



CITY OF

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# NEWPORT BEACH

## PB&R Commission Staff Report

Item **VI-C**  
September 5, 2023

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**TO:** Parks, Beaches & Recreation Commission

**TITLE:** Newport Beach Municipal Code and Council Policy Manual Review

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### **RECOMMENDATION:**

Staff recommends that the Parks, Beaches and Recreation (PB&R) Commission:

1. Review the final draft of proposed modifications to the Newport Beach Municipal Code and Council Policy Manual made by the Municipal Code and Council Policy Ad Hoc Committee and forward to City Council for review and approval.
2. Approve the removal of the Santa Monica-Style Bench as a donation option in the B-17 Policy.

### **FUNDING REQUIREMENTS:**

No costs related to this item.

### **DISCUSSION:**

In September 2022, the City Council formed an ad hoc committee, comprised of three City Council Members appointed by the Mayor and confirmed by the Council, to review the Newport Beach Municipal Code (NBMC) and City Council Policies. On April 11, 2023, City Council adopted Resolution No. 2023- 8, extending the expiration date of the ad hoc committee to June 30, 2024, and directed the PB&R commission to form an ad hoc committee to review and provide recommendations on NBMC and City Council Policies within the Commission's jurisdiction.

On May 2, 2023, the PB&R Commission appointed Commissioners Daruty, Ignatin, and Malouf to serve on the Municipal Code and Council Policy Ad Hoc Committee to assist with review and forward recommendations to City Council.

Public Works and Recreation and Senior Services staff reviewed NBMC Chapter 11.03, 11.04, and 13 and Council Policy Sections B1-B-17, G-1, G-6 and L-6 and provided the

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PB&R ad hoc committee with proposed redline edits. City Staff and the PB&R ad hoc committee met on July 24, 2023, to further review and discuss the proposed redline edits.

No changes were proposed to NBMC Chapter 11.03 and 11.04. One addition, clarifying irrigation requirements for planting new parkway trees, was added to Chapter 13.09 Parkway Trees. A majority of the proposed edits to reviewed Council Policies reflect grammar changes and updates referenced park names, facilities and common terminology. Additional recommendations were made to provide clarification and remove redundancies or contradictions in the following areas:

- *B-3 Co-Sponsored Events*: Eliminate this section; captured in Council Policy A-12 Discretionary Grants.
- *B-6 Newport Theater Arts Center*: Removal of language authorizing Recreation & Senior Services Director to waive fees in Council Policy; Requests for fee waiver to be done through Council Policy A-12 process.
- *B-8 Bike, Foot Race and Surf Contest Event Policy*: Clarification of local school surf league competition requirements to align with department policy.
- *G-1 Retention, Removal, and Maintenance of City Trees*: Updated the list of dedicated trees in Exhibit A.
- *G-6 Maintenance and Planting of Parkway Trees*: Addition of general requirement related to irrigation for planting new parkway trees.
- *L-6 Encroachments in Public Rights-of-Way*: Addition of general private encroachment requirements related to artificial turf conversions in parkways with existing City trees.

During the review process, Staff determined that B-17: *Parks, Facilities, and Recreation Program Donations* needed a change to the bench donation options. Due to high maintenance requirements and low aesthetic appeal, staff recommends the removal of the Santa Monica-style bench donation option from the Policy. In general, the composite product that the bench slats are made of, fade, bend, and break, requiring replacement in as early as three years. This change will also align with the Donation Catalogue.

## **NOTICING**

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

## **Attachments**

- A. Newport Beach Municipal Code Chapter 13.09 w/proposed redline edits
- B. City Council Policy Sections B1-17, G-1, G-6 and L-6 w/proposed redline edits

## Chapter 13.09 PARKWAY TREES

Sections:

13.09.010 Parkway Trees Required.

13.09.020 Costs.

13.09.030 Maintenance.

13.09.040 Waiver Procedure.

### 13.09.010 Parkway Trees Required.

Any person who constructs a new building, who causes a building to be moved onto vacant land, or who causes an increase in the original floor area of an existing main building by more than fifty (50) percent of its original size, shall be responsible for planting trees in the parkway abutting the building site in accordance with City rules, regulations and policies. The parkway tree shall be at least a thirty-six inch (36") box of the type, variety and/or species determined by the City in accordance with the City Street Tree Designation List. Automated irrigation shall be established for the newly planted tree from the property under construction. If the City determines that because of the location, terrain or condition of the property that required tree planting is impractical at the abutting parkway, the City shall plant the thirty-six inch (36") box tree at a location designated by the City. (Ord. 2002-13 § 1, 2002: Ord. 1338 § 1 (part), 1970)

### 13.09.020 Costs.

The property owner shall be responsible for all costs associated with the purchase and planting of the tree(s) as required by this chapter. (Ord. 2002-13 § 2 (part), 2002: Ord. 1338 § 1 (part), 1970)

### 13.09.030 Maintenance.

It shall be the responsibility of the abutting property owner to water and fertilize the parkway trees adjacent to his property. The City shall be responsible for pruning and spraying parkway trees. (Ord. 2002-13 § 2 (part), 2002: Ord. 1338 § 1 (part), 1970)

### 13.09.040 Waiver Procedure.

Upon written application, the City Manager, or such other City official as he may designate to act for him, may grant a waiver from all or part of the requirements set forth in Section 13.09.010, if he determines that because of the location, terrain or condition of the property or the surrounding properties, the required tree planting is determined to be unnecessary or impractical. (Ord. 1338 § 1 (part), 1970)

## PARK FEE POLICY

### *Purpose*

The City of Newport Beach maintains an extensive park and open space system. The acquisition and development of our park and open space properties is funded, in part, through the payment of park fees paid by persons or entities who subdivide properties. The Subdivision Map Act requires park fees to be used only for the purpose of developing new or rehabilitating existing neighborhood or community park or recreational facilities to serve the subdivision that paid the fees. The City is required to develop a schedule specifying how, when and where the park fees will be used. The purpose of this Policy is to establish the criteria to be used in deciding which facilities serve subdivision residents and schedule whereby park fees are properly and timely committed to appropriate projects. This policy also identifies which parks serve as citywide resources.

### *Policy*

#### A. Service Criteria.

The Recreation and Open Space Element of the General Plan states that community parks and view parks serve the entire City. Community parks are those with improvements such as community buildings, parking, swimming, facilities for picnicking, active sports and other facilities that serve a larger population. View parks serve as citywide resources because of their unusual beauty and view opportunities. Neighborhood parks serve all ages and include unique recreational facilities, such as basketball courts, tennis courts, turf areas, active sports fields, community buildings, unique play areas. Accordingly, park fees generated by any subdivision within the City may be used to develop new or rehabilitate existing community parks, view parks, and those neighborhood parks listed on Exhibit A.

The Recreation and Open Space Element divides the City into 12 service areas consisting of relatively discrete residential communities. These service areas were created for the purpose of determining whether particular geographical areas were deficient in terms of park and recreational facilities and to identify acquisitions or improvements which would provide residents with greater recreational opportunities. Accordingly, park fees generated by a subdivision within any service area may be used to create new, or rehabilitate, existing park or recreational facilities within that service area and as provided in the Recreation and Open Space Element.

B. Implementation Schedule.

Park fees shall be placed in the Facilities Financial Planning Reserve Fund immediately upon receipt with a special designation as Park Fees. These funds, after special designation, shall be used solely for the acquisition or establishment of new, or the rehabilitation of existing, park, open space and recreational facilities. The park fees shall also be placed on a schedule that lists the location of the subdivision, the fees paid, the date on which the fees were paid or the date on which building permits had been issued for 1/2 of the lots created by the subdivision (whichever occurs later), the service area within which the subdivision is located, the neighborhood park, recreation and open space facilities eligible for park fees generated by that subdivision, and the date on which the park fees must be committed to specific project of improvements. The park fees shall be used only for the park and recreation facilities identified on Attachment A and shall be utilized in accordance with the policies and standards specified in the General Plan. Designations for expenditures will be made as part of the annual budget adoption.

[Attachment - Exhibit A]

***History***

Adopted I-3 - 9-20-1960 ("Park Standards")

Amended I-3 - 8-30-1966

Amended I-3 - 11-12-1968

Amended I-3 - 3-9-1970

Amended I-3 - 2-14-1972

Amended I-3 - 12-10-1973

Amended I-3 - 2-25-1974

Amended I-3 - 5-9-1977

Amended I-3 - 6-13-1977

Adopted I-1 - 6-27-1994 ("Park Fee Policy")

Amended I-1 - 4-23-2002

Amended I-1 - 4-8-2003 (changed to B-1)

Amended B-1 - 4-13-2004

Amended B-1 - 9-13-2005

Amended B-1 - 8-11-2009

Amended B-1 - 5-14-2013

Amended B-1 - 5-12-2015


Amended B-1 - 8-8-2017

EXHIBIT A

PARK DEDICATION POLICY


PARKS GUIDE

The following view parks serve as citywide resources by reason of their unusual beauty and the view provided:

<del>Back Bay View Park</del>		Back Bay View Park
<del>Bayview Park</del>		Bayview Park
<del>Begonia Park</del>		Begonia Park
<del>Channel Place Park</del>		Canyon Watch
<del>Civic Center Park</del>		Castaways Park
<del>Cliff Drive Park</del>		Channel Place Park
<del>Corona del Mar State Beach Park</del>		Civic Center Park
<del>John Wayne Park</del>		Cliff Drive Park
<del>Galaxy View Park</del>		Corona del Mar State Beach Park
<del>Inspiration Point</del>		Galaxy View Park
<del>Irvine Terrace Park</del>		Harbor Watch
<del>Los Trancos (lower, middle, upper)</del>		Inspiration Point
<del>Canyon Watch</del>		Irvine Terrace Park
<del>Harbor Watch</del>		Jasmine View Park
<del>Castaways Park</del>		John Wayne Park
<del>Jasmine View Park</del>		Kings Road Park
<del>Kings Road Park</del>		Lido Park
<del>Lido Park</del>		Lookout Point
<del>Lookout Point</del>		Los Trancos (lower, middle, upper)
<del>Newport Island Park</del>		Newport Island Park
<del>Peninsula Park</del>		Peninsula Park
<del>Rhine Wharf Park</del>		Rhine Wharf Park
<del>Sunset View Park</del>		Sunset View Park
<del>West Jetty View Park</del>		West Jetty View Park
<del>Westcliff Park</del>		Westcliff Park

The following Community and Neighborhood Parks serve as citywide resources by reason of the unique recreational opportunities they offer:

~~16th Street Community Center - multipurpose facility with classroom~~ 

38th Street Park - Basketball courts and playground ~~(ADA compliant)~~ 

Arroyo Park - Lighted multi-purpose field, basketball court, picnic areas and playground.

