement

~~A.~~ New Development - Vehicle code enforcement may be a condition of development.

1.

2. ~~B.~~ Existing Development - Consideration ~~will~~ 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. ~~1.~~ The City has received a formal request in compliance with the California Vehicle Code.

~~2.~~ The request is accompanied by a written report and recommendations from both the Police Chief and Traffic Engineer.

b.

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

~~1.~~ All applicable provisions of the Vehicle Code shall be enforced.

a.

b. ~~2.~~ All non-standard traffic control devices shall be removed by the applicant, e.g., speed bumps, traffic signs and traffic striping.

c. ~~3.~~ All unnecessary sight obstructions and encroachments shall be removed.

M. Planning Commission Review

Formatted: Normal, Indent: Left: 0", First line: 0"

Formatted: Font: Book Antiqua, 12 pt

Formatted: Font: Book Antiqua, 12 pt

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted: Font: Book Antiqua, 12 pt

Formatted: List Paragraph, Indent: Left: 0", First line: 0"

Formatted: Font: Book Antiqua, 12 pt

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted: Numbered + Level: 2 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1" + Indent at: 1.25"

Formatted: Font: Book Antiqua, 12 pt

Formatted: List Paragraph, Numbered + Level: 2 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1" + Indent at: 1.25"

Formatted: List Paragraph, Numbered + Level: 2 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1" + Indent at: 1.25", Tab stops: 1.5", Left

Formatted: Font: Book Antiqua, 12 pt

Formatted: List Paragraph, Indent: First line: 0"

Formatted: Indent: Left: 0", First line: 0", Tab stops: 1.5", Left

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted: Font: Book Antiqua, 12 pt

Formatted ...

Formatted: Font: Book Antiqua, 12 pt

Formatted ...

Formatted ...

Formatted ...

Formatted: Font: Book Antiqua, 12 pt

Formatted ...

Formatted: Indent: Left: 0", First line: 0"

Formatted: Font: Book Antiqua, 12 pt

Formatted: Normal

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.

~~A.~~ The City ~~will shall not~~ assume ~~no any~~ responsibility for enforcement of traffic control unless specifically requested and approved.

1.

~~B.~~ ~~Solid waste contractor~~ The City ~~will shall~~ perform trash pick-up on private streets, ~~providing provided~~ such streets are fully accessible to and usable by the ~~company's~~ City's trash trucks.

2.

~~C.~~ The City ~~will shall~~ not provide pavement maintenance or sweeping services on private streets.

3.

4. ~~D.~~ The City ~~may agree to~~ will 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 ~~will 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

Formatted: Indent: Left: 0.5"

Formatted: Font: Book Antiqua, 12 pt

Formatted: Font: Book Antiqua, 12 pt

Formatted: Font: Book Antiqua, 12 pt

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted: Font: Book Antiqua, 12 pt

Formatted: List Paragraph, Indent: Left: 0.75", First line: 0"

Commented [KD8]: MOD (MP) edits 1/11/18

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted: Font: Book Antiqua, 12 pt

Formatted: Font: Book Antiqua, 12 pt

Formatted: Font: Book Antiqua, 12 pt

Formatted: Font: Book Antiqua, 12 pt

Formatted: Font: Book Antiqua, 12 pt

Formatted: Font: Book Antiqua, 12 pt

Formatted: Font: Book Antiqua, 12 pt

Formatted: List Paragraph, Indent: Left: 0.75", First line: 0"

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted: Font: Book Antiqua, 12 pt

Formatted: Font: Book Antiqua, 12 pt

Formatted: List Paragraph, Indent: Left: 0.75", First line: 0"

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Commented [KA9]: Is this the appropriate word? It sounds military-esque.

Formatted: Font: Book Antiqua, 12 pt

Commented [KD10]: Added from City Council Policy L-2

Formatted: Font: Book Antiqua, 12 pt

Commented [KD11]: City Council adoption date. 7-11-18

STREET AND SIDEWALK IMPROVEMENTS

Commented [KD12]: Merge with City Council Policy L-1 with minor edits

~~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.~~

~~If the method whereby the benefited property owners advance the construction funds is used, the engineering, inspection, and incidental costs will 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 will 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 owners agree to repay the construction costs over a three year period at prevailing interest rates.~~

~~If the provisions of Chapter 27 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 \$20,000 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 without curb, gutter, sidewalks and/or paveout shall be required to install the remaining improvements when obtaining building permits for remodeling, new construction or additions.~~

~~On those residential streets which have been designated "significant links" by resolution of the City Council, street and sidewalk construction shall be required in conjunction with any substantial construction on adjacent private property. The Building Department, Planning Department and Public Works Department shall coordinate this policy to assure compliance with Section 13.05.010 of the Newport Beach Municipal Code and cause the necessary sidewalk and street improvements to be constructed.~~

~~Adopted—October 24, 1966~~

~~Amended—May 22, 1972~~

~~Amended—October 12, 1982~~

~~Amended—November 28, 1988~~

~~Reaffirmed—January 24, 1994~~

~~Amended—February 26, 1996~~

Commented [KD13]: Items deleted from the merger with L-1, Already covered in MC 13.05.010

~~PRIVATE~~ ENCROACHMENTS IN PUBLIC RIGHTS-OF-WAY

It is the general policy of the City that the public rights-of-way ~~are to~~shall be reserved for public use or open space; and that the rights of the public, present and future, ~~are~~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 ~~private~~ encroachments and improvements are listed below, together with the permit requirement for each category.

A. ~~Prohibited P~~private encroachments ~~prohibited~~.

1. ~~All~~ Structural-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 thee (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. ~~Ocean front street end, or Bay front street end improvements not conforming to Council Policy L-8.~~
4. ~~Ocean front alley end improvements not conforming to Council Policy L-8.~~
53. Modifications to original design concepts approved by the City.
64. Private signs except as provided for in the Building Code.
75. Lighting.
86. 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.
97. Private dwellings and appendages including raised patios ~~and~~ decks and bay windows, except as provided for in this section and the Building Code.
108. Pay telephones and private mail carriers drop boxes.

~~B. Private encroachments requiring an encroachment permit and if applicable an encroachment agreement from the Public Works Department and Municipal Operations Department approval.~~

- ~~1. Tree planting and removal.~~
- ~~2. Shrub planting and removal.~~
- ~~3. Median landscaping.~~

~~If, in the opinion of the Municipal Operations Department, the approved planting is not being maintained for view and safety clearance, Chapter 10.50, "Public Nuisance Abatement," of the Municipal Code 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 will be determined by the City Arborist using the International Society of Arboriculture's "Guide for Plant Appraisal."~~

~~EB. General P~~ private encroachments ~~that~~ requiring 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 (25) percent (25%) of the parkway area).~~
4. Parkway surfacing (standard or colored/textured concrete or flat stone/brick) installed at grade ~~(subject to Municipal Operations Department review for tree well location)~~ ~~(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 into the public right-of-way 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.

Commented [KD14]: Added 11 and 12 of next section.

Commented [KD15]: To be consistent with City Council Policy L-18, non-pervious parkway paving.

Commented [KD16]: Removed portion describing Municipal Operations Review (7-11-18)

Commented [KD17]: To be consistent with City Council Policy L-18, non-pervious parkway paving.

7. Mailboxes, when required by the U.S. Postal Service. Mailboxes shall be installed per U.S. Postal Service requirements. The front of mailbox shall be aligned in the same vertical plane as the back of the curb. 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, of the Municipal Code 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 ~~will~~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.

DC. 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.

Commented [KD18]: Removed "subject to concurrence by Municipal Operations Department" 7-11-18

Commented [KD19]: Removed "subject to concurrence by Municipal Operations Department" 7-11-18

Commented [KD20]: Removed "Municipal Operations and/or" 7-11-18

Formatted: Indent: Left: 0", First line: 0"

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 located within 2'-6" of 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 2'-6" 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 2'-6" in height above the patio, have at least forty 40-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 2'-6" from the back of sidewalk.
 - i. Raised Patios are permitted provided they have a maximum height of two (2) feet six (6) inches 2'-6" above sidewalk grade, are set back a minimum of two (2) feet six (6) inches 2'-6" 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

Commented [KA21]: Does this need to be in quotes?

located a minimum of two (2) feet six (6) inches 2'-6" from back of sidewalk.

3. Structural encroachments not otherwise listed which do not exceed three (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 (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 ~~in width~~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.

Commented [KD22]: #5-#8 From Council Policy L-7

Formatted: Body Text, Left, Indent: Hanging: 0.5", Line spacing: single, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 5 + Alignment: Left + Aligned at: 0.75" + Indent at: 1", Tab stops: 5.69", Left

Commented [KD23]: Right of way vacated by City Council Resolution 2014-89

Formatted: List Paragraph, No bullets or numbering, Tab stops: Not at 5.69"

Formatted: Body Text, Left, Indent: Hanging: 0.5", Line spacing: single, Numbered + Level: 2 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1.25" + Indent at: 1.5", Tab stops: 5.69", Left

Formatted: Normal, No bullets or numbering, Tab stops: Not at 5.69"

Formatted: Body Text, Left, Indent: Hanging: 0.5", Line spacing: single, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 5 + Alignment: Left + Aligned at: 0.75" + Indent at: 1", Tab stops: 5.69", Left

- 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.

Formatted: List Paragraph, No bullets or numbering, Tab stops: Not at 5.69"

Formatted: Body Text, Left, Indent: Hanging: 0.5", Line spacing: single, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 5 + Alignment: Left + Aligned at: 0.75" + Indent at: 1", Tab stops: 5.69", Left

Formatted: Normal, No bullets or numbering, Tab stops: Not at 5.69"

Formatted: Body Text, Left, Indent: Hanging: 0.5", Line spacing: single, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 5 + Alignment: Left + Aligned at: 0.75" + Indent at: 1", Tab stops: 5.69", Left

9. Bay Front Street Ends

Commented [KD24]: #9 - #11 from Council Policy L-8

- 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~~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~~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 ~~must~~shall be provided for in any such specific plans.
- c. Improvements ~~will~~shall be installed at the expense of the adjacent property owners.
- d. Landscape maintenance and watering ~~will~~shall be provided by the adjacent property owners to the satisfaction of the City. A sprinkler system connected to the adjacent property ~~must~~shall be installed in each planter

Formatted: Normal, No bullets or numbering, Tab stops: Not at 5.69"

Formatted: Body Text, Left, Indent: Hanging: 0.5", Line spacing: single, Numbered + Level: 2 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1.25" + Indent at: 1.5", Tab stops: 5.69", Left

10. Unimproved Ocean Front Street Ends

Formatted: No bullets or numbering

Formatted: Body Text, Left, Indent: Hanging: 0.5", Line spacing: single, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 5 + Alignment: Left + Aligned at: 0.75" + Indent at: 1", Tab stops: 5.69", Left

- a. Improvements ~~will~~shall be installed at the expense of the adjacent property owners.
- b. Landscape maintenance and watering ~~will~~shall be provided by the adjacent property owners to the satisfaction of the City. A sprinkler system connected to the adjacent property ~~must~~shall be installed in each planter.
- c. All work ~~must~~shall be installed to grades established by the Public Works Department.

- d. A four- (4) foot- wide sidewalk ~~will~~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 ~~will~~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 2'-6"~~ 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 ~~will~~shall be moistened with a fine spray of water after it is in place.
 - f. Planters ~~five (5)-~~ feet wide ~~will~~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 will~~ 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 ~~will~~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 ~~will~~shall assist the adjacent owners by moving the sand to an area determined by the City.
11. Unimproved Alleys that ~~e~~End at the Ocean Front
- a. Improvements ~~will~~shall be installed at the expense of the adjacent property owner.
 - b. All work ~~will~~shall be installed to grades established by the Public Works Department.

Formatted: Normal, No bullets or numbering, Tab stops: Not at 5.69"

Formatted: Body Text, Left, Indent: Hanging: 0.5", Line spacing: single, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 5 + Alignment: Left + Aligned at: 0.75" + Indent at: 1", Tab stops: 5.69", Left

- c. Landscaping of potted plants ~~will~~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 ~~will~~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 ~~will~~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.

ED. Private encroachments not requiring a permit:

1. Parkway lawn, ~~and~~ 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 California Building Code or California Residential Code under a valid building permit issued by the City.

Formatted: Indent: Left: 0.5", Hanging: 0.5"

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.

Commented [KD25]: Add from Council Policy L-15

Formatted: Indent: Left: -0.5"

Formatted: Indent: Left: 0", Hanging: 0.5"

Formatted: Indent: Left: 0.5"

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. They 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. They 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. They 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.

Formatted: Indent: First line: 0"

Formatted: List Paragraph, Indent: Hanging: 0.5", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.75" + Indent at: 1"

Formatted: List Paragraph, Indent: Left: 1", First line: 0"

Formatted: List Paragraph, Indent: Hanging: 0.5", Numbered + Level: 2 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1.25" + Indent at: 1.5"

Formatted: List Paragraph, Indent: Left: 1.5", First line: 0"

Formatted: List Paragraph, Indent: Hanging: 0.5", Numbered + Level: 2 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1.25" + Indent at: 1.5"

Formatted: Font: Book Antiqua, 12 pt

Formatted: Indent: Left: 0", First line: 0"

Formatted: List Paragraph, Indent: Hanging: 0.5", Numbered + Level: 2 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1.25" + Indent at: 1.5"

Formatted: Font: Book Antiqua, 12 pt

Formatted: Indent: Left: 0", First line: 0"

Formatted

Formatted: Font: Book Antiqua, 12 pt

Formatted: Indent: Left: 0", First line: 0"

Formatted

Formatted: Font: Book Antiqua, 12 pt

Formatted: Indent: Left: 0", First line: 0"

Formatted

Formatted: Font: Book Antiqua, 12 pt

Formatted: Indent: Left: 0", First line: 0"

Formatted

Formatted: Font: Book Antiqua, 12 pt

Formatted: Indent: Left: 0", First line: 0"

Formatted

Formatted: Font: Book Antiqua, 12 pt

Formatted: Indent: Left: 0", First line: 0"

Formatted

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.

FF. 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~~City Council~~. ~~If the application is for a permit under Section B, it shall be processed by the Municipal Operations Department.~~ Drawings for encroachment permits requiring Planning Commission~~City Council~~ 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.

GG. Variances from the strict application of this policy shall not be granted unless individual circumstances indicate that approval will~~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 - December 9, 1991
Amended - December 14, 1992
Amended - July 12, 1993
Amended - January 24, 1994
Amended - May 9, 1994
Amended - February 27, 1995

Formatted: Font: Book Antiqua, 12 pt

Formatted: Indent: Left: 0", First line: 0"

Formatted: No underline

Formatted: No underline

Formatted: List Paragraph, Indent: Hanging: 0.5", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.75" + Indent at: 1"

Formatted: List Paragraph, Indent: Left: 1", First line: 0"

Formatted: List Paragraph, Indent: Hanging: 0.5", Numbered + Level: 2 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1.25" + Indent at: 1.5"

Formatted: Font: Book Antiqua, 12 pt

Formatted: Indent: Left: 0", First line: 0"

Formatted: List Paragraph, Indent: Hanging: 0.5", Numbered + Level: 2 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1.25" + Indent at: 1.5"

Formatted: Font: Book Antiqua, 12 pt

Formatted: Indent: Left: 0", First line: 0"

Formatted: List Paragraph, Indent: Hanging: 0.5", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.75" + Indent at: 1"

Formatted: No underline

Formatted: No underline

Formatted: List Paragraph, Indent: Left: 1", First line: 0"

Formatted: List Paragraph, Indent: Hanging: 0.5", Numbered + Level: 2 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1.25" + Indent at: 1.5"

Formatted: Font: Book Antiqua, 12 pt

Formatted: Indent: Left: 0", First line: 0"

Commented [KD26]: Covered under new Section B 11 and 12.

L-6

Amended - January 26, 1987

Amended - July 13, 1987

Amended - February 13, 1989

Amended - August 14, 1989

Amended - November 27, 1989

Amended - February 26, 1996

Amended - May 8, 2001

Amended - January 27, 2015

Amended - ~~August 14, 2018~~

Commented [KD27]: City Council adoption date. 7-11-18

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

~~ENCROACHMENTS AND BAY ACCESS ON BUENA VISTA BOULEVARD- EDGEWATER AVENUE BETWEEN BAY AVENUE AND FERNANDO STREET~~

It is recognized that Buena Vista Boulevard and Edgewater Avenue, between Bay Avenue and Fernando Street, because of their geographical location, are used mainly to provide non-vehicular access and views to the waters of Newport Bay.

The following policy regarding street encroachments and bay access has been developed to (1) provide for the existing public use of the bay beaches and waters and (2) encourage the maintenance by private property owners of the existing park-like surroundings.

