

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

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

Minor clarifications - November 27, 1989

Amended - January 24, 1994

Amended - May 8, 2001

Formerly L-10