Big Canyon Nature Park - hiking trails

Bob Henry Park - Multipurpose field, ball diamond, playground, picnic areas

Bonita Canyon Sports Park - Four youth baseball fields, one multi-purpose field, one soccer field, tennis courts, pickleball courts, basketball court, 2 playgrounds and connecting trail to Arroyo Park.

Bonita Creek Park **and** Community center, **batting cages**, playground, lighted multi-purpose fields, and basketball court.

Buck Gully- hiking trails

Buffalo Hills Park - Basketball court, baseball/softball diamond, volleyball court, multi-purpose fields.

Carroll Beek Community Center and Balboa Island Park - Basketball court, tot playground and community center.

Civic Center Park - Scenic view, dog park, art sculptures, cactus garden, Civic green, and walking trails and community room.

Coastal Peak Park - Two multi-purpose fields, playground, two picnic pavilions, **batting cages** and basketball court.

Community Youth Center ~~and~~ Grant Howald Park - Basketball court, tennis courts, playground, community center, ~~softball and~~ **lighted** multi-purpose field. ~~and~~

Eastbluff Park - Baseball diamond, multi-purpose field, playground, and view of the Back Bay.


Harbor View Nature Park - Natural vegetation area.

Lincoln Athletic Center - ~~Gymnasium~~, lighted baseball/~~softball diamond~~ and multi-purpose fields.

Marina Park - Community center, 4 sailing center, picnic area, playground, basketball courts and fitness course.

Mariners Park - Multi-purpose room, baseball/softball facilities, racquetball courts, lighted tennis courts, multi-purpose fields, and ~~an ADA equipped play~~ **playground** area.


Newport Aquatic Center - rowing, canoeing, kayaking, paddle boarding facility

Newport Coast Community Center - Gymnasium, multi-purpose  facility with classrooms **and outdoor pickleball courts**.

**Newport** Theater Arts Center - Ninety seat community theater.


North Start Beach - ~~aquatic center~~ **Public hand launch facility.**

OASIS Senior Center - Multi-purpose senior facility with classrooms, large multi-purpose room, and fitness center.

Peninsula Park **and Newport Junior Guard Center-** Beach sited multi-purpose field, playground, **community center** (~~ADA compliant~~), picnic and barbecue facilities, **multi-purpose field** ~~baseball/softball diamond~~ and gazebo. 

San Joaquin Hills Park - Tennis courts, pentanque courts, lawn bowling facility.

San Miguel Park - Ball diamond, athletic field, four racquetball courts, basketball court and **playground** ~~an ADA equipped play area~~.

~~Spyglass Hill Park - playground, picnic area~~ 

Sunset Ridge Park - Baseball field, soccer fields, butterfly garden, scenic view and playground.

West Newport Community Center- Gymnasium

West Newport Park - Tennis courts, racquetball courts, basketball court, and 3 playgrounds.

## NEWPORT BEACH SENSITIVE NATURAL/ MARINE AREAS

It is the policy of the City Council, through cooperative and mutually supportive endeavors of the City of Newport Beach, County of Orange and the State Fish and Wildlife Department, to preserve and enhance the assets of sensitive natural and marine areas; to create the best possible environments; and to ensure their continued existence.

In order to accomplish this goal the Natural Resources staff shall, when possible, schedule and regulate activities in sensitive natural and marine environments. Natural Resources staff assigned to natural/marine areas educate on the rules and regulations for the purpose of conserving these resources for future generations.

Adopted H-3 - 10-26-1976

Amended H-3 - 11-27-1978

Reaffirmed H-3 - 2-9-1981

Amended H-3 -1-24-1994

Amended H-3 - 9-27-2011

Amended H-3 - 5-12-2015

Amended B-2 - 2-13-2018 (changed to B-2)

## **CO-SPONSORED EVENTS**

~~The Recreation & Senior Services Department may accept co-sponsorship of events when one of the following criteria is met:~~

- ~~A. The City solicits the co-sponsor.~~
- ~~B. Co-sponsored events or programs that are not self-supporting shall be subject to being approved by the annual budget process that would appropriate funds for the activity.~~

### ***History***

~~Adopted I 14 – 7-22-1991~~

~~Amended I 14 – 1-24-1994 (changed to I 3)~~

~~Reassigned I 3 – 4-8-2003 (changed to B-3)~~

~~Amended B 3 – 4-13-2004~~

~~Amended B 3 – 8-8-2017~~

## COMMERCIAL USES IN PUBLIC PARKS

Commercial uses of public park lands may be desirable in certain circumstances to provide revenues to offset maintenance costs of the balance of a park.

If practical and feasible, consideration could be given to use of segments of various public parks for commercial development on a revenue-producing basis.

Commercial developments, as approved by City Council, may include, but not be limited to, restaurants, equipment rentals, food concessions, tennis center, pro shops, etc.

Each proposed commercial use would be carefully studied and judged on the merits of the individual case, as recommended by the Parks, Beaches and Recreation Commission, and approved by the City Council.

### *History*

Adopted I-16 - 5-12-1975

Amended I-16 - 1-24-1994 (changed to I-4)

Amended I-4 - 4-8-2003 (changed to B-4)

## VINCENT JORGENSEN COMMUNITY ROOM IN LIBRARY

### *Background*

The large meeting room at the Crean Mariners Library is known as the Vincent Jorgensen Room (Jorgensen Room). The Recreation Division of the Recreation and Senior Services Department administers the use and scheduling of this community room. Due to funding and joint use parameters, the majority use of this community room is for youth oriented and educational activities.

### *Application*

Application and scheduling shall comply with Council Policy B-13 except for the following:

### Standard Conditions to Use

- A. No person shall interfere with the normal use and activities of the Library by way of noise, disturbance or other activity.
- B. Groups of seventy (70) or more persons shall be required to provide proof of off-site parking availability (off-site parking plan) prior to approval of the application and shall strictly comply with the parking plan.
- C. The Jorgensen room shall not be used for private social functions such as weddings, birthday parties, events, (unless events are necessary as part of a Library or City sponsored event or production) etc.
- D. The Jorgensen Room is reserved 8:00 a.m. – 6:00 p.m. Monday through Friday for children’s programming. Evening and weekend hours may be available through the Recreation and Senior Services Department.
- E. Applications for reservations may be made no more than 90 days in advance and no more than once every 90 days. There can be no recurring reservations.

### *History*

Adopted B-5 – 10-10-2006

## NEWPORT THEATRE ARTS CENTER

### *Background*

The Newport Theatre Arts Center (Theatre) has been the site of community theatre productions since 1979. The Friends of the Newport Theatre Arts Center (Friends), a non-profit public benefit corporation, have, since 1980, managed the Theatre and offered first class theatrical productions and shows using dedicated volunteers from the community. The Friends have presented at least four productions a year, have funded their program through ticket sales and donations from the private sector, and have used excess funds to purchase theatrical equipment. The plays and shows presented by the Friends are affordable to all economic segments of this community and offer residents a unique opportunity to attend or participate in theatrical productions. The Friends represent the epitome of "community theatre" - a volunteer effort using principally non-equity performers that is self funded and offers performers of all skill levels an opportunity to develop their talents.

### *Management/Primary Use*

The City Council has, pursuant to a written management agreement, appointed the Friends as the primary user and manager of the Theatre in recognition of their dedication, skill and effort over the years. The City Council is aware that the consistent presentation of first class community theatre requires extensive pre-production use of the venue for rehearsal, set construction and related activities. The City Council has determined that the community theatre program offered by the Friends requires exclusive use of the Theatre for continuous and extended periods of time throughout the year and from year to year.

As manager, the Friends are required to make the Theatre available, and to supervise its use, by other groups or organizations selected by the City (Third Party/Third Parties) for stage plays or artistic events during no less than two (2) two-week periods each year (Reserved Periods). The Friends are also required to allow and supervise use by residents and local business owners for short meetings or events of limited duration. The City Council expects the Friends, in supervising the use of the Theatre by any Third Party, to serve as a resource, if called upon, to facilitate the efforts of community groups authorized by City to present stage plays at the Theatre.

## Reserved Periods

The City, through the Recreation & Senior Services Director, is responsible for selecting the Third Party/Third Parties that will be permitted to use the Theatre to present stage plays or other artistic productions during the Reserved Periods. Third Party use of the Theatre shall be granted pursuant to a special event permit and ~~license agreement~~ ~~(permit)~~ **facility reservation permit**. In selecting among applicants, preference shall be given to public benefit non-profit corporations in good standing that have received a tax exempt determination pursuant to Section 501(c)(3) of the Internal Revenue Code. Since the theatre is one of very few venues in the area that is capable of accommodating live stage performances, preference shall be given to an applicant seeking permission to use the Theatre for live theatrical performances presented during at least one entire Reserved Period. The City shall use the following criteria in selecting among qualified applicants that have submitted timely applications requesting use of the Theatre at the same time during all or a portion of any Reserved Period:

- A. Previous experience in presenting live stage productions of a magnitude similar to that proposed in the application;
- B. Firm commitments from technical, artistic and support staff capable of producing a live stage play;
- C. The extent to which Newport Beach residents are involved in the production;
- D. The extent to which the production involves or generates educational opportunities for youth;
- E. Whether the applicant has secured the rights to produce the play and the extent to which the applicant can demonstrate the ability to pay required fees and charges.
- F. The potential for recurring use by the applicant.