~~Buena Vista—Bay Avenue to Edgewater~~

The street right of way in this reach ~~varies from 30' to 35.88' in width, with private property on both sides of the public way. Improvements allowed at this location shall consist of the following:~~

- ~~A. — A six-foot wide public sidewalk along the inland side of the right of way line maintained by the City.~~
- ~~B. — Landscaping 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. Low level walls or curbing required for tidal protection will be allowed. Private improvements such as walls, fences, gates, signs and living areas such as cabanas and other roofed structures shall not be allowed except on the private property bayward of the street right of way.~~
- ~~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.~~

~~EDGEWATER AVENUE—BUENA VISTA TO ISLAND AVENUE~~

~~The street right of way in this reach is 40' wide with private property on the inland side. The bay side is improved with a privately constructed bulkhead.~~

Commented [KD28]: Moved to Policy L-6 to combine a encroachment related policies.

Commented [KD29]: Right of way vacated by City Council Resolution 2014-89

~~Improvements allowed at this location shall consist of the following:~~

- ~~A. A six foot wide public sidewalk along the inland side of the right of way line maintained by the City.~~
- ~~B. Landscaping 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.~~
- ~~D. Such benches and view sites within the public way that may be approved by the Parks, Beaches and Recreation Department.~~

Commented [KD30]: Already requires PBR approval

~~EDGEWATER AVENUE ISLAND AVENUE TO ALVARADO STREET~~

~~The street right of way in this reach is 40' 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 six 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 piers and floats where a harbor or a mooring permit has been granted, but such access structures shall not be expanded beyond the permit dimensions. Any existing permits to encroach on the right of way shall be rescinded.~~

~~EDGEWATER AVENUE ALVARADO STREET TO FERNANDO STREET~~

~~The street right of way in this reach is 50' 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.~~

~~Improvements allowed at this location shall consist of the following:~~

~~A. A six 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 piers and floats where a harbor permit has been granted, but such access structures shall not be expanded beyond the permit dimensions.~~

~~Landscaping improvements conforming to this policy shall be installed only in accordance with an approved plan which has been approved by the General Services Department and a permit issued by the Public Works Department. A blanket revocable permit will be issued by the City for the existing landscaping improvements. Any existing improvements not conforming to this policy and not covered by a blanket permit shall be removed pursuant to the procedures established in Chapter 10.50 of the Municipal Code entitled "Public Nuisance Abatement".~~

~~Nothing in this policy shall be construed as a waiver by the City of Newport Beach of any rights, title, or interest in the entire street right of way covered by this policy.~~

~~ADOPTED MARCH 14, 1977~~

~~Reaffirmed January 24, 1994~~

~~Amended May 8, 2001~~

Formatted: Normal

Formatted: Tab stops: 6.06", Left

Formatted: Font: Book Antiqua, 12 pt

Formatted: Normal, Justified

~~PRIVATE ENCROACHMENTS IN PUBLIC RIGHTS OF WAY
ENDING AT THE OCEAN FRONT OR AT NEWPORT BAY~~

Commented [KD31]: Combined with L-6 to have one encroachment policy

General

~~It is the general policy of the City that streets, alleys and other public ways ending at the ocean front or at Newport Bay are reserved for public use or open space; and that the rights of the public, present and future, in said public ways are not to be diminished by the installation of private encroachments in said public ways.~~

~~A. Private encroachments will not be permitted in said public ways unless individual circumstances indicate that approval will be consistent with the public interest. Such circumstances are:~~

- ~~1. The improvements do not create an impression in the mind of the average member of the public that any portion of the public way is private property.~~
- ~~2. The improvements do not decrease the ease of access to the beach for emergency and utility vehicles or pedestrians.~~
- ~~3. The improvements do not result in the loss of legal parking spaces, except for driveway approaches conforming to Council Policy L-2, "Driveway Approaches".~~
- ~~4. The improvements do not eliminate views of the beach from the nearest alley or cross street that is parallel to the ocean front.~~

Types of Private Encroachments

~~A. Private encroachments requiring prior approval of the City Council and an encroachment permit and if applicable an encroachment agreement from the Public Works Department.~~

- ~~1. Structural encroachments not otherwise listed, including, but not limited to, fences, walls, patios, raised planters, etc., which encroach in excess of one foot into the public right of way, or exceed three feet in height.~~
- ~~2. Driveway approaches not conforming to Council Policy L-2.~~
- ~~3. Modifications to original design concepts approved by the City.~~
- ~~4. Signs.~~

- ~~5. Lighting.~~
- ~~6. Parkway surfacing other than standard Portland cement concrete, textured concrete, flat stone, or brick installed at grade.~~
- ~~B. Private encroachments requiring prior written approval of the General Services Department and an encroachment permit and if applicable an encroachment agreement from the Public Works Department.~~
- ~~1. Bay front street ends.~~
 - ~~a. Bay front street ends at beach level may contain two foot wide planting areas bounded by redwood or concrete strips and containing hedges no more than two feet in height. The planing areas may be installed:

 - ~~i. at each side of the prolongation of the street and extending no more than 15 feet from the end of the paved street.~~
 - ~~ii. at the end of the paved street, except that a 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 must be provided for in any such specific plans.~~
 - ~~c. Improvements will be installed at the expense of the adjacent property owners.~~
 - ~~d. Landscape maintenance and watering will be provided by the adjacent property owners to the satisfaction of the City. A sprinkler system connected to the adjacent property must be installed in each planter.~~
- ~~2. Except as provided for in Paragraphs C. and D. below, unimproved ocean front street ends may be improved under the following conditions:

 - ~~a. Improvements will be installed at the expense of the adjacent property owners.~~~~

- ~~b. Landscape maintenance and watering will be provided by the adjacent property owners to the satisfaction of the City. A sprinkler system connected to the adjacent property must be installed in each planter.~~
 - ~~c. All work must be installed to grades established by the Public Works Department.~~
 - ~~d. A four foot wide sidewalk will be provided on each side of the street right of way adjacent to the property line.~~
 - ~~e. A minimum of 12 feet of unobstructed access to the beach in the center of the right of way will be surfaced with brick, asphalt, concrete or artificial turf, or an equivalent surfacing approved by the City.~~
 - ~~i. Portland Cement Concrete. Six inches over native compacted material.~~
 - ~~ii. Asphalt Concrete. Two and one half inches of asphalt concrete over a six 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 1/4 to 1/2 inch space between bricks. The dry mix will be moistened with a fine spray of water after it is in place.~~
 - ~~f. Planters five feet wide will 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 material will be installed to City specifications. A six inch to 18 inch high lip of concrete, brick or rock may be installed as part of the planter.~~
 - ~~g. Special provisions will 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 will assist the adjacent owners by moving the same to an area determined by the City.~~
- ~~3. Unimproved alleys that end at the ocean front may be improved under the following conditions:~~

- a. ~~Improvements will be installed at the expense of the adjacent property owner.~~
 - b. ~~All work will be installed to grades established by the Public Works Department.~~
 - c. ~~Landscaping of potted plants will be permitted in the portion of the alley right of way that terminates at the ocean front sidewalk. A six-foot wide inviting passageway will 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 will extend from the nearest street of alley improvement to the northerly line of the ocean front.~~
4. ~~If, in the opinion of the General Services Department, the location and nature of this type of encroachment is such that review by the Parks, Beaches and Recreation Commission is warranted, the Department may forward the application to the Commission for review.~~
- C. ~~Where street ends or alley ends are improved in accordance with City standard design criteria, standard drawings, and standard specifications, no approval of the General Services Department or Parks, Beaches, and Recreation Commission is required. An encroachment permit shall be obtained from the Public Works Department.~~
- D. ~~In West Newport, from 36th Street to Summit Street, street ends will be improved as provided for in Policy L-12.~~
- E. ~~Private encroachments requiring an encroachment permit and, if applicable, an encroachment agreement from the Public Works Department:~~
- 1. ~~Standard drive approaches.~~
 - 2. ~~Standard curb, gutters, sidewalks, and street pavement.~~
 - 3. ~~Carriage walks and parkway surfacing of standard Portland cement concrete, textured concrete, or brick.~~
 - 4. ~~Cable television and public utility facilities.~~

5. ~~Structural encroachments not otherwise listed, including, but not limited to, fences walls, patios, raised planters, etc., which encroach one foot or less into the public right of way. If, in the opinion of the Public Works Department, the nature or location of this type of encroachment is such that City Council review is warranted, the Department may forward the item on to the Council for action.~~

F. ~~Private encroachments not requiring a permit:~~

~~None.~~

APPLICATION PROCEDURE

All applications for permits to construct private encroachments under this policy shall be made to the Public works Department.

Installation

All improvements made under the provision of this policy shall be paid for by the owners of adjacent property.

MAINTENANCE

All improvements made under the provisions of this policy shall be maintained by and at the expense of the owners of adjacent property.

Enforcement

Enforcement of this policy shall be the responsibility of the Public Works Department.

In the event that private encroachments constructed under the provisions of this policy are not maintained, the Public Works Department shall give written notice to the permittee to restore said improvements to an acceptable condition, and further, setting forth a specified date by which time the improvements must be restored.

Failure to restore said improvements within the period of time specified shall be cause for the General Services Department to remove the improvements from the public right of way without further notice to the permittee.

Adopted—August 24, 1981

Amended—November 8, 1982

~~L-8~~

~~Minor clarifications—November 27, 1989~~

~~Amended—January 24, 1994~~

~~Amended—May 8, 2001~~

~~Formerly L-10~~

CONVERSION OF PUBLIC STREETS TO PRIVATE STREETS

The conversion of public streets to private streets involves the vacation of public street rights-of-way after the City Council makes a finding that the street is unnecessary for present or prospective public use. The actual street vacation process described in the State of California Streets and Highway Code must be followed. Since the streets to be vacated will still be used as streets for private purposes, it will be necessary to insure that there is a responsible body to take over the operation, maintenance, and liabilities of the streets. In most instances this can be a rather lengthy and complicated process. The following steps are to be used as a guide to completing the conversion process:

- A. — Poll all property owners that would be affected by the conversion of public streets to private streets and submit results in a letter to the Public Works Department. The poll should be in the form of a petition that provides the residents with information concerning costs, obligations, and liabilities related to the conversion of a public street to a private street. An estimate of annual costs and the cost of processing the conversion should be provided. The community association and/or sponsors will be responsible for preparing all legal documents, engineering drawings, mailings to property owners and other items related to the vacation.

In preparing the information concerning costs, obligations, and liabilities related to the conversion of a public street to a private street, the following is to be designated as a private responsibility:

1. — Liability insurance which guarantees indemnification of and a defense for the City should any lawsuit arise from any loss related to the use of the street or other private improvement subsequent to the vacation.
2. — A performance bond or other security satisfactory to the Public Works Director is required to guarantee that the association will maintain the streets and other facilities granted to the association.
3. — Street maintenance will include keeping the street driving surface in a good state of repair (striping and signage, overlays, slurry seals, patching and reconstruction). Curbs, gutters, and sidewalks are to be maintained so as to not present a safety hazard. Street sweeping, if the community elects to sweep their streets, will be required.
4. — Drainage systems, surface and underground, that collect runoff primarily from the area are to become private.

Commented [KD32]: Staff recommends deletion of the policy. Procedures for vacation of streets are provided in the Streets and Highways Code. Policy has not been used for at least 30 years.

~~5. Other services and facilities, as determined by the City Council, are to become a private responsibility.~~

~~The following is to be designated as a public responsibility:~~

~~1. Police and fire protection.~~

~~2. Refuse collection, as provided in the Municipal Code.~~

~~3. Water and wastewater (sewer) service.~~

~~4. Public utility easements are to be retained for the use of public utilities, such as electrical, telecommunications, cable TV, and gas.~~

~~5. Other services and facilities, as determined by the City Council, are to remain a public responsibility. Systems and services, such as streetlights, will be considered separately and the system or service will remain public if it can be shown it is in the best public interest for the system or service to remain public. In making this determination, the City Council will take into consideration the impact of privatizing these services and facilities on the overall privatization effort being considered and make the finding that it is in the best interest of the City for the facility to remain public or be converted to a private responsibility.~~

~~B. Send a letter to the Public Works Department requesting the City to consider the vacation of the public streets in order to convert them to private streets. The letter shall be accompanied by a filing fee to cover administrative costs of the City.~~

~~C. Public Works Department submits a request to the City Council to obtain approval in concept and authorization to work with the community association towards the goal of vacating the street.~~

~~D. If no formal community association exists, one must be created and empowered to:~~

~~1. Accept the street rights-of-way when the street is vacated by the City.~~

~~2. Operate and maintain the streets.~~

~~3. Assess funds for the operation and maintenance of the streets.~~

~~4. Accept all liabilities for claims and lawsuits arising out of the use of the streets. (The association must maintain a policy of insurance which guarantees a~~

~~defense for the City should any lawsuit arise from and loss related to the use of the street. Also, a performance bond is required to guarantee that the association will maintain the streets.) If a formal community association does exist, its bylaws and/or CC & R's must be amended to provide for the above items.~~

- ~~E. In a situation where the streets abut numerous parcels under separate ownership, as compared to a situation where the street abuts a common area owned by the community association, a binding agreement and grant deed from each abutting owner will be required. The agreement and deed will provide for the owner to deed the street to the association immediately upon vacation by the City. These agreements and deeds are to be prepared by the attorney for the community association, processed by the association, and executed prior to the public hearing on the vacation.~~
- ~~F. Prepare plans for guard gates and entrance modifications contemplated to restrict future access. These will need to meet the requirements of the Public Works Department, Fire Department, General Services Department, and Police Department.~~
- ~~G. City is to prepare necessary environmental documentation at the association's and/or sponsor's expense.~~
- ~~H. City will contact various utilities to determine what rights they wish to reserve when the street is vacated.~~
- ~~I. All completed legal documents are to be submitted to the City Attorney for approval.~~
- ~~J. Provide the City with a current list of names and addresses of all property owners affected by the vacation.~~
- ~~K. If street to be vacated is in the Coastal Zone, a Coastal Permit must be applied for and obtained prior to setting the date for the public hearing on the vacation.~~
- ~~L. Schedule for City Council consideration the adoption of a resolution of intent to vacate and a map for the area to be vacated.~~
- ~~M. City Council adopts a resolution of intention to vacate and a map showing the area to be vacated and schedules a public hearing for vacation.~~
- ~~N. City mails notices (in stamped, addressed envelopes provided by the community association) to all affected property owners.~~

- ~~Q. — City Council holds a public hearing on the vacation. If the City Council finds that from all evidence submitted the street is unnecessary for present or prospective public use, the City Council may adopt a resolution vacating the street subject to whatever conditions the Council wishes to place on the vacation. These conditions may include reservation of various utility easements as well as the right to declare the street public if, at some time in the future, insurance and bonds lapse or the community association ceases to exist.~~
- ~~P. — Bonds shall be posted to cover construction of entrance improvements and any other improvements conditioned by the City Council.~~
- ~~Q. — All necessary fully executed legal documents are filed with the County Recorder.~~
- ~~R. — After all conditions imposed by the City Council have been fulfilled and all legal documents are filed, the resolution of vacation will be filed with the County Recorder's office and vacation is completed.~~

~~Adopted—November 22, 1982~~

~~Reaffirmed—January 24, 1994~~

~~Amended—July 22, 1996~~

~~Formerly L-11~~

SOUND ATTENUATION WALLS

~~Sound attenuation walls may be required as part of the environmental process related to street improvement projects, may be required as mitigations for development projects causing significant traffic increases, or may be required in new development projects to mitigate noise impacts identified in environmental studies. It is the intent of this policy that such walls be designed in an esthetically pleasing manner, pursuant to the standards outlined below.~~

~~New sound attenuation walls shall ordinarily be constructed with slumped block, split face block, plaster or stucco surfaced block, or specially finished concrete, and clear lexan or laminated glass panels. For locations where the new wall will be integrated with existing walls, the new wall shall match existing walls if the specified degree of sound attenuation can be provided. Replacement of existing landscaping disturbed by wall construction shall be included in the wall projects.~~

~~An alignment incorporating staggered or offset panels may be utilized where adequate right of way exists, or additional space can be provided on private property. Standard roadway widths, sidewalk widths, and bicycle trail widths shall not be reduced in order to provide additional space for a staggered wall alignment.~~

~~Upgrading of materials, design, or landscaping is encouraged and may be included in the project if adequate funding can be provided.~~

~~Sound attenuation walls which are constructed in new development projects shall provide for generous landscaped setbacks, and shall incorporate materials and design features which will enhance the esthetic characteristics of the wall. Design concepts shall emphasize preservation of public views, consistent with providing the required sound attenuation.~~

~~Adopted—February 10, 1986~~

~~Amended—February 12, 1990~~

~~Reaffirmed—January 24, 1994~~

~~Amended—February 26, 1996~~

~~Formerly L-12~~

Commented [KD33]: If Sound walls are required as part of the environmental process, preliminary design including aesthetics of the would be reviewed as part of the environmental document. Final design review would be by CDD building or Public Works depending on location.

LIQUIDATED DAMAGES POLICY

~~Liquidated damages (LD) are sustained by the City when a contractor fails to complete contract work within the specified amount of time allowed in the City's contract documents. Two types of funding sources are used to construct public improvements, restricted (water, sewer, Measure M, gas tax, etc.) or unrestricted (general fund). The restricted fund LD have specific criteria for their use while the unrestricted general fund LD can be used as directed by the City Council.~~

~~At the time of City Council project acceptance, if LD are involved, the restricted funds LD will be returned to project funding source. If general fund LD are involved, they will be returned to the general fund unless the City Council desires to direct the LD to a designated use such as:~~

- ~~A. — a neighborhood enhancement or Business Improvement District (B.I.D.) in the area which may have been impacted by the construction project; or~~
- ~~B. — a project that would enhance the affected area; or~~
- ~~C. — set up a fund for a future project within the project area; or~~
- ~~D. — any other designated use the City Council deems appropriate.~~

~~Adopted February 23, 1998~~

Commented [KD34]: Recommended for deletion. Liquidated Damages are already specified in the City's contracts and funds are returned to the funding source and City Council may redirect funds from the General Fund.

OCEANFRONT ENCROACHMENT POLICY

Commented [TM35]: Per CDD staff, this information is already covered in the City's Certified LCP.

The City Council has approved Amendment No. 23 to the Land Use Plan of the Local Coastal Program, which established specific restrictions and conditions on the installation of private improvements in the public right of way along the oceanfront from the Santa Ana River Channel to Channel Road. Existing encroachments are located on a very small portion of the sandy beach and do not impact any of the 89 street ends and other public facilities which provide beach access through oceanfront residential communities. However, encroachments could impact access to, and public use of, the beach in the absence of an equitable and enforceable City policy limiting the extent, size and nature of the encroachments. This policy is intended to implement Amendment No. 23 by establishing a procedure for approval of permitted encroachments, removal of prohibited encroachments, limiting the extent of encroachments, and clarification of improvements permitted within each encroachment zone.

A. Definitions:

1. For the purpose of this Section, the following words and phrases shall be defined as specified below:
 - a. Existing encroachment shall mean any encroachment or improvement installed or constructed before May 31, 1992.
 - b. New encroachment shall mean any encroachment or improvement installed or constructed after May 31, 1992.
 - c. Improvements or Encroachments shall mean any object or thing:
 - i. within or oceanward of any encroachment zone described in this policy;
 - ii. within or oceanward of the north edge of the Oceanfront Boardwalk, between 36th Street and A Street; or
 - iii. oceanward of any residential parcel from a point 250 feet southeast of E Street to Channel Road.
 - d. Encroachment permit shall mean the permit issued by the Public Works Director authorizing the maintenance or installation of encroachments or improvements within the encroachment zones described in this policy.

e. ~~Application shall mean any application for an encroachment permit pursuant to the provisions of this policy and the land use plan of the local coastal program.~~

f. ~~Oceanfront Boardwalk, Oceanfront Walk, or sidewalk, shall mean the concrete walkway along the oceanside of ocean front residential properties between 36th Street and a point approximately 250 feet southeast of E Street.~~

B. ~~Encroachment Zones. Subject to compliance with the provisions of this policy:~~

1. ~~The owner of any ocean front residential parcel between the Santa Ana River and 52nd Street may install improvements on the oceanside of the parcel up to a maximum of 15 feet oceanward of the private property line and within an oceanward prolongation of the property lines on the side of the parcel.~~
2. ~~The owner of any oceanfront residential parcel between 52nd Street and 36th Street may install improvements on the ocean side of the parcel up to a maximum of 10 feet oceanward of the private property line and within an oceanward prolongation of the property lines on the side of the parcel.~~
3. ~~The owner of any oceanfront residential parcel between A Street and a point 250 feet southeast of E Street may install improvements up to the sidewalk and within an oceanward prolongation of the property lines on the side of the parcel.~~
4. ~~The owner of any oceanfront residential parcel between and including 1400 East Ocean Front and Channel Road may install improvements on the Oceanside of the parcel up to a maximum of 15 feet oceanward of the private property line and within an oceanward prolongation of the property lines on the side of the parcel.~~

C. ~~Prohibited Encroachments.~~

1. ~~Encroachments and improvements are prohibited oceanward of private property between 36th Street and A Street provided, however, the northerly edge of Oceanfront Boardwalk in this area is not always coincident with the oceanward private property line and improvements northerly of the north edge of the sidewalk are not considered encroachments or prohibited by this policy.~~

2. ~~Encroachments, including irrigation systems, and improvements are prohibited oceanward of any ocean front parcel from a point 250 feet southeast of E Street to and including 107 G Street, provided existing trees which have been planted and maintained in conformance with City Council policy, and ground cover such as ice plant or indigenous plants are not considered to be an encroachment, and will not require a permit pursuant to this policy, but the City reserves the right to remove, trim or otherwise, control the type and extent of any such landscaping.~~
3. ~~Any existing encroachment or improvement for which no application has been filed on or before May 31, 1992, and any new encroachment or improvement for which no application is filed prior to installation is prohibited.~~
4. ~~Any new or existing encroachment or improvement which, on or after July 1, 1992, is not in conformance with this policy is prohibited.~~
5. ~~Any new or existing encroachment or improvement for which there is no valid permit.~~

D. ~~Permitted Encroachment/Improvements.~~ Subject to compliance with the provisions of this policy, the following improvements are permitted within the encroachment zones described in Section B:

1. ~~Patio slabs or decks no higher than six inches above grade or the finished floor grade of the adjacent residence. The Public Works Director may approve minor dimensional tolerances for patio slabs and decks only upon a finding that the improvement is consistent with the spirit and intent of this policy and the cost of strict compliance is disproportionate to the extent of the nonconformity. Determination of grade will be made as provided in Section J.~~
2. ~~Walls and/or fences less than 36 inches in height above grade or the finished floor grade of the existing residence. The Public Works Director may approve minor dimensional tolerances for walls and/or fences upon a finding that the improvement is consistent with the spirit and intent of this policy and the cost of strict compliance is disproportionate to the extent of the nonconformity. Determination of grade will be made as provided in Section J.~~

- ~~3. Existing improvements which were constructed in conjunction with development for which a building permit was issued may be approved by the Public Works Director upon a finding that the improvement is consistent with the spirit and intent of this policy and the cost of strict compliance is disproportionate to the extent of the nonconformity.~~
- ~~4. In no event shall the Public Works Director approve a permit for an encroachment or improvement that varies more than 12 inches from the horizontal dimensional standards of this policy.~~

~~E. Prohibited Improvements:~~

- ~~1. Except for perimeter walls and/or fences less than 36" in height, any structural, electrical, plumbing or other improvements which require issuance of a building permit.~~
- ~~2. Pressurized irrigation lines and valves.~~
- ~~3. Any object which exceeds 36 inches in height, exclusive of the following:~~
 - ~~a. trees planted by the City of Newport Beach or private parties pursuant to written policy of the City Council of the City of Newport Beach; or~~
 - ~~b. any landscaping or vegetation within the encroachment zone subject to the following:~~
 - ~~i. The vegetation or landscaping was installed prior to the first effective date of this policy;~~
 - ~~ii. The vegetation or landscaping does not block views from adjoining property;~~
 - ~~iii. The vegetation or landscaping does not function as screen planting as defined in Title 20 of the Newport Beach Municipal Code;~~
 - ~~iv. The vegetation or landscaping does not impair or affect the health, safety or welfare of persons using the oceanfront Walk, nearby property owners, or residents of the area; and~~
 - ~~v. New plant materials that have been approved under a separate California Coastal Commission permit.~~

~~Notwithstanding the provisions of this Subparagraph, the City reserves the right to reduce the height of any existing landscaping at any time, upon a determination by the Public Works Director, and after notice to the owner of property on which the vegetation or landscaping exists, that a reduction in height is necessary or appropriate given the purposes of this policy.~~

~~F. — Permit Process:~~

- ~~1. — An encroachment permit shall be required for all permitted improvements. The application shall be filed with the Public Works Department on a form provided by the City. The application shall be signed by the owner of the property, or an agent of the owner if the application is accompanied by a document, signed by the owner, granting the agent the power to act for the owner with respect to the property. 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. Applications with incomplete information and/or inadequate drawings will not be accepted.~~
- ~~2. — Applications for existing encroachments must be filed on or before May 31, 1992. Applications for new encroachments shall be filed before any encroachment or improvement is installed. No new encroachments or improvements shall be installed without an encroachment permit.~~
- ~~3. — Upon receipt of the application, the Public Works Director shall, within fifteen (15) days after the date of filing, determine if the application is complete or if additional information is necessary or appropriate to an evaluation of the application. In the event the application is incomplete or additional information is necessary, written notice to that effect shall be sent to the property owner within twenty (20) days after the application is filed.~~
- ~~4. — With respect to applications for existing encroachments, an inspection shall be conducted of all improvements within the encroachment zone before a permit is issued by the Public Works Director. With respect to applications for new encroachments, an onsite inspection will be conducted after installation of the improvements to insure conformity with provisions of the permit and this policy.~~

5. ~~The Public Works Director shall approve the permit upon a determination that the encroachments proposed to be constructed, or to remain, are permitted by this policy, the applicant has agreed to abide by all of the terms and conditions imposed on the permit, and the applicant has paid all fees required by this policy.~~
6. ~~The Public Works Director shall have the authority to condition his/her approval of the encroachment permit as necessary or appropriate to insure compliance with the provisions of this policy. The Public Works Director shall have the specific authority to condition approval of an encroachment permit on the removal of nonconforming improvements within a specified period of time.~~
7. ~~The Public Works Director shall notify the applicant of his/her decision within sixty (60) days after the application is filed and the decision of the Public Works Director shall be final.~~

~~G. Term.~~

1. ~~Except as provided in this Section, annual encroachment permits shall expire on June 30 of each calendar year.~~
2. ~~Encroachment permits issued prior to June 30, 1992 shall expire June 30, 1993.~~

~~H. Renewal.~~

1. ~~Annual renewal fees shall be due and payable on or before May 31 preceding the annual term of the permit. For example: Annual renewal fees due on May 31, 2001, are for the period July 1, 2001 through June 30, 2002.~~
2. ~~The Public Works Director shall approve annual renewal if:~~
 - a. ~~The applicant has complied with all standard and special conditions of approval;~~
 - b. ~~The applicant has constructed only those improvements and encroachments authorized by the permit;~~
 - c. ~~The applicant is in compliance with all of the provisions of this policy.~~

~~I. Standard Conditions:~~

- ~~1. The Public Works Director shall impose standard conditions of approval on all encroachment permits. These standard conditions shall include, without limitation, the following:~~
 - ~~a. The obligation of permittee to comply with all of the provisions of this policy and all conditions imposed upon the permit.~~
 - ~~b. The right of the Public Works Director to revoke any permit after notice and hearing if the permittee is in violation of this policy or conditions to the permit.~~
 - ~~c. The right of the City to summarily abate encroachments or improvements which are prohibited by this policy or conditions on the permit upon ten (10) day's written notice.~~
 - ~~d. The obligation of permittee to pay all costs incurred by the City in summarily abating any prohibited improvement.~~
 - ~~e. The obligation of permittee to 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.~~
 - ~~f. Permittee's waiver of any right to contest the City's street and public access easement over property within or oceanward of the encroachment zones.~~
 - ~~g. The right of the Public Works Director or his designee to inspect improvements within the encroachment zone without notice to the permittee.~~
 - ~~h. The right of the City to cancel or modify any, or all, encroachment permit(s) upon a determination by the City Council to construct a public facility or improvement within or adjacent to the encroachment zone.~~
- ~~2. The construction of any seawall, revetment or other device necessary to control erosion, shall occur as close to private property as feasible.~~
- ~~Erosion control devices shall not be placed or installed closer to the ocean to protect improvements or encroachments.~~

3. ~~The Public Works Director may impose additional standard conditions necessary or appropriate to insure compliance with, or facilitate City administration of this policy.~~

J. ~~Determination of Grade.~~

1. ~~The nature of the beach makes a precise determination of grade difficult. The level of the sand changes with wind, storm, and tidal conditions. The Public Works Director shall determine the level from which the height of encroachments and improvements is to be measured. In making this determination, the Public Works Director shall consider the following criteria:~~
- a. ~~The existing grade in the area;~~
 - b. ~~Finished floor elevation or grade of the adjacent residence;~~
 - c. ~~The elevation of existing encroachments on site and on adjacent properties;~~
 - d. ~~Any data on the historic elevation of the beach in that area.~~

K. ~~Annual Fee.~~

1. ~~The fees based on the depths of encroachment shown below shall be established by resolution of the City Council after appropriate public review, shall be based on City Council Policy F-7, and paid annually as a condition of the issuance of encroachment permits:~~

~~Depth of Encroachment~~

~~| | |
|-------|-----------------|
| _____ | 0 – 5 feet |
| _____ | 5 – 7 1/2 feet |
| _____ | 7 1/2 – 10 feet |
| _____ | 10 – 15 feet |~~

2. ~~For purposes of determining fees, the average depth of the encroachment shall be used. However, the maximum depth shall not exceed the limitations specified in Section B. A dimensional tolerance not to exceed 12 inches may be allowed in determining the appropriate fee to be paid by persons with existing encroachments.~~

~~3. The annual fee shall be due and payable upon submittal of the application for the initial encroachment permit. Renewal fees shall be due May 31 of each year. The fee shall be considered delinquent thirty (30) days thereafter. Delinquent fees shall be established by resolution of the City Council.~~

~~4. The annual fee shall be used to defray City costs of administration, incidental costs of improvements on street ends along the oceanfront, and incidental costs to enhance public access and use of the ocean beaches. At least eighty five (85%) percent of the fees shall be used by the City to implement the mitigation plan as required by Amendment No. 23 to the Land Use Plan of the City's Local Coastal Program. (See Section M.)~~

~~L. Violations/Remedy:~~

~~1. The City shall, in addition to any right or remedy provided by law, have the right to do any or all of the following in the event a permittee is in violation of the provisions of this policy or any condition to the permit, or any encroachment or improvement violates the provisions of this policy:~~

~~a. Revoke the permit after giving the permittee notice and an opportunity to be heard upon a determination that there is substantial evidence to support a violation of this policy. The Public Works Director shall establish the specific procedures designed to insure that permittee receives due process of law.~~

~~b. Summarily abate any encroachment or improvement violative of this policy after giving the permittee or property owner ten (10) day's written notice of its intention to do so in the event the permittee or property owner fails to remove the encroachment or improvement. The permittee or property owner shall pay all costs incurred by the City in summarily abating the encroachment or improvement. The determination of the Public Works Director with respect to abatement shall be final.~~

~~M. Land Use Plan of Local Coastal Program Mitigation Plan:~~

~~To mitigate any impact on beach access resulting from the encroachments, the City shall:~~

~~1. Reconstruct thirty three unimproved street ends between 36th Street and Summit to provide additional parking and approved access in accordance with the following:~~

- a. ~~The reconstruction shall provide a minimum, where feasible, of two parking spaces per street end and shall proceed in substantial conformance with the standard drawing attached as exhibit "A."~~
 - b. ~~The City shall use at least eighty five percent (85%) of the fees to fund reconstruction of street ends until all have been improved. The City will use its best efforts to improve three or more street ends per year (except during the year when vertical handicapped access is constructed), and anticipates that funding will be adequate to do so.~~
 - c. ~~West Newport street end parking spaces shall be metered in the same manner as the West Newport Park in order to encourage public use of the spaces.~~
2. ~~Within three years after Council approval of this Resolution, City shall construct a hard surface walkway perpendicular to Seashore Drive at Orange Avenue. The walkway shall extend oceanward a sufficient distance to allow a view of the surfline by an individual seated in a wheelchair. At least one handicapped parking space shall be designated at the Orange Avenue street end. City shall designate at least one other handicapped space at one of the first three street ends improved.~~
3. ~~Subsequent to the reconstruction of all West Newport street ends, at least eighty five percent (85%) of the fees generated by encroachments will be used for the construction of improvements which directly benefit the beach going public such as parking spaces, transportation alternatives, restrooms, vertical or lateral walkways along the beach and similar projects, subject to appropriate public review and permits, including Coastal Development Permit, if required.~~

[Attachment - Exhibit "A"]