In the event that no application is submitted and approved by the City authorizing presentation of a live theatrical performance during any Reserved Period, preference shall be given to the applicant who first submits a timely application to present a cultural or artistic event that is consistent with the historical usage of the Theatre.

The Recreation & Senior Services Director is authorized to meet and confer with applicants who have submitted conflicting requests in an effort to determine if the applicants are willing to modify the requests to avoid the conflict. The Recreation & Senior Services Director is also authorized to partially grant or modify any application to eliminate conflict or to preserve use of the Theatre for the City or for other purposes.

While the Recreation & Senior Services Director will generally determine Third Party use of the Theatre pursuant to the application process, However, the City Council may, upon a determination that a requesting group substantially complies with the selection criteria in A - F and at a noticed public meeting, authorize Third Party use of the Theatre for multiple or consecutive Reserved Periods subject only to execution of the required permit.

### *Procedures*

- A. Subject to the provisions of Subsection B, any individual, group or organization requesting permission to use the Theatre during all or a portion of any Reserved Period, or for any event that requires a special event permit pursuant to Chapter 11.03 of the Newport Beach Municipal Code (applicant) shall file an application for a permit. The application shall be filed with the Recreation & Senior Services Department no less than 45 days prior to the first date of the Reserved Period during which applicant proposes to use the Theatre and shall be accompanied by the fee established by resolution of the City Council. The application shall be submitted on forms provided by the Recreation & Senior Services Department, all requested information shall be provided and an individual authorized to bind the applicant shall sign the application. The applicant shall clearly specify the requested dates and times for use of the Theatre and describe, in detail, the production to be presented as well as the technical, artistic and support personnel to be involved in the production.
- B. In the event that the City Council has authorized use of the Theatre by a Third Party pursuant to the provisions of the "Reserved Periods" section, the Third Party shall submit the information required by Subsection A within fifteen days after the action by the City Council but is not otherwise required to comply with the procedures specified Subsection A.

### *Conditions*

All use of the Theatre shall be subject to strict compliance with this Policy, the application submitted, the "House Rules" (Exhibit A) and the terms and conditions of the Special Event Permit and License Agreement (Permit). The House rules and the Permit shall be provided to the applicant when the application is filed. In addition, each Permittee shall strictly comply with the following conditions:

- A. The Theatre shall not be used, or open for use, by any person before 8:00 a.m. or after 11:30 p.m. on any day.
- B. The Permittee shall take all reasonable steps to ensure that all users respect nearby residents by minimizing noise, parking and other impacts.
- C. The Permittee shall use the property, the Theater and the Theatre Equipment with due care and in a manner that avoids any damage, any injury to any person, and minimizes wear and tear.
- D. The Permittee shall comply with all applicable laws and shall take all reasonable steps to ensure that guests and invitees also comply with all applicable laws.
- E. The Permittee shall fully and immediately comply with all requests of the Recreation & Senior Services Director, **Park Patrol Officers**, and the Chief of Police or their employees.

### *Fees*

Use of the Theatre by any Third Party shall be subject to the payment of fees to the City for the use of the Theatre (Property Fee) and to the Friends, to the extent applicable, for use of the stage and sound equipment (Equipment Fees) and skilled personnel qualified to operate the Equipment (Operator Fees). The Property Fee, Equipment Fees and Operator Fees are as specified in the Fee Schedule (Exhibit B). ~~The Recreation & Senior Services Director may waive all or a portion of the Property Fee upon request and a showing of good cause.~~ The Recreation & Senior Services Director shall collect, and remit to the Friends, any Equipment Fees and/or Operator Fees. Users shall pay Property Fee and 50% of the estimated Equipment and Operator Fees a minimum of one week (7 calendar days) prior to the event.

[Attachment - Exhibit A]

[Attachment - Exhibit B]

*History*

Adopted I-18 - 7-27-1981  
Amended I-18 - 10-22-1984  
Amended I-18 - 11-28-1988  
Amended I-18 - 10-22-1990  
Amended I-18 - 1-24-1994 (changed to I-6)  
Amended I-6 - 5-22-2001  
Amended I-6 - 4-8-2003 (changed to B-6)  
Amended B-6 - 9-13-2005  
Amended B-6 - 10-10-2006

EXHIBIT A  
HOUSE RULES

The following rules apply to all use of the Newport Theatre Arts Center (Theatre) by any Third Party using the Theatre.

A. THEATRE USE

The right to use the Theatre includes only the main theater consisting of the 90 seat auditorium and stage, "green room", entry lobby and public restrooms, box office area, two downstairs dressing rooms and bathroom, all access ways, parking area and exterior grounds. In no event shall Permittee use any office equipment or telephones owned by the Friends of the Newport Theatre Arts Center (Manager), the kitchen/office maintained by the (Manager), backstage workroom, or costume, prop and set storage rooms. Use of these areas is non-exclusive and Manager's agents may also occupy the designated areas provided they do not interfere with Permittee's use of the Theatre or the production. Only technical personnel approved by the Manager are allowed to enter the tech booth.

B. MANAGERS PROPERTY/EQUIPMENT

Permittee shall not use Manager's tools, costumes, props, or sets. Permittee may use the telephone provided by the City.

C. SUPERVISION

Access to, and use of, the Theatre shall be pursuant to the supervision of a Stage Manager or House Manager designated by the Manager.

D. MARQUEE

~~Permittee is to provide the layout for inclusion of text in the marquee and Manager approved personnel will install the lettering or supervise the installation by Permittee. Only layouts that utilize existing Theatre lettering will be allowed. The marquee will be available to Permittee only during the Use Period.~~



E. CLEANING

The carpeted areas and seats in the Theatre must be completely covered by Permittee during any set construction, painting or other work on the stage or in the auditorium area to protect those facilities against dust and damage. At the conclusion of the Use Period, Permittee shall return all facilities and equipment to the condition immediately prior to use by Permittee.

F. SOUND MONITORS

The sound monitors are permanently located and Permittee shall not move or relocate the monitors.

G. FOOD BEVERAGES

Food or drink is permitted only in the lobby. No food or drink may be taken into the auditorium. Permittee shall consult with Manager, and receive Manager's approval, prior to any sale or distribution of food or beverages on or from the Theatre.

H. BOX OFFICE PERSONNEL

Permittee shall provide box office personnel as well as tickets and/or reservation services. Permittee shall also provide any security or admission personnel. Manager may be able to supply box office personnel if Permittee makes a timely request and pays required fees.

I. DECORATIONS

Permittee shall not use confetti, glitter, spray paint, liquid paint, burning objects or helium balloons on the property. Permittee shall obtain Manager's approval of a decorating plan prior to installing any decorations.

J. DRESSING ROOMS

The dressing rooms are reserved for the use of the actors and stage personnel. In no event shall the dressing rooms be used for entertainment of guests or the storage of equipment. Smoking and alcohol are prohibited in dressing rooms.

K. RIGHTS AND ROYALTIES

Permittee shall provide evidence that they have applied for the rights to stage, at the Theatre, the production described in the application for permit and that all required royalties and rentals have been paid. In no event shall Permittee be allowed access to the Theatre without providing proof of rights and royalties. Permittee shall not film or reproduce any production unless and until Permittee provides evidence that publisher or owner of the performance rights has given express permission to do so.

## EXHIBIT B

**FEE SCHEDULE**

FEEES CHARGED ARE IN ACCORDANCE WITH THE  
MASTER FEE SCHEDULE WHICH IS ANNUALLY ADJUSTED BY  
RESOLUTION OF THE CITY COUNCIL

- A. Lighting Designer to hang, focus and program lights.  
- or -  
Lighting Technician who will program existing hanging lights only and operate lights for shows - per hour with 3 hour minimum.
- B. Sound Designer to place sound equipment in locations, adjust microphones and program equipment, etc.
- C. Additional technicians to operate lights and/or sound equipment during performance -- per hour with 3 hour minimum.
- D. Stage Manager who will monitor backstage activities and assist with matters involving use of stage and curtain only -- per hour with 3 hour minimum.
- E. House Manager who will monitor front of house, direct ushers and assist with matters involving front of house only -- per hour with 3 hour minimum.
- F. Ushers -- per usher per show, from 30 minutes before performance through intermission.
- G. Lamp and lighting equipment use, including dimmer packs, computers, light board, hanging fixtures, lamps and gels -- per hour or part of hour, including programming time, as well as running time for show. Rate to be different per hour if both lighting and sound equipment are used.
- H. Permittee reimburse the City for all charges or costs associated with services requested by Permittee. No charge for use of small piano other than tuning charge if user wants piano tuned. Small piano moving and replacement to original location to be done by Permittee.
- I. Property Fee is charged per day of use.

## SPECIAL EVENT PERMIT REQUEST PROCESSING

### *Purpose*

To set forth City policy concerning administration and control of special events. Special events include activities as defined in Chapter 11.03 of Title 11 of the Newport Beach Municipal Code. Requests that include activities for which the Municipal Code requires a permit to be obtained may be included in the special event permit process.