~~Adopted - November 26, 1990~~

~~Amended - July 8, 1991 (Resolution 91-80)~~

~~Amended - March 9, 1992~~

~~Amended - September 28, 1992~~

~~Amended - January 24, 1994~~

~~Amended - February 27, 1995~~

~~Amended - February 26, 1996~~

~~Amended - February 24, 1997~~

~~Amended - March 22, 1999~~

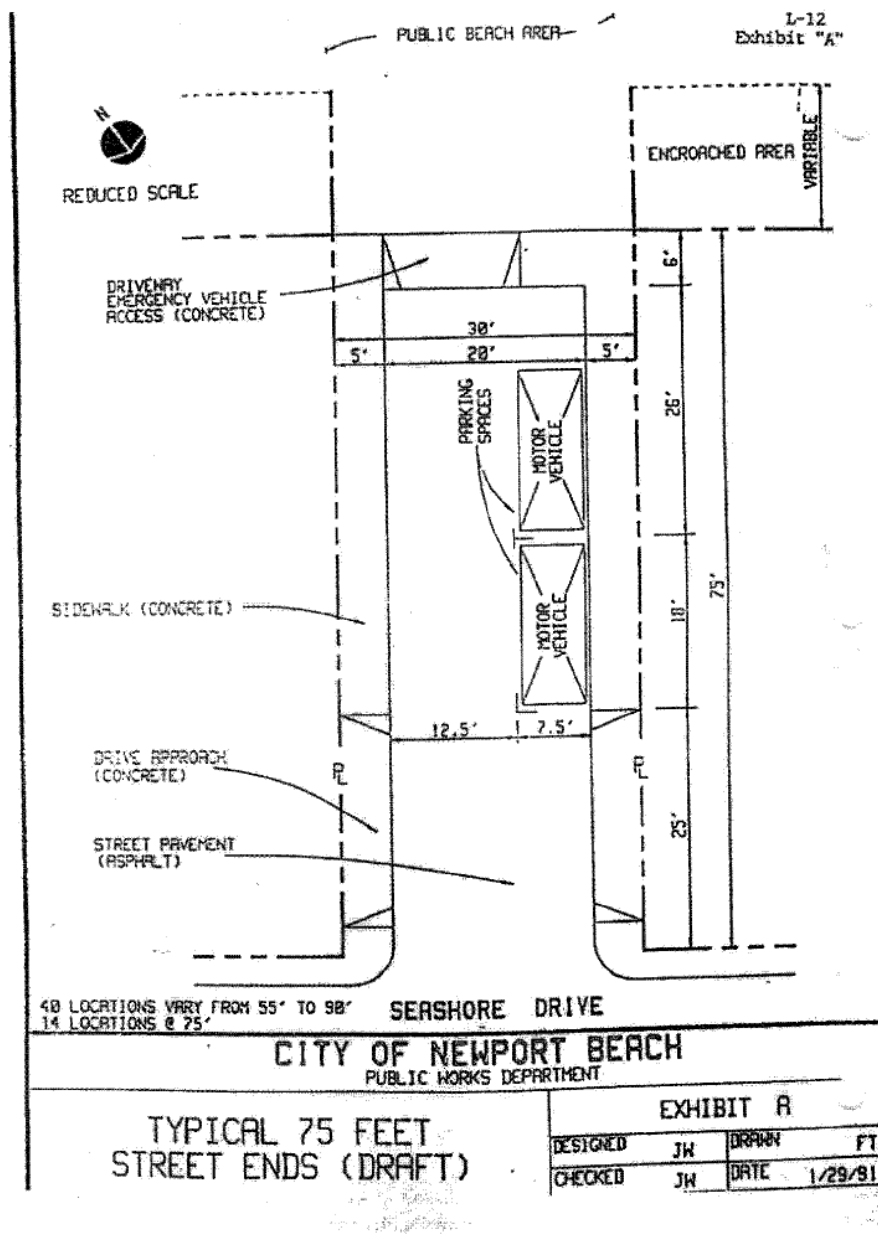
~~Amended - May 8, 2001~~

~~L-12~~

~~Amended—October 10, 2006~~

~~Amended—July 26, 2016~~

~~Formerly L-14~~



McFADDEN PLAZA AND PIER USE POLICY

On September 24, 1990, City Council formed Assessment District No. 59 and initiated the reconstruction of public improvements within the McFadden Square area including the McFadden Plaza at the base of the Newport Pier. The reconstruction project represents a cooperative effort between the City of Newport Beach, businessmen, and property owners to rejuvenate the McFadden Square Area. With this goal in mind, it is the intent of this policy to insure the preservation of the reconstructed improvements in the following ways:

Pier Access

Access to the pier shall be in accordance with the attached McFadden Plaza Access Plan. Pier access shall be limited to the following:

A. Emergency and Law Enforcement Vehicles.

- Vehicles providing law enforcement and emergency services on or in the vicinity of the pier that are under 10,000 pounds gross weight will be permitted on the pier. Fire equipment in excess of the weight limit shall be allowed on the pier at the discretion of the Fire Chief in an emergency situation. See Route "A" on the Access Plan.

B. Delivery Vehicles.

- All commercial vehicles shall be prohibited from the pier except for the following:
 - 1. — Delivery vehicles with a maximum gross weight of 10,000 pounds, a maximum axle load of 8000 pounds, and a maximum length of 20 feet shall be allowed on the pier during the hours of 6:00 A.M. to 11:00 A.M. Restaurant Vehicles (vehicles operated by the restaurant) may shuttle supplies from the loading zone (Location "F") at the base of the pier to the restaurant to accommodate overweight/oversize delivery vehicles or deliveries during the restricted hours. Only one restaurant vehicle shall be permitted on the pier at any given time and vehicles shall not be stored on the pier. All restaurant vehicles must be approved for use by the Public Works Department. Permits for restaurant vehicles shall be issued to all approved vehicles. To obtain permits, the vehicle year, make, identification number, license plate, gross vehicle weight rating, and length must be submitted and reviewed by the Public Works Department.

Commented [KD36]: Staff recommends deletion of the Policy. The policy was created at the time McFadden Plaza was reconstructed, identifying vehicular routes and special events. The plaza has changed with statues and monuments taking up a large portion of the Plaza. The City vehicles that routinely access the plaza are Lifeguard/Fire, Police and MOD. The Dory access is covered by their lease agreement. At such time the restaurant spaces at the end of the pier is lease, the lease will cover the access path. Special events within the plaza will require a special event permit and access paths are conditioned.

Formatted: Indent: Left: 0.5", First line: 0"

Formatted: Indent: Left: 0.5"

~~2. Light restaurant maintenance vehicles such as pick-ups or small vans for plumbing, electrical, equipment repair will be allowed on the pier if such maintenance work requires that the vehicle be utilized at the site in order to perform the work. A maximum of two vehicles shall be allowed at any time on the pier. Any request to use more than two vehicles shall be approved by the Public Works Department.~~

~~3. One small passenger tram shall be allowed to operate on the pier per the concession agreement.~~

~~Delivery vehicles, maintenance vehicles, and tram shall utilize Route "C" and Location "F" as shown on the Access Plan.~~

~~All vehicles shall be capable of turning around at the end of the pier. Back up alarms or spotters shall be utilized when turning around at the end of the pier. All vehicles are prohibited from backing the length of the pier.~~

~~C. City Maintenance Vehicles:~~

~~City maintenance vehicles are permitted on the pier when performing maintenance and must have direct authorization from the Department Head. Operators of unauthorized City vehicles on the pier are subject to disciplinary action. Maintenance vehicles shall utilize Route "C" as shown on the Access Plan.~~

~~Plaza Access~~

~~Access to the plaza shall be in accordance with the attached McFadden Plaza Access Plan. Plaza access shall be limited to the following:~~

~~A. Emergency and Law Enforcement Vehicles:~~

~~Vehicles providing emergency services or law enforcement shall be permitted on the plaza during emergency situations. Parking of vehicles for patrol or non-emergency purposes is prohibited on the plaza. Operators of unauthorized vehicles on the plaza are subject to disciplinary action. Parking for patrol or non-emergency purposes is provided at Locations "B" and "D" shown on the Access Plan.~~

~~B. Delivery Vehicles:~~

~~Delivery vehicles providing services for the Dory Fleet or the concessionaire on the pier will be permitted at Location "F" as shown on the Access Plan for a~~

maximum period of twenty minutes. The maximum time limit may be exceeded when actively loading and unloading of deliveries by handcart to the restaurant.

C. Dory Fleet Vehicles:

— Dory Fleet vehicles are permitted to traverse the access road utilizing Route "E" as shown on the Access Plan, for the purposes of launching or retrieving Dorys. Storage of vehicles or trailers on the beach is not permitted.

D. City Maintenance Vehicles:

— City maintenance vehicles are permitted on the plaza when performing maintenance operations that specifically require the maintenance vehicle be on the plaza. Prior authorization from the Department Head must be obtained. Parking for maintenance vehicles has been provided at Location "B" as shown on the Access Plan. Beach Maintenance vehicles may utilize Route "E" as shown on the Access Plan. Refuse collection vehicles may enter the plaza to empty trash containers using Route "A" and exit the plaza using Route "C". Operators of unauthorized vehicles on the plaza are subject to disciplinary action.

E. Marine Department Vehicles:

— Lifeguard jeeps may traverse the plaza utilizing Route "H" as shown on the Access Plan during high tide and may use all emergency routes when responding to an emergency situation.

Plaza Use

A. Special Events:

— Special events at the plaza shall be limited to the decorative paved area at the base of the pier shown as Location "I" on the Access Plan. Special event support vehicles are prohibited from parking on the plaza. All Special Events shall require a Special Event Permit from the Community Services Department.

B. Commercial Uses

— All commercial uses are prohibited in the plaza.

C. City Events and City Sponsored Events

— All City events and City sponsored events shall be considered Special Events and must fulfill the requirements of Section 1, "Special Events" above.

~~D. — Pedestrians, Bicycles, and Alternate Wheeled Uses~~

~~— Pedestrian use throughout the plaza is unlimited. Bicycles and skates used for transportation shall be limited to the designated trail as shown on the Access Plan, Route "C" and be subject to use restrictions per City Council action. Skateboarding is prohibited in the McFadden Square Area as defined by City ordinance. Exhibition skating and bicycling shall not be permitted within the McFadden Plaza.~~

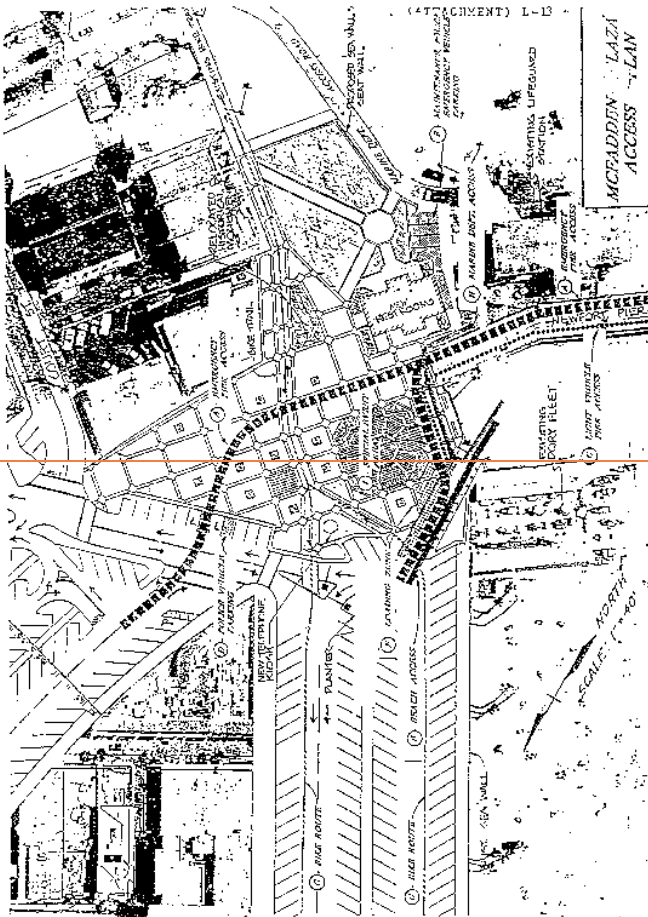
~~{Attachment — McFadden Plaza Access Plan}~~

~~Adopted — October 14, 1991~~

~~Amended — January 24, 1994~~

~~Amended — May 26, 1998~~

~~FORMERLY L-15~~



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 ~~will~~shall be known as the City entrance sign as depicted by the attached diagram. This sign ~~will~~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, ~~will~~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 ~~will~~shall be responsible for one-half (1/2) the cost of manufacturing the sign. The City ~~will~~shall be responsible for the remaining one-half (1/2) of the cost and ~~will~~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

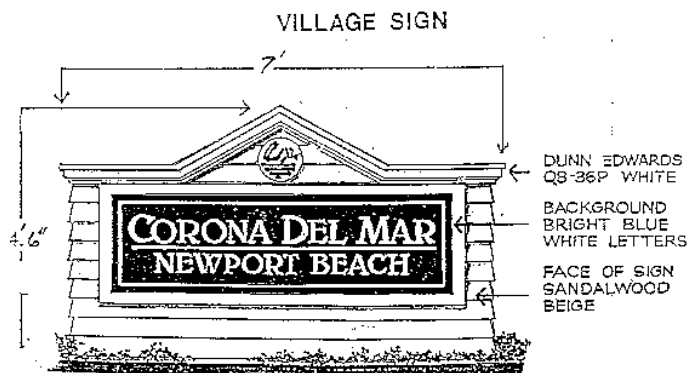
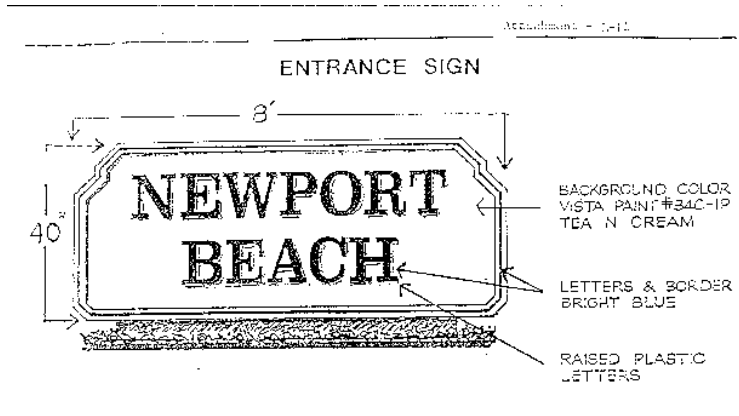
- A. The Council ~~will~~shall approve all locations for entrance or village signs.
- B. ~~The~~ City ~~erews~~ ~~will~~shall be responsible for the installation and maintenance of signs.
- C. The City Traffic Engineer ~~will~~shall be responsible for acquiring sign installation permits from County or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

[Attachment]

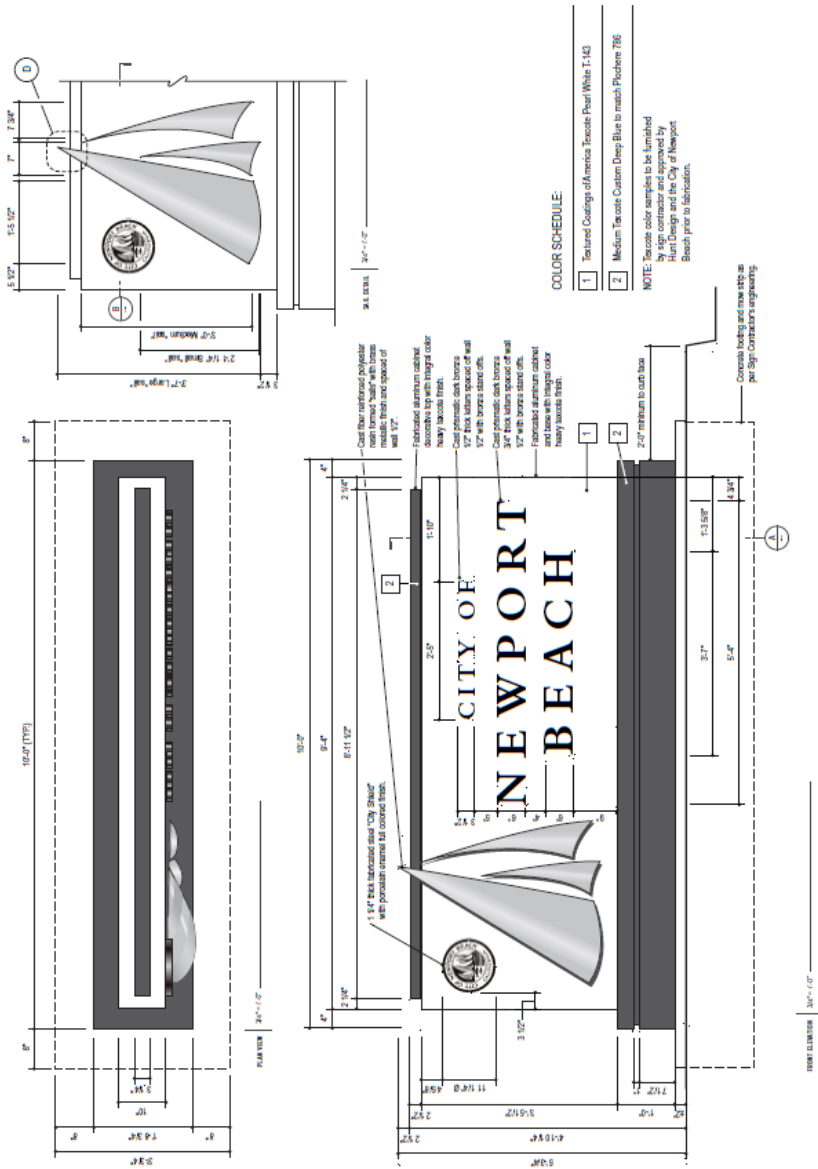
L-14

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

Commented [KD37]: City Council adoption date. 7-11-18



ENTRANCE SIGN

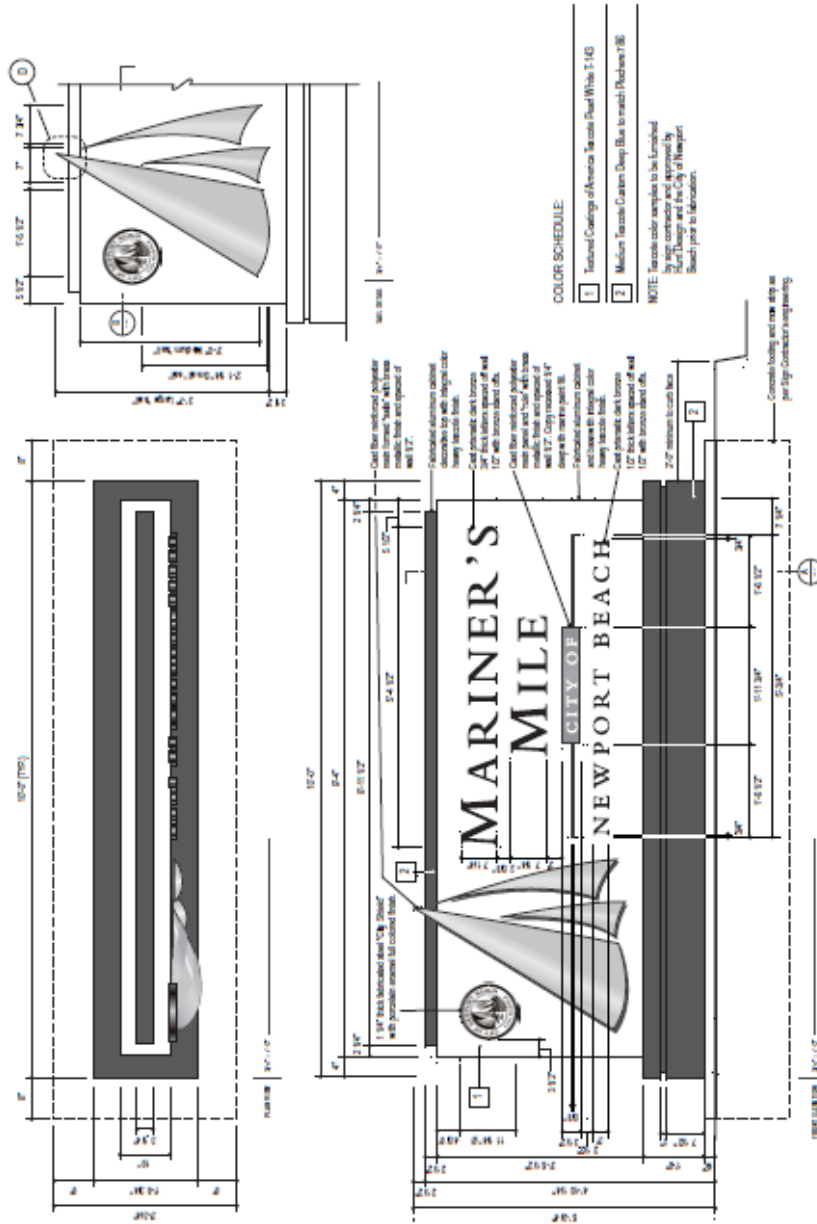


L-14

Formatted: Centered

VILLAGE SIGN

Formatted: Centered



SIDEWALKS, CURBS, GUTTERS AND CITY OWNED UTILITIES
ENCROACHMENTS ON PUBLIC SIDEWALKS

Commented [KD38]: Combined with L-6 to have one encroachment policy

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.

In addition to the provisions of Chapter 5.70 of the Newport Beach Municipal Code dealing with newspaper racks and in conformance with Council Policy L-6, it is the policy of the City that encroachments on public sidewalks shall be subject to the following:

A. General:

1. They shall not reduce the sidewalk width available for normal pedestrian movement.
2. Encroachments may be located in areas between tree wells or other existing improvements as long as they do not interfere with pedestrian travel.
3. They shall be located at least 18" from the curb face. In areas where vehicles do not park or otherwise extend over the sidewalk, this setback may be reduced.
4. They shall not be located within 36" of a parking meter or street light, nor shall they be located where they will interfere with the normal use of other facilities.
5. Encroachments shall not block access from parked cars.
6. They shall not be located within 10' of a crosswalk, fire hydrant or driveway.
7. Encroachments may not be chained or otherwise anchored to any tree, streetlight, parking meter or other property.
8. Applicant shall pay all costs for CalTrans permit processing where necessary.

~~9. Applicant shall pay all costs associated with the installation of encroachments by the City or private installer.~~

~~B. Benches.~~

~~1. When applying the above requirements to benches, allowance shall be made for the space required for a person sitting on the bench.~~

~~2. Benches to be installed in an area where there is a theme or bench style shall conform to that theme or style.~~

~~C. Bicycle Racks.~~

~~1. Bicycle racks shall be located to allow bicycles to extend 5' from the center of the rack and comply with the above requirements.~~

Formatted: Font: (Default) Book Antiqua, 12 pt

Formatted: Indent: Left: 0"

~~Adopted January 11, 1993~~

~~Reaffirmed January 24, 1994~~

~~Amended February 26, 1996~~

~~Formerly L-18~~

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-right-of-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 ~~of the Newport Beach Municipal Code~~ 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 ~~of the Newport Beach Municipal Code~~ 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-right-of-of-way~~ with the exception of temporary real estate signs as specified in [Newport Beach Municipal Code](#) Chapter 20.42, or any successor statute, of the Newport Beach Municipal Code and banners notifying the general public of a community wide event, open to the general public ~~without charge~~, 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~~Municipal Operations Director.

Commented [KD39]: Changed Municipal Operations to Utilities 7-11-18

III. PERMIT PROCESS

- A. Except as provided in [Newport Beach Municipal Code](#) Title 20 ~~of the Newport Beach Municipal Code~~, or any successor statute, no person shall install any temporary banner or sign within any public ~~right-right-of-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, ~~or 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 ~~one hundred (100)~~ banners;
- 2. a) Banners on streetlight poles shall be no more than two-and-one-half (2.5) feet wide and 8.0eight (8) feet high ~~and approved by the Municipal Operations Department~~. Wind load calculations, determined by a registered engineer, ~~will~~shall be required for banners greater than twenty (20) square feet;

Formatted: No underline

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 ~~by the Public Works Department~~ 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 ~~must~~ shall be mounted at least fourteen (14) feet above the ground surface;

6. All banner brackets on streetlight poles ~~must~~ 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 ~~are required~~;

7. Poles or standards ~~must~~ shall be wrapped with ~~forty-four~~ forty-five (45) ~~mil~~ millimeter 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 ~~must~~ shall be inspected and approved by the ~~Utilities~~ Municipal Operations 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~~ Municipal Operations Department ~~of the City of Newport Beach~~ at least ~~forty-four~~ forty-eight (48) hours prior to the installation of any banner on streetlight poles pursuant to the permit;

Commented [KD40]: Changed Municipal Operations to Utilities 7-11-18

Formatted: No underline

2. All banners and supporting material shall be removed within thirty (30) days after the date of installation;

C. Place of Installation-

Formatted: No underline

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 ~~will~~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

Commented [KD41]: City Council adoption date. 7-11-18

Formerly M-4

WATER SERVICE OUTSIDE OF THE CITY

~~Agreements to provide service of water outside the City for periods of ninety days or less may be approved by the City Manager.~~

~~Service of water outside the City for a period greater than ninety days shall be in accord with Sections 14.04.140, 14.04.150 and 14.04.160 of the Newport Beach Municipal Code.~~

~~Adopted—June 27, 1960~~

~~Amended—November 25, 1968~~

~~Amended—January 11, 1988~~

~~Amended—January 24, 1994~~

~~Amended—February 26, 1996~~

~~Formerly M-1~~

Commented [KD42]: It was recommended in our meeting on 1/8/18 to delete and add relevant portions to Municipal Code.

PROTECTION OF WATER QUALITY;
DRAINAGE – PUBLIC RIGHTS OF WAY

Commented [KD43]: Delete Policy since the requirements are contained within the permit and City standards.

PURPOSE

This policy, along with Policy L-22 (Water Quality Management Plans), is intended to minimize dry weather runoff and runoff from small rain events (collectively referred to as "runoff" in this Policy) in an effort to improve water quality of Newport Bay, water quality limited receiving waters (like Buck Gully) and the near shore ocean environment. The motivation for this Policy, in addition to the community's interest in clean water, is in part the adoption of regulations upon the City of Newport Beach by the California Regional Water Quality Control Board, Santa Ana Region ("Regional Board") contained in the Regional Board's Order, NPDES No. CAS618030.

FINDING

Runoff from irrigation overspray, overwatering, roof drains, patio and deck drains, and washdowns of hardscape areas contribute flow to the street drainage systems and natural watercourses which then convey pollutants such as pesticides, fertilizers, pet waste, oil, engine coolant, gasoline, hydrocarbons, brake dust, tire residue, and other pollutants into surface waters.

POLICY

Whenever possible, runoff should be retained on private property to prevent the transport of these pollutants in the manner described below. Reduction, retention or diversion of runoff can benefit property owners through water conservation and reuse of water that would otherwise drain to the City's street drainage system and our harbors, bays, and ocean.

- A. Curb Drains. Curb drains have been utilized as a means of draining sump areas and roof drains within a property by conveying flows via subsurface piping systems to the curb gutter. Curb drains typically convey runoff directly to the City's street drainage system without the benefit of absorption by permeable surfaces and natural treatments such as landscaped areas and planters. Whenever possible, runoff shall be diverted through planted areas or sumps that recharge the groundwater. The use of permeable surfaces affords the opportunity to use the natural filtration properties of the earth to prevent the

transport of harmful pollutants directly to our water resources. The use of curb drains to drain private residential and commercial property shall only be permitted as follows:

1. ~~New Development/Redevelopment~~ see Policy L-22.
2. ~~Reconstruction or Grading of Existing Properties~~ The grading/drainage for additions and/or modifications to existing properties including the construction of patios, decks, roof drains, downspouts, gutters or substantial grading remodel (grading affecting over 50% of the existing yard/setback areas that alter existing drainage patterns) shall be designed to retain and/or direct urban runoff into planted/permeable areas. Curb drains and subsurface piping shall be permitted for secondary or overflow of hardscape or planted areas to prevent dwellings from flooding due to significant (defined for this Policy as more than 3/4" of rain in any 24 hour period) storm events only. Curb drains may be permitted to correct existing drainage problems on a case by case basis after all reasonable alternatives are explored. Curb drains, when approved, shall have a French drain system of perforated pipe and gravel unless site specific circumstances endanger public safety so as to prohibit its use as determined by the Public Works Director.
- B. ~~Parkway permeability.~~ The City's parkway areas represent the last opportunity to retain and allow urban runoff to percolate into the earth before entering the City's street drainage system. Non sidewalk areas within the City's parkway areas (defined as the area between the curb and the street right of way/property line) shall utilize permeable surfaces that permit the percolation of urban runoff. Non permeable parkway surfacing within the area between the street curb and sidewalk for decorative (non pedestrian) purposes, installed at grade, not to exceed 25% of the parkway area (between back of curb and sidewalk) less driveways when installed in conjunction with landscaping, irrigation, and street trees is permitted in accordance with Council Policy L-6. Decorative materials include colored, stamped, and patterned concrete; brick, pavers, and stone masonry, pavers, flat stone, and brick set in sand; and other materials as approved by the Public Works Department.
- C. ~~Down Slope Drains.~~ Wherever practical, private property drainage shall be diverted away from bluffs or steep slopes (2:1 slopes or greater). The design shall include:
 1. ~~Hydrological and hydraulic calculations in conformance with the latest edition of the Orange County Drainage Design Manual;~~
 2. ~~Subsurface piping system utilizing approved piping materials which incorporate sealed joints;~~

Formatted: Indent: Left: 0", Hanging: 0.5"

Formatted: Indent: Hanging: 0.5"

Formatted: Indent: Left: 0", Hanging: 0.5"

Formatted: Indent: Left: 0"

Formatted: Indent: Left: 0", Hanging: 0.5"

3. ~~The drainage system shall have a French drain system of perforated pipe and gravel, or similar device to percolate low flow urban runoff unless site specific circumstances endanger public safety or improvements so as to prohibit its use as determined by the Public Works Director and/or the project soils engineer does not allow percolation; and~~
 4. ~~Any permitted flow shall not create continuous standing water within City street gutters, pose a hazard to safe motor vehicle or pedestrian use, or create a nuisance such as odor or algae growth. The property owner will accept responsibility to maintain the slope drainage facility and will execute a non standard permit agreement with the City. The City reserves the right to revoke this agreement at any time for non-compliance.~~
- D. ~~Sump Pump discharges into the public right of way. Permanent sump pump discharges shall be permitted as follows:~~
1. ~~Permitted sump pump discharges shall be filtered and piped directly to the City' storm drain system. Connections to the city's storm drain shall be in accordance with City standards and executed under a valid encroachment permit from the Public Works Department.~~
 2. ~~The permittee and the City have executed a non standard permit agreement which authorizes the City to revoke the permit at any time for non-compliance.~~
 3. ~~Discharges from permanently installed sump pumps of basement garage spaces (areas with motor vehicle storage) shall not be permitted within the public right of way.~~
 4. ~~Storage areas and living areas below natural grade as permitted by the Building Division may discharge sump pump flow into the City's street drainage system provided that:~~
 - ~~The property owner show evidence of all approved permits as required by the Regional Water Quality Control Board and other jurisdictional agencies;~~
 - ~~The discharge flow must not be continuous and be shown to be less than five (5) gallons per day; and~~

- ~~The permitted flow shall not create continuous standing water within City street gutters, pose a hazard to safe motor vehicle or pedestrian use, or create a nuisance such as odor or algae growth.~~

E. ~~Construction Dewatering.~~ Construction dewatering as permitted by the Building Division may discharge pump flow into the City's street drainage system provided that:

- ~~The property owner show evidence of all approved permits as required by the Regional Board and other jurisdictional agencies;~~
- ~~The permitted flow shall not create continuous standing water within City street gutters, pose a hazard to safe motor vehicle or pedestrian use, or create a nuisance such as odor or algae growth; and~~
- ~~An encroachment permit is executed in accordance with City Council Policy L-6, including authorization for the City to revoke this permit at any time for non-compliance.~~

~~Adopted—April 23, 2002~~

~~Amended—September 27, 2011~~

LEASED STREET LIGHTS

~~It is the policy of the City to encourage the installation of street lighting systems owned by the City. Leased street lights shall not be installed and accepted for maintenance by the City without prior Council approval.~~

~~Normally, leased lights would be recommended for installation under the following conditions:~~

- ~~A. — In alleys where wooden utility poles already exist, and where the cost is paid for by a street lighting maintenance district, after district or the adjoining property owner have agreed to pay for lease costs;~~
- ~~B. — At locations having a poor safety record.~~
- ~~C. — Along arterials and major streets where wooden utility poles exist and the lease rate includes maintenance.~~

~~Adopted—September 11, 1972~~

~~Reaffirmed—December 10, 1973~~

~~Reaffirmed—January 24, 1994~~

~~Amended—February 26, 1996~~

~~Formerly M-3~~

Commented [KD44]: Per our meeting on 1/8/18 it was recommended to delete Policy – Utilities to verify if policy is necessary

Commented [CS45]: There are no leased street lights in the City. All SL's in the city on telephone poles, are owned by SCE. There is also no street light district established in the City. Recommend deleting this policy.

WATER RATES

Commented [KD46]: Per meeting on 1/8/18, Policy is recommended to be deleted because already included in Municipal Code and Council Policies.