### *Policy*

It is the policy of the City Council to ensure that the numerous special event activities permitted by the City do not negatively affect the community, that requests for permits are efficiently processed by staff, that City liability is eliminated, that all appropriate insurance requirements are met, and that costs for municipal services provided are kept at a reasonable level and recovered from the event sponsors. Affected City departments shall be notified of special event permit requests in accordance with the schedule attached and provide recommendations on how to conduct the event safely, lawfully and with a minimum negative impact on the community.

It is the responsibility of the Recreation and Senior Services Director to coordinate the administration of special events and to be the central contact point for residents or other event sponsors, as well as the various City Departments having influence or control over aspects of any given event. Requests for special event permit applications will be received by a special event supervisor in the Recreation and Senior Services Department and routinely routed to appropriate departments for investigation. Each department will investigate the proposed event and make a recommendation for approval or denial of the event. If recommended for approval, recommended conditions for approval will also be presented.

Events that include the following activities or aspects shall be additionally reviewed by the departments indicated:

<u>Activity</u>	<u>Reviewing Department</u>
Fireworks	Fire Department Police Department City Manager
Tents and Canopies	Fire Department Building Department

Requests on the Harbor	Harbor Resources Division  Department Sheriff's Harbor Department
Requests on the Balboa Pier	Public Works Department
Requests on McFadden Plaza	Public Works Department
Requests on the Newport Pier	Public Works Department
Requests on Public Beaches	Harbor Resources Division <del>Municipal Ops Department</del> <span style="border: 1px solid red; padding: 2px;">Public Works Department</span> Fire Department
Requests in a Public Park	Recreation and Senior Services <del>Municipal Ops Department</del> <span style="border: 1px solid red; padding: 2px;">Public Works Department</span>
Requests to Deviate from Use Permit	Community Development Department
Requests at a Commercial Location	Community Development Department
Signs and Banners on Private Property	Community Development Department
Signs and Banners on Public Property	Public Works Department
Amplified Sound at a Commercial Location	Community Development Department Police Department
Amplified Sound at a Residential Location	Police Department Revenue Division
Temporary Street or Sidewalk Closures	Public Works Department <del>Municipal Ops Department</del>
Sidewalk Sales	Public Works Department Community Development Department
Use of Public Property	Risk Manager
Public Food Service	Health Department

Use of Back Bay Drive

Department of Fish and Game  
~~Municipal Ops Department~~  
Public Works Department  
County of Orange

If each department reviewing a special event permit application recommends approval of issuance of the permit, a permit will be issued to the applicant listing the conditions provided by each department. The City Council may authorize approval of any request for special event permit when:

- A. Required by Municipal Code.
- B. When a Level 3 Special Event Permit has been denied and the applicant chooses to appeal the denial.

### ***Residency Requirements***

For purposes of this City Council Policy, there are two types of special event permit applicants: (1) a business or organization; or (2) a natural person. The determination between the two types of applicants is determined by who is financially and legally responsible for all components of the event, including permitting, providing liability insurance, attending meetings, conducting event correspondence with the City, and paying all event related fees as well as retaining the profits generated by the event. For purposes of this City Council Policy and for special event permit fees, a “resident” is defined as:

- (1) A business or organization which owns or leases property within the City and is registered, incorporated or conducts its business from the owned or leased property within the City; or
- (2) A person that lives permanently or on a long-term basis in the City.

Post Office Boxes do not qualify a business, organization, or individual for residency status under this City Council Policy or special event permit fees.

### ***History***

Adopted I-7 - 1-24-1994  
Amended I-7 - 2-24-1997  
Amended I-7 - 5-8-2001  
Amended I-7 - 4-8-2003 (changed to B-7)  
Amended B-7 - 4-13-2004

Amended B-7 - 9-13-2005  
Amended B-7 - 8-11-2009  
Amended B-7 - 5-12-2015  
Amended B-7 - 8-8-2017

## BIKE, FOOT RACE AND SURF CONTEST EVENT POLICY

The purpose of this policy regarding the use of City Public Property and beaches for conducting bicycle events , running events, surf contests and other athletic contests is to minimize the inconvenience to City residents, and to eliminate any potential City liability for injuries resulting from the event. All bicycle events , running events, surf contests or events and similar athletic contests/events shall be required to secure a Special Event Permit, comply with all of the conditions to the permit, and comply with the provisions of this Policy. Races, running events, walking events and other athletic contests/events using City public property shall not be conducted during the summer (June 15 through September 15). No more than twelve (12) such events shall be permitted during any calendar year and not more than four (4) in one geographical area in one year.

The person or entity primarily responsible for administering the event must prove their ability to pay for all required City safety and maintenance services prior to issuance of any permit. Proof of ability to pay for these services shall be in the form of a cash deposit, bond, or similar instrument. The permittee shall, prior to the event, provide the City with evidence of insurance, with the City named as an additionally insured, with minimum coverage of one (1) million dollars per occurrence unless the City Risk Manager determines that due to the circumstances surrounding the event, more insurance coverage is necessary.



No permit shall be issued for any race, running event, surf contest or athletic contest/event which is sponsored or financially supported by a tobacco or alcohol company and no alcohol or tobacco shall be permitted to be dispensed or available in the event there are participants under the age of 21. Nor will any signage promoting alcohol or tobacco company be allowed to be displayed at the contest/event.

As stewards of public access to the coast it is the City's policy to keep the beaches open to the general public and not permit exclusive use or events unless sponsored or organized by the City. Surf, surf-related and sandcastle contests are the only events permitted using City beaches and shall not be conducted during Memorial Day weekend or summer (June 15 - September 15).

### **Surf Contests and League Competitions**

No more than eight (8) surf or surf related commercial events and/or events determined to need a Special Event Permit shall be permitted on or near the beach during any calendar year and events shall be scheduled at least three (3) weeks apart. All Surf competitions, no matter what the size, are required to register with

the Recreation & Senior Services Department a minimum of one month prior to the scheduled event in order to receive approval for use of the requested location and event dates.

Non commercial, low impact surf ~~contests competitions~~ put on by non-profit groups and/or local schools can apply for event approval by completing a Surf Contest/Activity Registration Form. There is no fee for registration of a surf ~~contest competition~~, only for the Special Event Permit, if needed. All responsible parties must be able to provide upon request proof of a valid registration approval during the hours of the surf ~~contest competition~~. Only non-profit groups will be considered.



Surf contest permits will be granted for specific dates only. No more than one surf contest will be scheduled per day. Surf contest permits do not allow for the exclusive use of the ocean or contest area and are always subject to blackball rules and regulations. There can only be a maximum of six (6) commercial contests at any one location per calendar year. The Fire Department determines acceptable locations for surf contests.

Local surf league competitions are required to submit a Contest/Activity Registration Form a minimum of one month prior to the scheduled match. Schools are to coordinate and agree to league competition dates prior to submittal collectively by June 1 each year to be considered for priority. League competitions are limited up to two (2) pre-season and five (5) league "home" competition events, with one home league competition per week per school. Up to seven (7) total per school per year.

No more than two surf league competitions per week will be considered, with emphasis placed on coordinating schedules to hold one per week when possible. If two surf league competitions are scheduled in the same week, they must be at different locations on the beach. Schools shall make every effort to coordinate alternating home league competitions to achieve this. League competitions are limited to the morning hours of 6:30-8:30 a.m. and shall not be conducted during Memorial Day weekend or summer (June 15 -September 15).

### *History*

- Adopted I-21 - 2-14-1983
- Amended I-21 - 11-14-1983
- Amended I-21 - 9-22-1986
- Amended I-21 - 1-24-1994 (changed to I-8)
- Amended I-8 - 7-25-2000
- Amended I-8 - 4-8-2003 (changed to B-8)
- Amended B-8 - 4-13- 2004
- Amended B-8 - 9-13- 2005
- Amended B-8 - 9-27-2011

### NAMING OF CITY PARKS/PUBLIC FACILITIES & PLAQUE DEDICATIONS

The City of Newport Beach has a comprehensive program to provide park and open space to serve the leisure and recreation needs of residents. It is desirable that appropriate names be selected for parks and public facilities. The following guidelines shall serve as policy on this matter.

- A. Suggestions for naming new or existing parks or public facilities shall be reviewed by the Parks, Beaches and Recreation Commission with a recommendation being transmitted to the City Council for approval.
- B. New or existing park or public facilities names can be chosen from, but not limited to, the following categories:
  - 1. Streets or schools bordering park
  - 2. Topography
  - 3. Theme
  - 4. Common names already in place for the area
  - 5. Persons that have been deceased for at least fifteen (15) years
- C. Facility rooms or site amenities may be dedicated in honor of persons if done as part of a capital/fundraising campaign and with the approval of the City Council.
- D. Plaques for City facilities and parks shall include the City seal in a prominent position and the following information in the specific order given:
  - 1. Council-approved facility or park name
  - 2. Date of dedication (opening) or rededication
  - 3. City Council Members currently in office. The names and titles of the mayor and mayor pro tem shall be first, followed by the names of the remaining council members in alphabetical order. For large, multi-year projects, include the names of council members who were in office at time of project award.
  - 4. If applicable, the names of the appropriate, current Board or Commission members.

5. Current City Manager
6. The name of the appropriate, current Department Director (the director whose department is most closely affiliated with the use of the facility) at the time of dedication or rededication.
7. If applicable, names of key project partners, i.e., other government entities or funding entities.
8. Optional: Names of the firms of the City's construction partners, e.g., architect, general contractor, construction manager.

In cases of dedications of a major remodeling project or facility expansion, the existing plaques shall continue to be displayed.

### *History*

Adopted I-22 – 9-12-1988

Amended I-22 – 1-24-1994 (changed to I-9)

Amended I-9 – 2-27-1995

Amended I-9 – 4-8- 2003 (changed to B-9)

Amended B-9 – 5-13-2003

Amended B-9 – 8-8-2017

Amended B-9 –10-11-2022

**USE, PRIORITIES AND FEES FOR MARIAN BERGESON AQUATIC CENTER**

The Marian Bergeson Aquatic Center (MBAC) is a 50 meter pool complex located on the Corona del Mar High School campus. The Newport-Mesa Unified School District (NMUSD), as the legal owner of the property, has entered into an agreement with the City of Newport Beach (CITY) to allow public use of the facility after official school use. This agreement has resulted due to the significant contribution to the pool construction by the City.