A. ~~The City's water rates shall provide sufficient revenue to offset the following costs:~~

1. ~~Water purchased from the Metropolitan Water District (MWD) through Municipal Water District of Orange County.~~
2. ~~Water purchased from the Orange County Water District.~~
3. ~~Operation and maintenance of the water system.~~
4. ~~Water system betterments and improvements.~~
5. ~~Transfers to the General Fund for administrative support.~~
6. ~~Water for sewer, water main, and storm drain flushing, and fire fighting.~~
7. ~~System losses.~~
8. ~~Operating reserves.~~

~~Water rates shall not be used to offset costs of City department activities not directly related to the cost of providing water. In the case of overlapping responsibilities and activities, the City Manager or the City Manager's designee shall review and recommend to the City Council activities or responsible fees directly attributable to the cost of providing water.~~

B. ~~Reserves See Policy F 2 Reserves/Designations of Fund Balance.~~

C. ~~The City will attempt to set water rates and utilize reserves in a manner that will facilitate uniform rate increases over the long term rather than sporadic or large increases.~~

D. ~~Water rates shall be reviewed annually. Additional review of the water rates may be performed in the event special circumstances such as unanticipated MWD rate increases or unanticipated major capital expenditure needs occur.~~

Adopted—October 26, 1976
Amended—November 27, 1978
Amended—April 27, 1987
Amended—January 24, 1994
Amended—February 26, 1996
Amended—February 24, 1997
Amended—May 26, 1998
Amended—April 8, 2003

Formerly M-5

SIDEWALK CAFE STANDARDS AND PROCEDURES

I. PURPOSE

These standards and procedures are adopted pursuant to Municipal Code Chapter 13.18, ~~and any successor chapter, of the Municipal Code in order~~ to encourage appropriate outdoor activities in the public right-of-way, to ensure that the space used for outdoor dining in the public sidewalk ~~will~~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 ~~will~~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 and limitations set forth in Section 20.48.090 (Eating and Drinking Establishments), or any successor statute (D) 82.050 (Standards — Outdoor Dining Accessory Outdoor Dining) of the Municipal Code.~~ An Encroachment Permit may be processed concurrently with any permits required by the Zoning Code Accessory Outdoor Dining Permit.

Commented [KD47]: This will need to be modified and may be an issue if we change the Bike Sidewalk Resolution to allow bikes on all sidewalks.

- 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~~ 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 ~~one million dollars (\$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~~ 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 ~~of the Newport Beach Municipal Code~~ 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~~Uniform Building Code and State of California 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 th 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, ~~sign posts~~ signposts, parking meters, fire hydrants, news racks, etc. within twenty (20) feet ~~(20')~~ 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 ~~(6')~~ 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 ~~(6')~~ if necessary to protect the public safety. Areas with heavy pedestrian traffic ~~shall~~ may be required to maintain a minimum of eight (8) feet ~~(8')~~ 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 ~~(10')~~ 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 ~~(5')~~ 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 NBMC Sec. Newport Beach Municipal Code Section 20.48.090-(D)82.050, 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 willshall 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 (3'6").

- 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 (8') above the sidewalk and no portion of an umbrella shall be less than seven (7) feet (7') above

Formatted: Line spacing: At least 0 pt

Formatted: No underline

Formatted: Font: Book Antiqua, 12 pt

Formatted: List Paragraph, Indent: Hanging: 0.5", Line spacing: At least 0 pt, Numbered + Level: 2 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.75" + Indent at: 1"

Formatted: Font: Book Antiqua, 12 pt

Formatted: Indent: Left: 0.5", Line spacing: At least 0 pt

Formatted: Font: Book Antiqua, 12 pt

Formatted: List Paragraph, Indent: Hanging: 0.5", Line spacing: At least 0 pt, Numbered + Level: 2 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.75" + Indent at: 1"

Formatted: Indent: Left: 0.5", Line spacing: At least 0 pt

Formatted: Font: Book Antiqua, 12 pt

Formatted: List Paragraph, Indent: Hanging: 0.5", Line spacing: At least 0 pt, Numbered + Level: 2 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.75" + Indent at: 1"

Formatted: Font: Book Antiqua, 12 pt

Formatted: Font: Book Antiqua, 12 pt

Formatted: Indent: Left: 0.5", Line spacing: At least 0 pt

Formatted: Font: Book Antiqua, 12 pt

Formatted: List Paragraph, Indent: Hanging: 0.5", Line spacing: At least 0 pt, Numbered + Level: 2 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.75" + Indent at: 1"

Formatted: Indent: Left: 0.5", Line spacing: At least 0 pt

Formatted: Font: Book Antiqua, 12 pt

Formatted: List Paragraph, Indent: Hanging: 0.5", Line spacing: At least 0 pt, Numbered + Level: 2 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.75" + Indent at: 1"

Formatted: Font: Book Antiqua, 12 pt

Formatted: Font: Book Antiqua, 12 pt

Formatted: Line spacing: At least 0 pt

the sidewalk. Awnings may extend up to five (5) feet ~~(5')~~ 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 ~~should~~ 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 ~~will~~ shall be permitted.
- D. Design. The design, material, and colors used for chairs, tables, umbrellas, awnings and other fixtures ~~should~~ 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 ~~may~~ shall not be plantinged with vines. All planters and pots ~~must~~ 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 ~~(1")~~ 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

Commented [KD48]: City Council adoption date. 7-11-18

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)

**PROTECTION OF WATER QUALITY:
WATER QUALITY MANAGEMENT PLANS
FOR NEW DEVELOPMENT AND REDEVELOPMENT**

Commented [KD49]: Delete Policy since requirements are included in the permit and City Standards

PURPOSE

~~This policy, along with Policy L-18, is intended to minimize dry weather runoff and runoff from small rain events (collectively referred to as "runoff" in this Policy) in an effort to improve water quality of Newport Bay, water quality limited receiving waters (like Buck Gully) and the near shore ocean environment. The motivation for this Policy, in addition to the community's interest in clean water, is in part the adoption of regulations upon the City of Newport Beach by the California Regional Water Quality Control Board, Santa Ana Region ("Regional Board") contained in the Regional Board's Order NPDES No. CAS618030.~~

FINDING

~~Runoff from irrigation overspray, overwatering, roof drains, patio and deck drains, and washdowns of hardscape areas contribute flow to the street drainage systems and natural watercourses which then convey pollutants such as pesticides, fertilizers, pet waste, oil, engine coolant, gasoline, hydrocarbons, brake dust, tire residue, and other pollutants into surface waters.~~

POLICY

~~New development or redevelopment, as defined in the model Water Quality Management Plan (WQMP), presents the City and the public with the opportunity to reduce the impacts of runoff that would otherwise drain to the City's street drainage system and our harbors, bays, and ocean. At the time of submittal of an application for a new development or redevelopment project, an applicant shall submit a WQMP to the City. The WQMP's purpose is to minimize to the maximum extent practicable dry weather runoff and runoff from small storms (less than 3/4" of rain falling over a 24-hour period) during construction and post-construction from the property. The following are components of any WQMP:~~

- ~~A. Design Elements—All Development Types. Each applicant's WQMP shall attempt to infiltrate or treat projected runoff for the new development by an amount equal to or greater than the volume of runoff produced from a storm event through incorporation of design elements that address one or more of the goals set forth below. The design elements utilized by an applicant may, but are not required to, include those provided on the list below so long as the required projected runoff infiltration or treatment is achieved:~~

1. Maximize permeable areas to allow more percolation of runoff into the ground through such means as biofilters, green strips, landscaped swales, planters, and other retention/ percolation devices as approved. The use of permeable materials in lieu of or to replace hardscapes will increase the amount of runoff seepage into the ground.

Formatted: Indent: Hanging: 0.5"

Formatted: Indent: Left: 0"

2. Maximize the amount of runoff directed to permeable areas and/or maximize stormwater storage for reuse or infiltration. For the purposes of this Policy, pools, spas, and water features shall not be considered permeable surfaces.

Formatted: Indent: Hanging: 0.5"

Acceptable and encouraged design elements include:

a. Orienting roof runoff towards permeable surfaces, drywells, French drains, or other structural BMPs rather than directly to driveways or non-permeable surfaces so that runoff will penetrate into the ground instead of flowing off-site.

Formatted: Indent: Left: 0", Hanging: 0.5", Tab stops: Not at 1.13"

b. Grading the site to divert runoff to permeable areas.

Formatted: Indent: Left: 0"

c. Using cisterns, retention structures or green rooftops to store precipitation or runoff for reuse.

Formatted: Indent: Left: 0", Tab stops: Not at 1.25"

Formatted: Indent: Left: 0"

d. Removing or designing curbs, berms or the like so as to avoid isolation of permeable or landscaped areas.

Formatted: Indent: Left: 0", Tab stops: Not at 1.25"

Formatted: Indent: Left: 0"

e. Remove pollutants through installation of treatment control BMPs such as filters, clarifiers, and other devices as approved.

Formatted: Indent: Left: 0", Tab stops: Not at 1.25"

Formatted: Indent: Left: 0"

B. Design Elements — Commercial, Retail, and Multi-Family Residential. These design elements shall be required for all new development:

Formatted: Indent: Left: 0", Hanging: 0.5"

1. Urban runoff shall not be allowed to come into contact with the following areas:

Formatted: Indent: Left: 0", Hanging: 0.5", Tab stops: Not at 1.13"

Formatted: Indent: Left: 0", Tab stops: Not at 1.13"

- Loading and unloading dock areas;
- Repair and maintenance bays;
- Vehicle and equipment wash areas; and
- Fueling areas.

Formatted: Indent: Left: 0", Hanging: 0.5", No bullets or numbering

2. Where new development/redevelopment will include outdoor areas for the storage of material that may contribute pollutants to the storm water conveyance system, these materials must be:

Formatted: Indent: Left: 0", Tab stops: Not at 1.13"

Formatted: Indent: Left: 0", Hanging: 0.5"

- Placed in an enclosure such as, but not limited to, a cabinet, shed, or similar structure that prevents contact with runoff or spillage to the storm water conveyance system; or
 - Protected by secondary containment structures such as berms, dikes, or curbs.
3. The outdoor materials storage areas subject to this section must be:
- Paved and sufficiently impervious to contain leaks and spills; and
 - Covered with a roof or awning to minimize collection of storm water within the secondary containment area.
4. The area where a trash receptacle or receptacles are located for use as a repository for solid wastes must meet the following structural or treatment control BMPs:
- Drainage from adjoining roofs and pavement must be diverted away from the trash storage areas;
 - The area must be covered with roof or awning (to prevent rain from entering the area and sewer or storm drain conveyance system), screened or walled to prevent off-site transport of trash, and connected to the sanitary sewer; and
 - Trash bins must have solid covers and be covered at all times except while being emptied.
5. Any construction project adding down spouts, gutters and subsurface pipes directing stormwater thru the curb face shall have a French drain system of perforated pipe and gravel unless site specific circumstances endanger public safety so as to prohibit its use as determined by the Building Division or Public Works Department. Dry weather runoff shall not drain over public right of way, such as sidewalks, decorative paving or City parkland.
- C. Use of Moisture Detecting or Weather Based Irrigation Systems. All WQMPs must describe how the applicant plans to use irrigation systems that are automated and controlled by either a weather based satellite system or by direct moisture detection in the soil.
- D. Long Term Maintenance. The WQMP must also include the applicant's plan for the long term and continuous maintenance of all BMP's requiring ongoing maintenance and the applicant's signed statement accepting responsibility for the maintenance of all structural and treatment control BMPs. Any transfer or sale of property subject to a Water Quality Management Plan must include as a written condition to the transfer or sale such that the transferee assumes full responsibility for maintenance of any structural, and/or source or treatment control BMPs.

Formatted: Indent: Left: 0", Hanging: 0.5", No bullets or numbering

Formatted: Indent: Left: 0", Hanging: 0.5"

Formatted: Indent: Left: 0"

Formatted: Indent: Left: 0", Hanging: 0.5"

Formatted: Indent: Left: 0", Hanging: 0.5", No bullets or numbering

Formatted: Indent: Left: 0", Hanging: 0.5"

Formatted: Indent: Left: 0", Tab stops: Not at 1"

Formatted: Indent: Left: 0", Hanging: 0.5"

Formatted: Indent: Left: 0", Hanging: 0.5", No bullets or numbering

Formatted: Indent: Left: 0", Hanging: 0.5"

Formatted: Indent: Left: 0"

~~E. — Evaluation of WQMPs. The City's evaluation of each Water Quality Management Plan will ascertain if the proposed plan meets the standards set forth in this Policy. Each plan will be evaluated on its own merits according to the particular characteristics of the project and the site to be developed. The Building Official or Public Works Director, or their respective designee shall approve or disapprove the plan. If the plan is disapproved, the reasons for disapproval shall be given in writing to the applicant. Any plan disapproved by the Building Official or Public Works Director or their respective designee must be revised by the developer and resubmitted for approval. No building permit shall be issued until the final WQMP has been approved by the Building Division or Public Works Department.~~

~~F. — Waiver. The WQMP required under this Policy may be waived by the Building Official or Public Works Director or his or her designee if the applicant demonstrates the impracticability of implementing this Policy's requirements. Recognized circumstances demonstrating impracticability may include:~~

- ~~1. — Extreme limitations of space for treatment;~~
- ~~2. — Unfavorable or unstable soil conditions at a site to attempt infiltration; and~~
- ~~3. — Risk of groundwater contamination because a known unconfined aquifer lies beneath the land surface or an existing or potential underground source of drinking water is less than ten feet from the soil surface.~~

~~Any other justification for impracticability must be separately petitioned by the applicant to the City Manager and, where applicable, the Regional Board for advice and consideration.~~

~~If a waiver is granted for impracticability, the petitioner will be required to transfer the savings in cost, as determined by the Building Official or Public Works Director, to the City's Runoff Mitigation Account. This Account shall be used to promote regional or alternative solutions for runoff pollution in Newport Beach area watersheds. Funds payable from the Account may accrue to a public agency or a non-profit entity.~~

~~G. — Compliance Required. Compliance with an approved Water Quality Management Plan shall be a condition of any required planning approval.~~

~~Adopted — April 23, 2002~~

~~Amended — September 27, 2011~~

Formatted: Indent: Left: 0"

Formatted: Indent: Hanging: 0.5"

THE SITING OF WIRELESS TELECOMMUNICATIONS EQUIPMENT ON CITY-OWNED ~~LAND~~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.

AIII. 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). ~~PERMIT REQUIRED~~

~~1. All telecom facilities proposed to be located on City owned or City held trust property must first apply for and receive a permit under the provisions of Chapter 20.4915.70.~~

~~2. All proposals affecting City owned or City held trust property shall be processed via this Policy through the Community Development Planning Department. Successful projects shall receive a "Telecom Permit."~~

BIV. PERMIT REQUIRED

~~A.1. Unless otherwise exempt, all telecom facilities proposed to be located on City-owned or City-held trust property must first 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.~~

Commented [KD50]: Modifications are for consistency with City Telecom Ordinance Chapter 20.49 and compensation based on recommendations for Real Property Administrator.

Commented [KD51]: Changed Land to Property per Planning Commission Comments 7-11-18

Commented [KD52]: New language added. Reviewed by Jim Campbell and Lauren Wooding 7-11-18.

Formatted: Indent: Left: 0", First line: 0"

Formatted: Indent: Left: 0", First line: 0"

Formatted: Indent: Left: 0", First line: 0"

Commented [KD53]: Deleted. Reviewed by Jim Campbell and Lauren Wooding 7-11-18

Commented [KD54]: New Language added. Reviewed by Jim Campbell and Lauren Wooding 7-11-18

2B. 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. ~~AGREEMENT REQUIRED~~

Formatted: Font color: Red

~~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.~~

Formatted: Indent: Left: 0"

EV. CITY SITES ELIGIBLE OR INELIGIBLE FOR FACILITY PLACEMENT

A.1. Sites Eligible for Use. The City Council has determined that the following City locations are acceptable for placement of wireless devices:

Formatted: Indent: Left: 0"

1.a. Fire Stations

Formatted: Indent: Left: 0", First line: 0.5"

2b. Newport Beach City Hall

Formatted: Indent: Left: 0", First line: 0.5"

e3. Parks

Formatted: Indent: Left: 0.5"

4. Police Headquarters

e5. Lifeguard Headquarters

f. Piers

6g. The ~~OASIS Senior Community~~ Centers

7h. Medians and parkways along public streets

h8i. The Central Library and Branch Libraries

i9j. The ~~Utilities and General Services~~ Corporate Yards

Commented [KD55]: Deleted Municipal Operations 7-11-18

i10k. Qualifying City-held easements

k11l. 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.

Commented [KD56]: Changed Municipal Operations to Utilities 7-11-18

12. Leased City property, subject to the lease provisions.

~~m. Traffic Signal poles (following certification and acceptance by the Public Works Department of an effective test of the facility's impacts to the traffic signal pole under various environmental conditions)~~

2B. 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. ~~a.~~ 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:

1A. 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 ~~Manager's Office~~ every five (5) years, as adjusted by the Consumer Price Index (CPI) each calendar year during non-survey years.

2B. 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.

3C. The Agreement shall provide for the following rent adjustments:

1a. Rent shall be adjusted annually by the Consumer Price Index (CPI) for All Urban Consumers, Anaheim-Riverside-Los Angeles or a similar index; and

b2. At the end of five (5) years of the Agreement term and every five (5) years thereafter, the Market-Based Adjustment described above; or-

Formatted: Indent: First line: 0", Line spacing: At least 0 pt

Formatted: Line spacing: At least 0 pt

Formatted: Font: Book Antiqua, 12 pt

Formatted: List Paragraph, Indent: Left: 0.5", Hanging: 0.5", Line spacing: At least 0 pt, Numbered + Level: 3 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 1.88" + Indent at: 2"

Formatted: List Paragraph, Indent: Left: 1", First line: 0", Line spacing: At least 0 pt

Formatted: Font: Book Antiqua, 12 pt

Formatted: Indent: Left: 0.5", Hanging: 0.5", Space After: 0 pt, Line spacing: At least 0 pt, Numbered + Level: 3 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 1.88" + Indent at: 2"

Formatted: List Paragraph, Indent: Left: 0.5", Line spacing: At least 0 pt

Formatted: List Paragraph, Indent: Left: 0.5", Hanging: 0.5", Line spacing: At least 0 pt, Numbered + Level: 3 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 1.88" + Indent at: 2"

Formatted: Indent: Left: 0"

Formatted: Font: Not Bold

Formatted: Indent: Left: 0"

Formatted: Font: Not Bold

Formatted: Font: Book Antiqua, 12 pt

Formatted: Font: Book Antiqua, 12 pt

Formatted: Font: Book Antiqua, 12 pt

Formatted: Font: Book Antiqua, 12 pt

Formatted: Font: Not Bold

Formatted: Font: (Default) Segoe UI, 10.5 pt, Not Bold

Formatted: Font: Book Antiqua, 12 pt

Formatted: Indent: Left: 0", First line: 0"

Formatted: Indent: Left: 0.5"

Formatted: Indent: Left: 0", First line: 0"

3e. 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.

Formatted: Font: Book Antiqua, 12 pt

Formatted: Justified, Indent: Left: 0.5", Hanging: 0.5"

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.

Formatted: Font: Book Antiqua, 12 pt

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).

Formatted: Indent: Left: 0.5", Hanging: 0.5"

Formatted: Font: Book Antiqua, 12 pt

Formatted: Font: Book Antiqua, 12 pt

Formatted: Font: Book Antiqua, 12 pt

Formatted: Font: Book Antiqua, 12 pt

Formatted: Font: Book Antiqua, 12 pt

Formatted: Font: Book Antiqua, 12 pt

Formatted: Indent: Left: 0"

EVII. EFFECTIVE DATE AND COUNCIL NON-CONSENT

A.4. 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.

2B. 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.

Formatted: Indent: Left: 0"

~~3. If less than Fair Market Value is charged for the License Fee, the Agreement shall automatically be required to go to City Council for review and consent at a public hearing.~~

Formatted: Font: Book Antiqua, 12 pt

Formatted: Indent: Left: 0.5", Hanging: 0.5"

Formatted: Font: Book Antiqua, 12 pt

FVIII. 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, of the Newport Beach Municipal Code shall govern consideration of Encroachment Permits (Telecom).

Formatted: Indent: Left: 0"

IXG. CITY COMMUNICATIONS SYSTEMS EXEMPT

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

Formatted: Indent: Left: 0"

Adopted – September 24, 2002

Amended – October 10, 2006

Amended – August 14, 2018

Commented [KD57]: City Council adoption date. 7-11-18

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

Commented [KD58]: Combine Policies L-24 and L-27. Modify wording in L-27 to eliminate Business Improvement Districts (BID) to Business Districts.

The City supports the beautification efforts directed to improve the quality of life and economic vitality of public bridges that serve as gateways to 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

GENERAL

- A. The Flags are permitted on the following public bridges; permitted locations are the the (1) Lido Isle/Via Lido Bridge; (2) the Balboa Island/Marine Avenue Bridge; (3) Little Balboa Island/Park Avenue Bridge; and (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 will/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; and
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.

Formatted: Indent: Left: 0.5", Hanging: 0.5"

Formatted: List Paragraph, None, Indent: Left: 0.5", Hanging: 0.5", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"

Formatted: Font: Book Antiqua, 12 pt

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, ~~the~~ 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.

Formatted: Normal, No bullets or numbering

Formatted: Font: Book Antiqua, 12 pt

Formatted: Font: Book Antiqua, 12 pt

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.

Formatted: Normal, No bullets or numbering

Formatted: Font: Book Antiqua, 12 pt

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 ~~will~~shall be renewable annually.

Formatted: Font: Book Antiqua, 12 pt

Formatted: Normal, Line spacing: At least 0 pt, No bullets or numbering

Formatted: Font: Book Antiqua, 12 pt

Formatted: Font: Book Antiqua, 12 pt

Formatted: Space After: 0 pt, Line spacing: At least 0 pt

Formatted: Line spacing: At least 0 pt

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 ~~will~~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.

Formatted: Space After: 0 pt, Line spacing: At least 0 pt

Commented [KD59]: Changed Municipal Operations to Utilities 7-11-18

Formatted: Line spacing: At least 0 pt

Combined with City Council Policy L-27.

Formatted: Font: Bold

Adopted – June 22, 2004

Amended – August 14, 2018

Commented [KD60]: City Council adoption date. 7-11-18

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 ~~will~~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~~ 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 ~~will~~ 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~~ 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 will~~ 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 ~~will~~ 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

Commented [KD61]: City Council adoption date. 7-11-18

NEIGHBORHOOD TRAFFIC MANAGEMENT POLICY

The City has developed Neighborhood Traffic Management Guidelines in an effort to provide residents with traffic concerns access to traffic management measures that may 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 neighborhood traffic concerns.

I. GENERAL

The Goals of the Neighborhood Traffic Management Program are:

A. 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 in neighborhoods with to address traffic related concerns.

E. Minimize impacts on emergency vehicle response times, which may potentially be caused by implementation of neighborhood 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, such as radar speed feedback signs when appropriate.

H. Respond to concerns or complaints in a timely manner.

Commented [KD62]: Policy has been modified to add language for the radar speed feedback signage on arterials not within residential neighborhoods.

Commented [BT63]:

Formatted: Font color: Red

Formatted: Font color: Red, Strikethrough

Formatted: Font color: Text 1

Formatted: Font color: Red, Strikethrough

Formatted: Font color: Red, Strikethrough

Formatted: Tab stops: 0.25", Left

Formatted: Font: (Default) Book Antiqua, 12 pt

Formatted: Font: (Default) Book Antiqua, 12 pt

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.75"

Formatted: Font color: Text 1

Formatted: Font color: Text 1, Strikethrough

Formatted: Font color: Text 1

Formatted: Font color: Text 1

Formatted: Font color: Text 1

Formatted: Font color: Text 1

Formatted: Indent: Left: 0", First line: 0"

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.

The definitions for the different various traffic calming tools are included in the Neighborhood City's Traffic Management Guidelines document, or any subsequent successor document.

III. CRITERIA

A. The implementation of Level 2 Tools on residential streets will~~shall~~ be considered for those public streets meeting all of the following criteria:

- 1. The A "residential The street" should be primarily shall be defined as a local, residential two-lane neighborhood street with a posted (or prima facie) speed limit of 25 mph or 30 mph and a maximum width of 44 feet from curb to curb.
- 21. The section of road street shall have no more than one lane in each direction, and shall be a maximum of 44 feet in width curb to curb. The street segment shall also be at least 800 feet in length, and have no intermediate STOP signs.

Formatted: Font color: Text 1

Formatted: Font color: Text 1

Formatted: Font color: Text 1

Formatted: Font color: Text 1

Formatted: Font color: Text 1

Formatted: Font color: Text 1

Formatted: Font color: Text 1

Formatted: Font color: Text 1

Formatted: Font color: Text 1

Formatted: Font color: Text 1

Formatted: Font color: Text 1

Formatted: Font color: Text 1

Formatted: Font color: Text 1

Formatted: Font color: Text 1, Strikethrough

Formatted: Font color: Text 1

Formatted: Indent: Left: 0", Hanging: 0.5"

Formatted: Font color: Text 1

Formatted: Font color: Text 1

Formatted: Strikethrough

Formatted: Font color: Dark Red, Strikethrough

Formatted: Font color: Dark Red, Strikethrough

Formatted: Strikethrough

Formatted: Font color: Dark Red, Strikethrough

Formatted: Font color: Dark Red

Formatted: Font color: Dark Red, Strikethrough

32. The two-way volume of traffic on the street shall be between 500 and 4000 vehicles per day.

3. ~~4.~~ 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."

Formatted: Font: (Default) Book Antiqua, 12 pt

54. The street must have a sustained longitudinal grade of ~~six~~6 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.

65. Level 2 measures ~~will~~shall not be installed if, in the opinion of the City Traffic Engineer, they ~~will~~shall result in excessive diversion of traffic to parallel local residential streets.

76. Proposed Level 2 measures ~~will~~shall be reviewed by the Police and Fire Departments for potential impacts to public safety response times.

B. The implementation of Level 3 Tools ~~will~~shall be considered for those ~~public~~ residential streets ~~meeting criteria 1, 2, 61, 5, and 7-6 as noted above, as noted above,~~ and as required by Level 2 Tools. In addition the following criteria must be met:

Formatted: Font color: Dark Red

Formatted: Font color: Text 1, Strikethrough

Formatted: Font color: Text 1

Formatted: Indent: Left: 0", Hanging: 0.5"

1. The volume of traffic on the street shall be greater ~~that~~than 4000 vehicles per day.

Formatted: Indent: Left: 0.5", Hanging: 0.5"

IV. PROCESS

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

Formatted: Font color: Red, Strikethrough

Formatted: Font color: Red

A. A resident ~~will~~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 ~~will~~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 ~~will~~shall initiate a project to address the situation. Otherwise, staff ~~will~~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 ~~will~~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 ~~will~~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 ~~will~~shall be mailed out to the neighborhood asking residents to identify specific concerns. After responses to the letter are received, a neighborhood meeting ~~will~~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 ~~will~~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 ~~will~~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 ~~will~~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 ~~the neighborhood~~ traffic management measures must be supported by seventy ~~(70)~~ 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 ~~will~~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 ~~will~~shall continue undertaking the appropriate Level 1 actions.

V. PRIORITY

Formatted: Font color: Dark Red, Strikethrough

Formatted: Font color: Dark Red, Strikethrough

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:

- 1A. Date of petition submittal.
- 2B. Volume of traffic using the street.
- 3C. Percentage of traffic exceeding the threshold speed limit.
- 4D. 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. ~~SPEED GUIDELINES FOR THE USE AND INSTALLATION OF FIXED RADAR~~ 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 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 willshall-only 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. If the Newport Mesa Unified School District requests a radar speed feedback sign, the schools willcan be reviewed prioritized based on the following applicable thresholds.

SIGN REVIEW AND IMPLEMENTATION

Formatted: Font color: Text 1

Formatted: No underline, Font color: Text 1

Formatted: Font color: Text 1

Formatted: No underline, Font color: Text 1

Formatted: Font color: Text 1

Formatted: Font color: Text 1

Formatted: Font color: Text 1

Formatted: Font color: Text 1

Formatted: Font color: Text 1

Formatted: Font color: Text 1

Formatted: Font color: Text 1

Formatted: Indent: Left: 0", Hanging: 0.5"

Formatted: Font color: Text 1

Formatted: Font: (Default) Book Antiqua, 12 pt, Font color: Text 1

Formatted: Font color: Text 1

Formatted: Indent: Left: 0", Hanging: 0.5"

Formatted: Font: (Default) Book Antiqua, 12 pt, Font color: Text 1

Formatted: Left, Indent: Left: 0.5", No bullets or numbering

Formatted: Font color: Text 1

Formatted: Font color: Text 1

Formatted: Font color: Text 1

Formatted: Underline, Font color: Text 1

Formatted: Font color: Text 1

Formatted: Font: (Default) Book Antiqua, 12 pt, Font color: Text 1

Formatted: Left, Indent: Left: 0.5", No bullets or numbering

Formatted: Indent: Left: 0", Hanging: 0.5"

Formatted: Font color: Text 1

Formatted: Font: (Default) Book Antiqua, 12 pt, Font color: Text 1

Formatted: Font color: Text 1

Formatted: Font: (Default) Book Antiqua, 12 pt, Font color: Text 1

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 request 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.

Formatted: Font color: Text 1

			Points
A.	Daily Traffic Volume	10,000 – 15,000	1
		15,000 – 20,000	2
		20,000 – 25,000	3
		25,000 +	2

Formatted: Indent: Left: 0.25"

Formatted: Font: (Default) Book Antiqua, 12 pt

Formatted: List Paragraph, Indent: Left: 2.5"

Posted Speed Limit	35 mph	1
	40 mph	2
	45 mph	3
	50 mph	1

Formatted: Font: (Default) Book Antiqua, 12 pt, Hidden

Formatted: Font: (Default) Book Antiqua, 12 pt

Formatted: List Paragraph, Indent: Left: 2.5"

Formatted: Font: (Default) Book Antiqua, 12 pt

Formatted: List Paragraph, Numbered + Level: 1 +
Numbering Style: 1, 2, 3, ... + Start at: 50 + Alignment:
Left + Aligned at: 2.5" + Indent at: 2.75"

Formatted: List Paragraph, Indent: Left: 2.5"

85 th % speed over limit	0 mph – 2 mph over posted speed	14
	2 mph – 4 mph over posted speed	3
	4 mph – 6 mph over posted speed	5

Formatted: Font: (Default) Book Antiqua, 12 pt

Formatted: Left

Formatted: Superscript

Formatted: Font: Book Antiqua, 12 pt

Formatted: List Paragraph, Indent: Left: 2.5"

Formatted: Font: (Default) Book Antiqua, 12 pt

Formatted: List Paragraph, Indent: Left: 2.5"

Formatted: List Paragraph, Indent: Left: 0.25", First line: 2.25"

<u>E.</u>	<u>Near School</u>	<u>Greater than $\frac{1}{4}$-$\frac{1}{2}$ mile</u>	<u>1</u>
		<u>Between $\frac{1}{4}$-$\frac{1}{4}$ to $\frac{1}{2}$-$\frac{1}{2}$ mile</u>	<u>2</u>
		<u>Within $\frac{1}{4}$-$\frac{1}{4}$ mile</u>	<u>3</u>

Formatted: Font: (Default) Book Antiqua, 12 pt

Formatted: Font: (Default) Book Antiqua, 12 pt

Formatted: Font: (Default) Book Antiqua, 12 pt

Formatted: List Paragraph, Indent: Left: 2.5"

Formatted: List Paragraph, Indent: Left: 2.5", Hanging: 0.06"

F.	Percent grade	0% - 4%	1
		5% - 9%	2

Formatted: Font: (Default) Book Antiqua, 12 pt

Formatted: List Paragraph, Indent: Left: 2.5"

	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 will shall only be placed where they will 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

Formatted: List Paragraph, Indent: Left: 0.25", First line: 2.25"

Formatted: Font: (Default) Book Antiqua, 12 pt

Formatted: List Paragraph, Indent: Left: 2.5"

Formatted: Font color: Text 1

Formatted: Font: (Default) Book Antiqua, 12 pt, Font color: Text 1

Formatted: Font color: Text 1

Formatted: List Paragraph

Formatted: Font color: Text 1

Formatted: List Paragraph, Indent: Left: 2.5"

Formatted: Font: (Default) Book Antiqua, 12 pt

Formatted: Indent: Left: 0", First line: 0"

Commented [KD64]: City Council adoption date. 7-11-18

NEIGHBORHOOD TRAFFIC MANAGEMENT POLICY

The City has developed Neighborhood 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 neighborhood traffic concerns.

GENERAL

The Goals of the Neighborhood 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 in neighborhoods with to address traffic related concerns.~~
- ~~E. Minimize impacts on emergency vehicle response times, which may potentially be caused by implementation of neighborhood 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 such as radar speed feedback signs when appropriate.~~
- ~~H. Respond to concerns or complaints in a timely manner.~~

Commented [BT65]:

Formatted: Font color: Red

Formatted: Justified, Indent: Left: -0.5"

Formatted: Font color: Red, Strikethrough

Formatted: Font color: Red, Strikethrough

Formatted: Font color: Red, Strikethrough

Formatted: Font: (Default) Book Antiqua, 12 pt

Formatted: List Paragraph, Indent: Left: 0.13", Hanging: 0.38", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75", Tab stops: 0.25",

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.75"

Formatted: Font color: Red, Strikethrough

Formatted: Indent: Left: 0", First line: 0"

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

Formatted: Font color: Red

- 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.

The definitions for the different traffic calming tools are included in the Neighborhood City's Traffic Management Guidelines document.