***Purpose of Use***

The foregoing facilities and equipment therein shall be used for activities which are recreational, social or civic in character, and offer services of interest or need to the community.

***Procedure***

Any group desiring to use the MBAC shall make application on forms provided by the Recreation & Senior Services Department (Department) and shall provide such additional information as may be required by the Department to assure compliance with priorities. Applicants may be required to satisfy the Department that activities will be conducted in an orderly manner and that such person(s) or groups are financially able to respond to damages arising therefrom. Prior to the use of any facility, the application must have been approved by the Recreation & Senior Services Director or a designated representative.

***Schedule***

The City and the NMUSD establishes the use of the aquatic center as follows:

Pool Use Criteria (As Dictated by School District-City Agreement)

School Year

- A. 6:00 A.M. - 3:00 P.M. District use only.
- B. 3:00 P.M. - 6:00 P.M. Joint use City/District w/District as first priority.
- C. 6:00 P.M. - 9:00 P.M. City exclusive use.

Holidays, Summer Vacation, Saturdays

- A. 6:00 A.M. - 9:00 A.M. Joint scheduling w/City priority.
- B. 9:00 A.M. - 9:00 P.M. City exclusive use.

## Sundays

A. 6:00 A.M. - 9:00 P.M. Joint City/District.

(Use includes showers, restrooms and ancillary facilities.)

- A. All official Department/City initiated and/or conducted activities.
- B. All official Department co-sponsored groups and/or activities. The aforementioned are community groups and activities which are nonprofit, self-governing, privately organized of a recreational nature may be brought under the sponsorship of the Department by application.
- C. Official School District sponsored programs and activities.
- D. Official public agency sponsored programs and activities not included in the above categories.
- E. Recreational, social or civic activities and/or groups (resident) promoted and sponsored by local nonprofit organizations which are open to the public and have 50% or more of memberships consisting of Newport Beach residents.
- F. Recreational, social or civic activities and/or groups (nonresident) promoted and sponsored by nonprofit organizations which are open to the public, not qualifying under Priority No. E.
- G. Private resident and nonresident use.
- H. Commercial or profit making groups.

### *Specifications for MBAC Users*

- A. Determining factors of priority shall include, but not be limited to, the number of City residents on the playing teams, recognized seasonal sports, and past contributions to facilities by sponsoring groups. This policy shall not be exclusionary to any group. Staff has the right to revoke a permit for specific times if the facility is not being used.
- B. Recognized seasonal sports shall be determined where at all possible one year in advance. All non-seasonal sports shall be accommodated, but scheduled secondarily to seasonal sports. Special tournaments/regional playoffs, even if off-season, shall be accommodated whenever possible. Applicable fees will be charged to the hosted group. Special events shall be applied for at least six months in advance and not more than 12 months in advance.

- C. Staff will coordinate and chair meetings as necessary to determine equitable use of available athletic facilities. Groups not satisfied with the results of this procedure can appeal the staff determinations to the Parks, Beaches and Recreation Commission.
- D. The MBAC may be closed for periodic maintenance and renovation at a time determined by NMUSD staff to be least disruptive to all parties.
- E. Any group claiming nonprofit status is required to submit, at the request of staff, proof of non-profit status by submitting their Internal Revenue Service 501c(3) letter and a current IRS 990 Form.

Membership and meetings or activities must be open to the public. Fees, donations or admissions charged by the group must be limited to essential expenses of the group. The group treasurer will be required to submit a financial report following each activity when any of the above is collected.

#### *Fees and Deposits*

- A. The fees charged for use of the MBAC are in accordance with the Master Fee Schedule which is annually adjusted by resolution of the City Council.
- B. The intent of these fees shall be that the MBAC be operated in accordance with Municipal Code Section 3.36 Cost Recovery For User Services.
- C. The NMUSD requires **may require** a custodial fee from groups to clean and maintain the facility both during and after a rental.

#### *History*

Adopted I-24 - 6-25-1990  
Amended I-24 - 1-24-1994 (changed to I-11)  
Amended I-11 - 4-8-2003 (changed to B-10)  
Amended B-10 - 9-13-2005  
Amended B-10 - 5-12-2015  
Amended B-10 - 8-8-2017

## THE CITY EMPLOYEES' MEMORIAL AT BOB HENRY PARK

### Purpose

The purpose of the Memorial site at Bob Henry Park is to honor City of Newport Beach employees who have lost their lives in the performance of their public service duties. This policy establishes the criteria and procedures for honoring an employee at the Memorial site.

### Policy

The Memorial site is located at Bob Henry Park, which was named after Newport Beach Police Officer Bob Henry who was mortally wounded in the line of duty on March 12, 1995. The Memorial honors Officer Henry and all City employees who gave their lives in the direct performance of their duties while serving the citizens of Newport Beach.

### Procedure

- A. Department Directors shall submit recommendations to so honor an employee to the City Manager for initial evaluation. The recommendation shall include a history of the employee's tenure with the City, the circumstances surrounding his or her death, the work-related duties being performed at the time of death, and the actions which led to the employee's death.
- B. To be honored at the Memorial site, an employee's death must be directly attributable to his/her scope of employment and have occurred in the performance of his or her authorized duties. If the circumstances surrounding an employee's duty-related death are not readily apparent, the City Manager may appoint a committee of at least three Department Directors (excluding the affected employee's department) to more thoroughly evaluate the recommendation for inclusion, to determine whether death is directly attributable to the employee's performance of his/her duties.
- C. The Committee will make a final recommendation to the City Manager whether an employee should be honored at the Memorial site at Bob Henry Park. The City Manager will have final authority to approve or reject inclusion at the Memorial.

D. Memorial plaques will be 7" x 9" and will include the following information:

Name of Employee  
Job Title  
City Department  
Date of Death

E. The City will hold a ceremony honoring the employee's inclusion at the Memorial when the plaque is installed.

*History*

Adopted I-12 - 11-10-1997

Amended I-12 - 4-8-2003 (changed to B-11)

## CO-SPONSORSHIP OF ANNUAL FIREWORKS EVENTS

The City of Newport Beach recognizes that the annual Independence Day fireworks event, provided by the private resort operated within the lower Back Bay, is a worthwhile event benefiting many City residents. Moreover, the fireworks display is enjoyed by the citizens as a community and family event.

Therefore, when fireworks events are scheduled at this location by the private resort in commemoration of Independence Day, the City Council may annually budget an amount between \$20,000 and \$40,000 for the fireworks events, provided that (1) City residents have free access to the event, with the exception of parking fees; (2) the City is recognized as a co-sponsor of the event in all publicity and promotional materials for the fireworks display; and (3) the applicant provides evidence of insurance with the City named as an additional insured, the amount of coverage determined by the City Manager and the Risk Manager.

### *History*

Adopted I-24 - 3-9-1998

Amended I-24 - 4-8-2003 (changed to B-12)

Amended B-12 - 8-11-2009

## PUBLIC USE OF CITY FACILITIES

### *Purpose*

City of Newport Beach (City) facilities, which include parks, playing fields, gymnasiums, community rooms and swimming pools, are available to the public for civic, social, educational, athletic, cultural activities and limited commercial use. It is the intent of this Policy to provide use regulations and application and scheduling procedures to accommodate groups that wish to use City facilities.

### *Procedure*

- A. Applications to use ~~the~~ City facilities must be made on forms provided by the Recreation and Senior Services Department (Department). Applicants must provide all information as may be required by the Department to assure compliance with the requirements and regulations of this Policy.
- B. Applicants will be required to ~~pay~~ **provide** a security deposit in an amount that will promote use of the Recreation and Senior Services facilities in an orderly manner without damage to the facilities. Security deposits will be refunded upon inspection of facilities and confirmation that no property damage has occurred or additional cleanup is required.
- C. Applicants will be required to acknowledge that neither the City nor the Department assumes any liability for injury or loss of personal property. Prior to the use of the facility, the application must have approval of the Recreation and Senior Services Director or designated representative.
- D. Approval or denial of a reservation request will be provided within five working days of receipt of a completed application.
- E. Reservations for use of Department facilities may be made up to six months in advance, but no later than ten working days before the event with the exception of park reservations which may be made no later than five working days before the event.
- F. The City is not liable for any and all accidental injury to any and all persons or loss or damage to group or individual property. When it is deemed to be in the best interest of the general public, the City will require the permittee to furnish a Certificate of Insurance naming the City of Newport Beach as an additional insured. The amount of the insurance shall not be less than \$1,000,000 per occurrence of commercial general liability insurance.

- G. A ~~contract~~ **Facility Use Permit** shall not be transferred, assigned or sublet. All ~~contracts~~ **Facility Use Permits** will be issued for specific facilities and for specific hours, and the premises must be vacated as scheduled.
- H. The reservation request and rental agreement must be completed and signed by an adult age 21 and over who will attend, supervise and be responsible for the entire event or activities. Proof of residency is required at the time of application in order to receive the resident rate. Proof of non-profit status is required at the time of application in order to receive the non-profit rate.
- I. A Facility Use ~~Agreement~~ **Permit** which authorizes the rental of facilities may be revoked for violation of any rental policies.

### *Regulations and Restrictions*

All uses of Department facilities will be subject to the following regulations and restrictions:

- A. Use of Alcohol.
  - 1. Alcoholic beverages are prohibited and shall not be permitted in or on any municipal facilities operated by the Department, except beer and wine may be served for special occasions at the OASIS Senior Center, Newport Theatre Arts Center (NTAC), Newport Coast Community Center (NCCC), Civic Center Community Room (CCCR), **Newport Beach Junior Guard Center**, and Marina Park when done in compliance with State of California Department of Alcoholic Beverage Control (ABC) regulations and approved in writing by the Recreation and Senior Services Director. Approval to serve beer and wine shall not be deemed to approve service of alcohol in violation of Section 25604 of the Business and Professions Code. The Recreation and Senior Services Director will require the permittee to pay City costs to provide additional security when alcohol is served.
  - 2. The use of alcoholic beverages is by written permission only and must be requested at the time the facility use request is submitted. The Department reserves the right to place restrictions on the use of alcoholic beverages in accordance with State Law and these guidelines. "Alcohol use" means the presence of any beverage that contains any amount of alcohol.
  - 3. Alcohol is not allowed when an event is designated for minors such as school age award programs, birthday parties and/or receptions.

4. When alcohol is served, there shall be a minimum of two security guards present at the facility at all times. The guards must arrive 30 minutes before guest arrival time and remain until the contract end time. One guard must be positioned at the entrance of the event and one guard positioned in the event area. The parking lot must be monitored every 30 minutes. The security guards shall have the authority to enforce all rules and regulations governing facility rentals. In the event that the Police are called, the cost of their services shall be deducted from the applicant's security deposit. The applicant will be billed for any costs exceeding the security deposit.
  5. No alcoholic beverage shall be served to any person less than 21 years of age. Injuries caused to any person as a result of alcoholic beverages being served to or consumed by someone under the age of 21 while on the City's premises, shall be the sole responsibility of the organization or individual renting the facility.
  6. The distribution or consumption of alcoholic beverages shall be in compliance with all applicable laws, including regulations of the ABC. Any organization using City facilities shall be solely responsible for obtaining all permits or licenses relating to the distribution and consumption of alcoholic beverages on the premises.
  7. Alcohol may only be served by an adult 21 years of age or older. If evidence is found that alcohol is being served that was not authorized by the Department or to a minor the Police will be notified and the event will be terminated and all fees and deposits will be forfeited.
  8. The City shall require the applicant to carry general liability insurance when alcohol is available, but not sold. The City shall require a full liquor liability premium in addition to general liability insurance when alcohol is sold in exchange for money. The cost of the required liability insurance shall be borne by the applicant.
- B. Smoking is prohibited in **and on** all City ~~facilities~~ **property** including restrooms and within 100 feet of a park, park facility or beach.
  - C. For all indoor facility rentals involving youth, 17 years and under, there shall be at least one adult for every 20 minors, or increments thereof, in attendance, who shall remain in the facility for the duration of the activity.
  - D. No group's activities shall interfere with the administration of the Department.

- E. Non-profit 501 (c) (3) groups may use the facility for fundraising activities and charge entrance fees and collect donations provided that a detailed plan of the event, including the expenses, marketing plan and procedure for collecting fees, is submitted with the rental application.
- F. Facilities and equipment are to be left in the same condition as they were prior to the rental. The permittee is responsible to pay for any damage to property or loss of property. A fee equal to total replacement cost will be charged. It shall be the responsibility of the permittee to see that unauthorized portions of the facility are not used. Continued or repeated use of City facilities will be contingent upon care of the facility, property and equipment, and observance of all approved rules and regulations.
- G. No gambling of any kind shall be conducted on, or in, City facilities, and the permittee shall insure that no disorderly or illegal conduct shall be allowed in any facility.
- H. The use of public address equipment will be limited to that provided by the facility, unless written approval has been secured by the Department through a Special Event Permit.
- I. Private groups wishing to collect fees, donations or admission charges, or those using the facility to market a product, give a presentation, or advertise their business, will be considered commercial users.
- J. The posted occupancy of City facilities shall not be exceeded.
- K. Storage space will not be granted at any time.
- L. Facilities are not available for reservations on the following holidays: Christmas Eve, Christmas Day, Easter, President's Day, Independence Day, Labor Day, Martin Luther King Day, Memorial Day, New Year's Eve, New Year's Day, Thanksgiving and Veteran's Day.
- M. All persons using the facilities shall observe and obey regulations of this policy, the rules of the Department and all applicable City, State and Federal laws, rules and regulations.
- N. Vehicles are not permitted on park grass or fields. Parking is permitted in designated spaces. Overnight parking is not allowed.
- O. Minors must remain in the rented facility room and shall not be allowed to roam unsupervised throughout the facility.


- P. When no alcohol is served but the group size is 200 or more, one security guard may be required, at the discretion of the Department Director.
  - Q. Policies and guidelines regarding caterers shall be adhered to.
  - R. All professional services utilized for events require a City of Newport Beach business license **and liability insurance listing the City as additionally insured.**
  - S. Animals are not permitted within City Facilities with the exception of service animals. However, this provision shall not apply to activities or programs of the Recreation and Senior Services Department.
- Fee Classifications - Priorities of Use***
- Permission for use of City facilities shall be granted on a first come first served basis, subject to the following priorities:
- A. All official Department initiated and/or conducted activities, including those of the Friends of OASIS at the OASIS Senior Center, and exemptions noted in City Council Policies B-5 and B-10.
  - B. All official City of Newport Beach activities.
  - C. All official City co-sponsored groups and/or activities such as community groups and activities which are non-profit, self-governing, privately organized and of an educational nature which may be brought under the sponsorship of the Department.
  - D. Official public agency sponsored programs and activities not included in A, B, and C above.
  - E. Youth Sports Commission Member Organizations.
  - F. Resident non-profit youth serving organizations with 50% or more of membership consisting of Newport Beach residents.
  - G. Recreational, social or civic activities of groups which are resident promoted and sponsored by local non-profit\* organizations which are open to the public and have 50% or more of memberships consisting of Newport Beach residents.
  - H. Recreational or social activities of private Newport Beach residents which are not open to the public. (private parties)

- I. Recreational, social or civic activities and/or groups which are non-resident promoted and sponsored by non-profit organizations which are open to the public, but not qualifying under D above.
- J. Schools, colleges, hospitals and other similar civic groups not qualifying under the definition of non-profit.
- K. Others.

\* *Non-profit status is defined as an organization that is so defined by the Internal Revenue Service, § 501(c) (3) and has a State of California Tax Identification Number.*

***Fees, Deposits and Cancellation Procedures***

Fees may be charged for the use of City facilities and shall be established and periodically adjusted and approved by the City Council. Fees are imposed to cover overhead, processing, deposits, maintenance and replacement costs for application and scheduling and maintenance of the facilities.

- A. A security deposit will be required for all room rentals. All or a portion of the deposit may be retained by the Department after inspection of the facility by the Recreation and Senior Services Director or a designated representative and a determination that the facility has not been left clean and/or in good repair.
- B. A separate additional cleaning fee may be charged for rental of the OASIS Event Center, Newport Coast Community Center, Community Youth Center, Civic Center Community Room, **Newport Beach Junior Guard Center**, and Marina Park Community Center. 
- C. No fee or deposit shall be charged for use of City facilities by the City of Newport Beach, or events co-sponsored by the City of Newport Beach or its departments, with the exception of direct costs.
- D. Cancellations for any facility other than the OASIS Event Center, Newport Coast Community Center, Community Youth Center, Civic Center Community Room, **Newport Beach Junior Guard Center**, and Marina Park may occur seventy-two hours prior to the scheduled use of facilities without forfeiting fees collected by the City, with exception of a City service refund processing fee. Cancellations with less than seventy-two hours notice will be charged a cancellation fee established by resolution of the City Council. In the event of cancellation by the City, notice will be given as far in advance of the scheduled use as possible.

- E. Cancellation of rentals by users for the OASIS Event Center, Newport Coast Community Center, Community Youth Center, Civic Center Community Room, **Newport Beach Junior Guard Center**, and Marina Park that occur less than thirty days prior to the scheduled use of the facility will be charged 25% of the rental fee. Cancellations with less than seventy-two hours notice will be charged the entire rental fee.

### *History*

Adopted I-5 - 11-22-1962 ("Use Priorities and Fees")

Amended I-5 - 3-9-1970

Reaffirmed I-5 - 2-14-1972

Adopted G-4 - 5-13-1974 ("Use of City Facilities")

Amended I-5 - 5-28-1974

Amended I-5 - 2-13-1978

Amended G-4 & I-5 - 10-10-1978

Amended I-5 - 2-12-1979

Amended I-5 - 5-14-1979

Amended I-5 - 8-28-1979

Amended I-5 - 11-26-1979

Amended G-4 & I-5 - 2-9-1981

Amended I-5 - 11-23-1981

Amended I-5 - 10-12-1982

Amended I-5 - 10-25-1982

Amended G-4 & I-5 - 4-23-1984

Amended I-5 - 11-28-1988

Amended I-5 - 11-27-1989

Amended I-5 - 3-25-1991

Adopted I-25 - 5-26-1998 ("Public Use of City Facilities", incorporating G-4 & I-5)

Amended I-25 - 5-8-2001

Amended I-25 - 4-23-2002

Amended I-25 - 4-8-2003

Amended I-25 - 7-22-2003 (changed to B-13)

Amended B-13 - 9-13-2005

Amended B-13 - 10-10-2006

Amended B-13 - 8-11-2009


Amended B-13 - 5-14-2013

Amended B-13 - 5-12-2015

Amended B-13 - 8-8-2017

**TEMPORARY SIGNS WITH SPONSORSHIP RECOGNITION**  
**IN CITY PARKS AND BEACHES**

Temporary signs which recognize sponsorship of City sponsored or co-sponsored sports programs may be posted in a City park or beach when the signage complies with the criteria set forth in this policy. The Recreation and Senior Services Director will require that sponsorship signs meet the following guidelines and that any other approvals which may be required are obtained:

- A. The signage must relate to a program sponsored or co-sponsored by the City of Newport Beach.
- B. The signage must:
  - 1. Not exceed twenty-four (24) square feet in size;
  - 2. Be posted in a location not visible from public streets and pre-approved by the Recreation and Senior Services Department;
  - 3. Be posted only during ~~the~~ **their** designated priority season for that sports group; 
  - 4. Be aesthetically appealing, with consideration for the surrounding area as determined by the Recreation and Senior Services Director.
- C. No signage related to alcohol or tobacco is permitted.
- D. The applicant is responsible for placement and removal of signage and for storage, damage, theft, or loss of any sign posted.