Formatted: Font color: Red, Strikethrough

CRITERIA

The implementation of Level 2 Tools on residential streets will be considered for those public streets meeting all of the following criteria:

1. The A "residential The street" should be primarily shall be defined as a local, residential two lane neighborhood street with a posted (or prima facie) speed limit of 25 mph or 30 mph and a maximum width of 44 feet from curb to curb.
2. The section of road street shall have no more than one lane in each direction, and shall be a maximum of 44 feet in width curb to curb. The street segment shall also be at least 800 feet in length, and have no intermediate STOP signs.
3. The two-way volume of traffic on the street shall be between 500 and 4000 vehicles per day.
4. A speed survey must demonstrate that the 85 percentile speed is equal to or greater than 32 mph on a posted (or prima facie) 25 mph street, or equal to or greater than 37 mph on a posted 30 mph street. Speeds above these thresholds indicate a "demonstrated speed concern".

Formatted: Strikethrough

Formatted: Font color: Dark Red, Strikethrough

Formatted: Font color: Dark Red, Strikethrough

Formatted: Strikethrough

Formatted: Font color: Dark Red, Strikethrough

Formatted: Font color: Dark Red

Formatted: Font color: Dark Red, Strikethrough

5. ~~The street must have a sustained longitudinal grade of 6 percent 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.~~
6. ~~Level 2 measures will not be installed if, in the opinion of the City Traffic Engineer, they will result in excessive diversion of traffic to parallel local residential streets.~~
7. ~~Proposed Level 2 measures will be reviewed by the Police and Fire Departments for potential impacts to public safety response times.~~

~~The implementation of Level 3 Tools will be considered for those public residential streets meeting criteria 1, 2, 6, and 7 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.~~

PROCESS

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

- A. ~~A resident will 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 will review the roadway conditions and collect the appropriate traffic speed and volume data. If it is determined that an immediate safety issue exists, staff will initiate a project to address the situation. Otherwise, staff will 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 residents concerns, the City will 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 will 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 will be mailed out to the neighborhood asking residents to identify specific concerns. After responses to the letter are received, a neighborhood meeting will 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 will attend the meeting.~~

Formatted: Font color: Dark Red

Formatted: Font color: Dark Red, Strikethrough

Formatted: Font color: Dark Red

Formatted: Font color: Red, Strikethrough

Formatted: Font color: Red

- 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 will be prepared by City staff together with the neighborhood representative, and shall be approved by the City Traffic Engineer prior to circulation. The City will 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 18 years. The petition must include the current address, printed name, and signature for person signing the petition. The petition requesting Level 2 or Level 3 the neighborhood traffic management measures must be supported by seventy (70) percent 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 will 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 will continue undertaking the appropriate Level 1 actions.~~

Formatted: Font color: Dark Red, Strikethrough

Formatted: Font color: Dark Red, Strikethrough

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:~~

- ~~1. Date of petition submittal.~~
- ~~2. Volume of traffic using the street.~~
- ~~3. Percentage of traffic exceeding the threshold speed limit.~~
- ~~4. 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.~~

SPEED GUIDELINES FOR THE USE AND INSTALLATION OF FIXED RADAR 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 will only be considered for use when all of the following minimum thresholds are met:

- The roadway under consideration is designated on the Master Plan of Streets and Highways as a primary or secondary arterial road.
- The average daily traffic (ADT) volume for the roadway segment is greater than 10,000 vehicles per day.
- The posted speed limit is 35 mph or greater; or
- Within a school zone area, after review and recommendation of the City Traffic Engineer and Public Works Director. If the Newport Mesa Unified School District requests a radar speed feedback sign, the schools will can be reviewed prioritized based on the following applicable thresholds.

SIGN REVIEW AND IMPLEMENTATION

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 request 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

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"

Formatted: Font: (Default) Book Antiqua, 12 pt, Font color: Red

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"

Formatted: Font: (Default) Book Antiqua, 12 pt, Font color: Red

Formatted: Left, Indent: Left: 0.5", No bullets or numbering

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"

Formatted: Underline

Formatted: Font: (Default) Book Antiqua, 12 pt, Font color: Red

Formatted: Left, Indent: Left: 0.5", No bullets or numbering

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"

Formatted: Font: (Default) Book Antiqua, 12 pt, Font color: Red

Formatted: Font: (Default) Book Antiqua, 12 pt, Font color: Red

Formatted: Indent: Left: 0.25"

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
	mph	1
85 th % speed over limit	0 mph – 2 mph over posted speed	11
	2 mph – 4 mph over posted speed	3
	4 mph – 6 mph over posted speed	5
Speed related accidents	0 accidents in previous 3 yrs	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
Near School	greater than ½ mile	1
	between ¼ to ½ mile	2
	within ¼ mile	3
Percent grade	0% – 4%	1
	5% – 9%	2
	10% +	3
Street Conditions	Sidewalks both sides	0
	Sidewalks one side	1
	No pedestrian facility	3
	Curves with advisory signing	3
Bicycle Facility	Next to Designated Bicycle Sidewalk	1
	Next to Existing/Planned Bike Route	2
	Next to Existing/Planned On-street Bike Lane	3

Formatted: Font: (Default) Book Antiqua, 12 pt

Formatted: List Paragraph, Numbered + Level: 1 +
Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment:
Left + Aligned at: 0.25" + Indent at: 0.5"

Formatted: List Paragraph, Indent: Left: 2.5"

Formatted: Font: (Default) Book Antiqua, 12 pt, Hidden

Formatted: List Paragraph, Numbered + Level: 1 +
Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment:
Left + Aligned at: 0.25" + Indent at: 0.5"

Formatted: Font: (Default) Book Antiqua, 12 pt

Formatted: List Paragraph, Indent: Left: 2.5"

Formatted: Font: (Default) Book Antiqua, 12 pt

Formatted: List Paragraph, Numbered + Level: 1 +
Numbering Style: 1, 2, 3, ... + Start at: 50 + Alignment:
Left + Aligned at: 2.5" + Indent at: 2.75"

Formatted: List Paragraph, Indent: Left: 2.5"

Formatted: Font: (Default) Book Antiqua, 12 pt

Formatted: List Paragraph, Numbered + Level: 1 +
Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment:
Left + Aligned at: 0.25" + Indent at: 0.5"Formatted: List Paragraph, Left, Numbered + Level: 1 +
Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment:
Left + Aligned at: 0.25" + Indent at: 0.5"

Formatted: Superscript

Formatted: Font: Book Antiqua, 12 pt

Formatted: List Paragraph, Indent: Left: 2.5"

Formatted: List Paragraph, Numbered + Level: 1 +
Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment:
Left + Aligned at: 0.25" + Indent at: 0.5"

Formatted: List Paragraph, Indent: Left: 2.5"

Formatted: List Paragraph, Indent: Left: 0.25", First
line: 2.25"

Formatted

Formatted: List Paragraph, Indent: Left: 2.5"

Formatted

Formatted

Formatted: List Paragraph, Indent: Left: 2.5"

Formatted

Formatted

Formatted: List Paragraph, Indent: Left: 2.5"

Formatted

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.

Formatted: List Paragraph

Radar speed feedback signs will only be placed where they will improve safety and 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 2 hours at the start and at the end of the school day.

Formatted: List Paragraph, Indent: Left: 2.5"

Formatted: Font: (Default) Book Antiqua, 12 pt

Adopted—September 12, 2006
Amended—May 12, 2015

Formatted: Indent: Left: 0", First line: 0"

FLAGS PLACED WITHIN OR EXTENDING OVER THE PUBLIC RIGHT OF WAY WITHIN BUSINESS IMPROVEMENT DISTRICTS

Commented [KD66]: Combined with Council Policy L-24

The City Council supports beautification efforts directed to improve the quality of life and economic vitality of its three geographical Business Improvement Districts' historic commercial villages. Decorative flags shall be permitted to enhance the appearance and identify the areas of the City's geographical Business Improvement Districts pursuant to this policy.

However, 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.

The City Council wishes to ensure that flags displayed within the three geographical Business Improvement Districts 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.

DEFINITIONS

The City of Newport Beach's historic commercial villages shall be defined as follows:

- Balboa Village Business District, generally located between A Street and Coronado Street on the Balboa Peninsula;
- Balboa Island Business District, generally the 200 and 300 blocks of Marine Avenue; and
- Corona del Mar Business District, generally located along East Coast Highway from Hazel Drive to Avocado Avenue.

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"

POLICY

- A. The City shall permit decorative flags to be installed by the three geographic Business Improvement Districts on City poles and standards approved by the Director of Public Works, within the geographic boundaries of the Business

~~Improvement Districts. The permitted locations are the Business Improvement Districts of Balboa Village, Marine Avenue, and Corona del Mar. Except as permitted under this Policy, the Newport Beach Municipal Code Chapter 20.67, and Council Policies L-16 (Temporary Signs and Banners on Public Property) and L-24 (Flags on Public Bridges), no decorative flags shall be installed within or over the public right of way in other geographic areas of the City.~~

- ~~B. 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.~~
- ~~C. No person shall install, maintain or remove flags on City poles, standards or other fixtures within the geographic boundaries of the Business Improvement District ("BID") 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 year and will be renewable annually.~~
- ~~1. Applications for an annual flag permit in a BID 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 will 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 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 right of of way utilized by motor vehicles.~~
5. ~~No more than two flags may be installed on any City pole or standard at any time. With the approval of the Public Works Director, up to two flags may be permitted on a single pole. If the Permittee requests a permit for more than one flag or banner on any single pole, only one 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 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 Electrical Division of the Utilities Department of the City of Newport Beach at least 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 14 days of flag removal or any special service required by the City.~~
9. ~~The entities applying for a permit Business Improvement Districts shall be responsible for the installation, maintenance and removal of flags permitted under this Policy and installed within their geographic boundaries.~~

Adopted—June 9, 2009

ASSESSMENT DISTRICT BALLOTING GUIDELINE

Commented [KD67]: Changes to correct City address.

Formatted: Centered

FOR PROPOSED NEW OR INCREASED SPECIAL ASSESSMENTS

AI. INTRODUCTION

The following guidelines (these "Assessment Balloting Guidelines") ~~will~~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 ~~of Article XIID of the California Constitution~~ ("Section 4") and ~~Section 53753 of the 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.

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

A. Pursuant to Section 53753 subsection (e)(1) ~~of Section 53753~~, 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.

Formatted: Indent: Hanging: 0.5"

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 ~~paragraph~~ Section II.

Formatted: Indent: Hanging: 0.5"

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.

Formatted: Indent: Hanging: 0.5"

- 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.

Formatted: Indent: Left: 0", Hanging: 0.5"

- B. The term "Record Owner," as used in this ~~paragraph~~ Section IV, shall have the meaning

set forth in Section 53750 of the Government Code.

Formatted: Indent: First line: 0.5"

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.

Formatted: Indent: Left: 0", Hanging: 0.5"

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.

EV. COMPLETION OF ASSESSMENT BALLOTS

A. Who may complete an assessment ballot?

1.

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 ~~paragraph subsection E(1)~~ A, the term "Record Owner" shall be deemed to include the following:

Formatted: Indent: Left: 0", Hanging: 0.44", No bullets or numbering

Formatted: Font: Not Bold

Formatted: Normal, No bullets or numbering, Widow/Orphan control

1. a. ~~a~~ A person meeting the definition of "Record Owner" as set forth in Section 53750 ~~of the Government Code~~;

Formatted: Indent: Left: 0.5"

2. b. ~~a~~ 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. c. ~~a~~ An authorized representative of a person qualifying as a Record Owner pursuant to the ~~foregoing a~~ foregoing a ~~mentioned~~ mentioned subparagraphs ~~(a1)~~ (a1) or ~~(b2)~~ (b2), 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 ~~paragraph E(2)~~subsection B for the circumstance of multiple Record Owners of a parcel, only one Assessment Ballot may be completed for each parcel.

2. 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~~3300 Newport Boulevard, Newport Beach, California 926603-3884. 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.

3. 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 ~~will~~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

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Indent: Left: 0", Hanging: 0.5", No bullets or numbering

Formatted: Font: Not Bold

Formatted: Indent: Left: 0", Hanging: 0.44", Line spacing: At least 0 pt, No bullets or numbering, Tab stops: Not at 1"

Formatted: Space After: 0 pt, Line spacing: At least 0 pt

Formatted: Indent: Left: 0", Hanging: 0.44", Space After: 0 pt, Line spacing: At least 0 pt

Formatted: Indent: Left: 0", Hanging: 0.44"

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 ~~will~~shall be considered to be withdrawn and the Replacement Ballot ~~will~~shall be counted.

4. 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 ~~paragraph Section V(A)E(4)~~ above to include an authorized representative of the Record Owner). Only one box may be marked on each Assessment Ballot.

A.F. Return of Assessment Ballots

~~Who may return 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 paragraph E(1)Section V(A) above.

~~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 paragraph E(1) above.~~

2. Where to return Assessment Ballots

2. Assessment Ballots may be mailed or delivered in person to the City Clerk's office at ~~100 Civic Center Drive~~3300 Newport Boulevard, Newport Beach, California 92660~~3-3884~~. 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. When to return Assessment Ballots

3. The City Clerk must receive all Assessment Ballots which are returned by

Formatted: Font: Not Bold

Formatted: Indent: Left: 0", Hanging: 0.44", No bullets or numbering

Formatted: Font: Not Bold

Formatted: Not Highlight

Formatted: No underline

Formatted: Indent: Left: 0.5", Hanging: 0.5"

Formatted: Body Text Indent, No bullets or

Formatted: Indent: Left: 0.5", First line: 0"

Formatted: Indent: Left: 0.5", No bullets or

Formatted: Indent: Left: 0.5", Hanging: 0.5", No bullets or numbering, Tab stops: Not at 1.38"

mail and by facsimile transmission by the end of the business day on the public hearing date. Postmarks ~~will~~shall not be counted.

b. — 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 ~~will~~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.

Formatted: Indent: Left: 1", First line: 0"

~~4. — Withdrawal of Assessment Ballots~~

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 ~~paragraph E(3)~~Section III above shall apply.

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

GB. Handling and Tabulation of Returned Assessment Ballots

Formatted: No underline

~~1. — Handling 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.

Formatted: Indent: Hanging: 0.5"

~~2. — Which Assessment Ballots will be counted?~~

2. — Only Assessment Ballots which are completed and returned in compliance with these guidelines prior to the close of the public hearing ~~will~~shall be counted. Assessment Ballots ~~will~~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 ~~will~~shall keep a record of each Multiple-Owner Assessment Ballot or Replacement Assessment Ballot provided to a Record Owner and ~~will~~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 ~~will~~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 ~~will~~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.

~~3. When and where Assessment Ballots will be tabulated~~

4. The tabulation of Assessment Ballots ~~will~~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.

~~4. How Assessment Ballots will be tabulated~~

Formatted: Space After: 0 pt

5. The Assessment Ballots ~~will~~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 ~~will~~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 ~~will~~shall be allocated among the Multiple-Owner Assessment Ballots returned, as follows:

- a. In accordance with ~~Section 53753(e)(1), and any successor statute, the provisions of subsection (e)(1) of Section 53753,~~ 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 ~~will~~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 ~~will~~shall be evenly split among the Multiple-Owner Assessment Ballots returned.

~~5. Who may tabulate Assessment Ballots~~

6. Assessment Ballots may be tabulated by the City Clerk or by any representative authorized by the City Clerk.

~~6. Results of the tabulation~~

7. Upon completion of the tabulation, the City Clerk ~~will~~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.

Formatted: Indent: First line: 0"

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.

~~7.~~ Retabulation

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.

HC.

Resolution of Disputes

Formatted: No underline

1. Property ownership

Formatted: Font: Not Bold

- 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 ~~paragraph E(1)~~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 ~~paragraph E(1)~~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

Formatted: Indent: Left: 1", Hanging: 0.5"

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 ~~this paragraph~~ 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 ~~will~~shall not be considered or reviewed pursuant to this ~~paragraph~~ subsection H(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.

Formatted: Indent: Left: 1", Hanging: 0.5"

D. General Provisions

1. ~~Envelopes returned by U.S. Postal Service~~

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.

Formatted: No underline

Formatted: No bullets or numbering

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.75", Tab stops: Not at 0.5"

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

Formatted: Indent: Left: 0.75"

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. Assessment Ballots, once opened, are public records~~

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~~ subsection (e)(1) of ~~Section 53753~~, 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.

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.75", Tab stops: Not at 0.75"

Formatted: List Paragraph, Left, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.75", Widow/Orphan control

~~4E.~~ 4. Voting of City Land

Formatted: No underline

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 ~~will~~shall make that final determination based upon the balloting and the testimony it receives in that public hearing.

L-28

Adopted – November 24, 2009

Amended – August 14, 2018

Commented [KD68]: City Council adoption date. 7-11-18

Formatted: Font: Bold

Formatted: Font: Bold

133