**History**

Adopted I-26 - 9-14-1998  
Amended I-26 - 4-8-2003 (changed to B-14)  
Amended B-14 - 4-13-2004  
Amended B-14 - 9-13-2005  
Amended B-14 - 8-11-2009

## PARKS, BEACHES AND RECREATION COMMISSION DECISIONS

The Commission shall, among other powers and duties, have the authority to make decisions on the following proposals relating to park and open space facilities and outdoor recreational activities:

- A. Any proposal to install new lighting facilities in any recreational area owned or controlled by the City of Newport Beach except low level lighting installed solely for the purposes of safety or security;
- B. Any proposal to establish new, or significantly modify, existing hours of operation of any recreation facility or the hours during which recreational activity is permitted on City property. For purposes of this subsection, any proposal to establish or extend the hours of operation or recreational usage after 10:00 p.m. Monday through Thursday, after 9:00 p.m. Friday through Sunday or before 7:00 a.m. on any day shall be subject to approval by the Commission. The provisions of this subsection shall not require the Commission to confirm or validate hours of operation in existence as of the effective date of this Council Policy. The time frames in this section do not include time allocated to clean recreational areas after activities are complete or continued lighting to facilitate clean-up;
- C. Any proposal to install new recreational equipment or facilities within 100 feet of the exterior boundary of any property zoned for residential use. The provisions of this subsection shall not apply to the replacement or repair of existing recreational equipment or lighting facilities;
- D. Any proposal to construct or improve recreational facilities or recreational areas that could reasonably be expected to significantly increase noise or traffic in any residential area. The provisions of this subsection shall not apply to the replacement, repair or enhancement of existing equipment or landscape, improvements designed and intended to improve public safety, or modifications to open space or recreational areas that do not significantly increase the area or facilities available for recreational activities.

### *Notice*

The Commission shall, prior to taking any action on any of the proposals described in Paragraphs A - D, provide written notice of the proposal to all owners of residentially zoned property within 150 feet of the property that is the subject of the proposal. The written notice shall specify the substance of the proposal and the date, time and location of the meeting at which the proposal is to be considered. In determining the ownership of property the City shall use the latest equalized assessment roll. The exterior

boundaries of each parcel shall be used in calculating the distance between the residential parcel and the property that is the subject of the proposal.

### *Appeal*

Any person shall have the right to appeal to the City Council any Commission decision on any of the proposals described in Paragraphs A - D. The appeal must be in writing and filed with the City Clerk within fourteen days after the date on which the Commission took action on the proposal. The appeal shall not be accepted unless accompanied by the fee established by Resolution of the City Council. The hearing on the appeal shall be scheduled within thirty (30) days after the appeal is filed with, and accepted by, the City Clerk. The City Council shall, in ruling on the appeal, consider the information, documents and testimony presented to the Commission and other relevant information known to the appellant when the matter was presented to the Commission.

### *Council Call-Up*

Any member of the City Council shall have the right to call up for review (call-up) any action or decision of the Commission on any of the proposals described in Paragraphs A - D. The hearing on the "call up" shall be conducted in accordance with the procedures for an appeal as specified in the Appeal section of this policy. The only reason for a City Council call-up shall be for the entire body to hear the matter.

### *History*



Adopted I-27 - 9-13-1999

Amended I-27 - 4-8- 2003 (changed to B-15)

Amended B-15 - 8-8-2017

## MAXIMIZING PUBLIC ACCESS TO CITY PARKS

The purpose of this policy is to maximize access for the general public to the parks of the City of Newport Beach. As steward of the coastal parks and beaches, the City Council establishes the following guidelines for reserved use of those City parks in high traffic areas:

- A. Reservations for the use of Inspiration Point, **Peninsula Park**,  and Lookout Point shall be permitted only during the non-peak tourist season, specifically the period after the Labor Day weekend in September to, but not including, Memorial Day weekend in May:
- B. Groups of more than 20 attendees or participants may not reserve the following view parks at any time:
  - John Wayne Park
  - Galaxy View Park
  - Inspiration Point
  - Lookout Point
  - Sunset View Park
- C. Reservations for use of City park areas can only be made through the City, with payment fees established by resolution of the City Council.
- D. The Park Patrol Program undertakes the program of educating the public on the rules and regulations for use of all City parks, especially those of high use and during the peak summer season.
- E. Exceptions to this policy shall only be ~~events co-sponsored by the City of Newport Beach, such as the~~ Corona del Mar 5K Race, and for events at Galaxy View Park approved through the Special Event Permit process. 

### *History*

Adopted I-28 - 2-26-2002  
Amended I-28 - 4-8-2003 (changed to B-16)  
Amended B-16 - 4-13-2004  
Amended B-16 - 5-12-2015  
Amended B-16 - 8-8-2017

## PARKS, FACILITIES, AND RECREATION PROGRAM DONATIONS

### *Purpose*

The City Council recognizes the need to promote community involvement and active participation in quality of life components throughout the community, and the need to establish a fair, equitable, and uniform procedure by which gifts may be donated to the City. This policy establishes criteria for donations to assure area compatibility, attractiveness, usefulness, and sustainability of maintenance. Each donation considered for inclusion in the City's parks and streets system will be subject to established limitations and guidelines for each particular area.

### *Policy*

#### A. Acceptance of Donations

1. Based on the value of the donation, appropriate City staff will review the acceptability of any donation and determine if the benefits to be derived warrant acceptance of the donation.
2. Criteria for evaluation includes consideration of any initial expenditure required in order to accept the donation, the potential and extent of the City's obligation to maintain the donation for a minimum of 10 years, and the community benefit to be derived from the donation. After 10 years, or at the end of the donated item's useful life, the donated item may be removed or replaced by the City.
3. The cost of a tangible donation shall also include a maintenance fee equal to 50% of the estimated 10-year maintenance cost of the donated item, paid for in full by the donor at the time of the donation, and at renewal if the donor elects to renew the donation as part of the first right of refusal process, per section G. This maintenance fee is in addition the cost and installation of the donated item.

#### B. Types of Donations

Donations may only be received in the form of a check. Restricted donations are those donations that the donor specifies for a particular City location or purpose. Unrestricted donations are those donations that are given to the City for unspecified use.

1. Trees

Donations for trees add beauty to City parks and facilities. Donations for trees may be used to install a tree or trees at parks recommended by the Deputy Public Works Director, Municipal Operations and approved by the Parks, Beaches and Recreation Commission. Depending on availability, the minimum cost of tree donations must be equal to the price of a 48" boxed container plus maintenance costs, unless waived by the Commission. Tree donations are limited to specific species that match the landscape in park locations.

## 2. Benches

Donations for a bench will be used to install a bench in different areas including parks, streets, along the beachfront, within villages, commercial districts, neighborhoods, on a specific island, etc. The Parks, Beaches, and Recreation Commission, with the assistance of Public Works Department staff, shall designate the type, style, design, and placement of City-owned benches on City property.

- a. An inventory of designated benches and available bench locations will be maintained by the City.
- b. Donation requests must be submitted to the Public Works - Municipal Operations Division and meet the following requirements:
  - i. Bench donations along a city street, beachfront or other public right of way will require the approval of the Deputy Public Works Director.
  - ii. Donations for a bench within a commercial district will require notification of, and an endorsement from, the local business association, if applicable.
  - iii. Donations for a bench to be located at a park or facility within a residential community will require notification of residents and any established homeowners association or common interest development, when applicable, within 300 feet of the proposed location for placement.
  - iv. Donations for four types of benches, and any exception to the following, must be approved by the Parks, Beaches and Recreation Commission. Donors can choose from the following:

1. ~~Santa Monica Style – Standard Park Bench with concrete legs and composite bench seat slats;~~
2. Huntington Beach Style - Standard Concrete Park Bench;
3. Victoria Style – Backless Standard Concrete Park Bench; or
4. Infinity Style – Standard Park Bench with metal legs and composite bench slats. Comes in standard or backless.

3. Park, Public Improvement, and Street Amenities

Donations for other amenities such as drinking fountains, tables, and other equipment that will improve public places in parks, in and/or around public buildings, streets, walkways, and trails may be offered to the City.

- a. Donations for other amenities will be identified and approved by City Staff.
- b. Donation of funds for public amenities valued at or below the amount set forth in City Council Policy F-3 may be accepted by the City Manager.
- c. Donation of funds for public amenities valued at the amount set forth in City Council Policy F-3, and above, requires City Council approval.
- d. Donations of funds for public amenities to be installed on public sidewalks shall meet the criteria described in Policy L-6 Encroachments in Public Rights-of-Way and be approved by the Public Works Director.

C. Naming Rights

Donors may receive naming rights on capital improvement projects for which any donation matches or exceeds 75% of the total budgeted cost for the area benefiting from the donation. All such donations will be submitted to the City Council for acceptance of the donation and the name to be applied to the project in keeping with City Council Policy B-9 – *Naming of City Parks & Facilities*.

D. Sponsorships

Special Events are recognized as fundraising activities. Where donations or sponsorship of a special event will require some form of recognition, and, in order to provide recreational opportunities, corporate or organizational sponsors may be recognized by use of logos and name on event banners and signage. Signs and literature at all such special events is at the discretion of the appropriate Department Director. The size, scale and location of corporate logos and names should not dominate the event facilities or area. Corporate logos and/or names should not be displayed in a manner that would, in any way, suggest the endorsement of the Department or the City. All signs must comply with the City's existing sign code and Council Policies B-3 and B-8.

E. Right to Decline

The City of Newport Beach reserves the right to decline any donation if, upon review, acceptance of the donation is determined to not be in the best interest of the City.

F. Special Privileges

Making a donation or co-sponsoring a special event does not entitle a sponsor/donor to any special privileges other than those stated in this policy such as recognition or displays at events, unless otherwise agreed upon and approved by the Department Director or the City Council when appropriate.

G. Timeliness

All donations are limited to a period of 10 years or until the end of the useful life of the item. After 10 years, or the end of the useful life of the item, whichever comes first, reasonable effort will be made to contact the original donor (City will attempt to make contact for no more than 30 days if donor is unable to be reached) for a right of first refusal to keep the donation in their name. If denied, or the donor is unable to be reached, the location may become available for a new donation.

H. Acknowledgements

1. Letter of acceptance of donation will be sent to the donor.
2. In some cases, recognition of donations may be given at Commission or Council Meetings.

3. A donor will receive a certificate of acknowledgement for the donation and their name will be placed on the GIS Donation map, with coordinates of the location of their donation.
4. Donations are not eligible for donation plaques, however the donor will be provided with a certificate acknowledging the donation and the location of the donated item.

### *History*

Adopted I-15 - 7-22-1991 ("Park Improvement Donation")

Amended I-15 - 1-24-1994 (changed to G-5)

Amended G-5 - 6-27-1994

Amended G-5 - 6-24-1996

Adopted B-17 - 5-9-2006 ("Park, Facilities, & Recreation Donations", incorporation G-5)

Amended B-17 - 2-24-2009

Amended B-17 - 6-26-2012

Amended B-17 - 8-8-2017

Amended B-17 - 9-10-2019

## RETENTION, REMOVAL, AND MAINTENANCE OF CITY TREES

### *Goal of Policy*

To establish and maintain appropriate diversity in tree species and age classes to provide a stable and sustainable urban forest with an inventory that the City can reasonably maintain in a healthy and safe condition through the efficient use of City resources. To require that in approving any tree removal or reforestation request, the Parks, Beaches and Recreation Commission ("Commission") shall find that the tree removal request will not adversely impact the overall inventory, diversity and age of the City's Urban Forest. To educate the public of the protections of the City's Urban Forest and guide, in a user-friendly way, the mechanisms in place for tree replacements.

### *Purpose*

The purpose of this policy is to establish definitive standards for the retention, removal, maintenance, reforestation, tree trimming standards, and supplemental trimming of City trees. City trees are an important part of the character and charm of the entire City and provide environmental benefits as well. Regular care, trimming, root pruning, maintenance, and programmed replacement are necessary to preserve this charm while at the same time protecting public views consistent with City Council Policy G-3, providing personal safety, and preventing public and private property damage and providing a sustainable urban forest.

The City classifies public trees in one of three categories: Special City Trees, Problem City Trees, and Standard City Trees.

### I. SPECIAL CITY TREES

It is the City's policy to retain Special City Trees ("Special Trees") categorized as Landmark, Dedicated, or Neighborhood trees, because they have historical significance, and/or contribute to, and give character to, a location or to an entire neighborhood. Landmark, Dedicated, and Neighborhood trees are identified by species in Exhibit A and shall hereinafter be collectively referred to as Special Trees. Trees within these three categories shall be identified, mapped, recorded and administered by staff for the Commission. When staff proposes modifications, the Commission shall review the Special Tree list and forward recommendations for additions or deletions to the City Council for approval.

*Landmark Trees* are identified as those individual Special Trees that possess historical significance by virtue of their size, age, location, or species.

*Dedicated Trees* are Special Trees donated in the memory of specific individuals or organizations. Updates will be made annually to the City tree inventory system that correspond to the amended B-17 Policy: Parks, Facilities, and Recreation Program Donations. Exhibit A of this Policy will be updated annually to reflect updates.

*Neighborhood Trees* are Special Trees that by their unusual size, number, species, or location lend a special character to a residential, commercial, or business area.

All Special Trees shall be retained unless there are overriding problems which will require their removal such as death, disease, interference with infrastructure, or the creation of a hazardous situation. Prior to considering the removal of any Special Tree(s), the Public Works Deputy Director, or designee, shall prepare a Tree Inspection Report, with a Tree Risk Assessment, identifying and implementing specific mitigation measures to retain the tree(s). For Landmark Tree(s), the Tree Risk Assessment shall include Level 3 Testing: Advanced Techniques to confirm the presence of any potential risks, unless waived by the City Council in advance. Where Tree Risk Assessment and Level 3 Testing: Advanced Techniques are required, the full costs of such testing and associated report will be the sole responsibility of the applicant. If the specific mitigation measures are unsuccessful or impractical in retaining a tree(s), then a full staff report shall be made to the Commission before any further action considering removal is taken. The reports shall also be provided to the Councilperson of the district in which the Special Tree is located. Prior to any removal of Special Tree(s), the City must comply with the noticing and appeal provisions set forth in Section IV.A (Removal of Special City Trees), unless a Special Tree is considered so hazardous as to necessitate an emergency removal. In the case of emergency removals, the Landscape Manager or the City Arborist shall have the authority to direct the removal of a hazardous tree.

Long term, most trees reach maturity and decline, and will be replaced one-for-one with the same species or the closest equivalent wherever possible. An alternate species may be recommended by Staff if the same species is unavailable and will be subject to approval by the Commission.

During normal sidewalk, curb, and street repair activity requiring root pruning, all steps shall be taken to retain Special Trees. If tree roots are to be pruned in association with sidewalk, curb, and gutter improvements, sufficient timing in advance must be planned to ensure that pruning will not destabilize or kill the tree. If both sides of a Special Tree's roots are to be pruned, one side should be pruned at minimum two years in advance of the other side depending upon the species and other related factors. If root pruning methods are not practical and/or critical to the health of the tree, then alternate or special hardscape improvements should be considered by the City in order to retain the tree providing that these measures are practical, costs are reasonable, and that they comply with Americans with Disabilities Act (ADA) standards. All proposed root pruning or other tree treatment shall be evaluated and approved by the City Arborist.

Special Trees may be considered for removal in conjunction with a City Council-approved beautification project utilizing the Removal of City Trees procedures as noted in Section IV.A. of this Policy.

## II. PROBLEM CITY TREES

A Problem City Tree ("Problem Tree") is defined as a tree that by virtue of its species is known to cause excessive hardscape or utility damage due to its excessive root system. The following trees are defined as Problem Trees:

- Ficus nitida (Indian Laurel Fig)
- Ficus rubiginosa (Rusty Leaf Fig)
- Ficus benjamina (Weeping Fig)
- Fraxinus uhdei (Shamel Ash)
- Cupaniopsis anacardioides (Carrotwood)
- Liquidambar styraciflua (American Sweet Gum)
- Schinus terebinthifolius (Brazilian Pepper)

Problem Trees shall not be designated as City parkway trees on the Street Designation Tree List of City Council Policy G-6 unless they are Special Trees.

Problem Trees that are not designated Special Trees may be removed for the following reasons:

- A. The Problem Tree has had a repeated history of damaging public or private sewers, water mains, roadways, sidewalks, curbs, walls, fences, underground utilities, or foundations based on City records or other competent and reliable authority. Water or sewer blockage that results from tree roots and causes significant documented private property damage (greater than \$1,000.00) may be sufficient criterion for tree removal; or
- B. The Problem Tree has had a repeated history of significant interference with street or sidewalk drainage, despite specific treatment by the City to alleviate repeated damage; or
- C. The Problem Tree has created, in the opinion of the City Arborist, a view impediment that cannot be resolved by normal nor alternative tree trimming procedures.

Problem Trees may be proposed for removal by either staff or private property owners. The City Arborist has the authority to remove Problem Trees. No more than 50 Problem Trees may be removed per year by staff under the above criteria without special approval of the Commission. Replacement trees of a minimum 36-inch box size shall be planted if funding, availability, and growth space permits.

Staff is responsible for notifying the adjacent property owner, the legally established homeowners association, if applicable, and the Councilperson of the district where the removal is proposed, of the intent to remove a Problem Tree.

The decision by the City Arborist to remove a problem tree is final unless called up by at least one Councilperson. The City Arborist shall report the removal of Problem Trees under the above criteria on a monthly basis to the Commission. The cost to remove and replace Problem Trees will be the sole responsibility of the City based on funding, availability, and growth space, except for Category C (view).

### III. STANDARD CITY TREES

A City tree which is located on City real property (parkways, parks, other City-owned property) and not designated as a Special or Problem Tree is designated as a Standard City Tree ("Standard Tree"). It is the City's policy to retain Standard Trees unless removal is necessary for one of the following reasons:

- A. The City tree has had a repeated history of damaging public or private sewers, water mains, roadways, sidewalks, curbs, walls, fences, underground utilities, or foundations based on City records or other competent and reliable authority. Water or sewer blockage that results from City tree roots and causes significant public or private property damage (greater than \$1,000.00) may be sufficient criterion for tree removal; or
- B. The City tree has had a repeated history of significant interference with street or sidewalk drainage; or
- C. The City tree is dead, diseased, dying, or hazardous, and presents a liability to the City. A dead tree is one that has been assessed by the City Arborist and found to have deceased. Diseased trees are defined as those trees that cannot be cured by current arboricultural methods, are in an advanced state of decline, and have no prospect of recovery. Dying trees are those that have no prospect of recovery. Hazardous trees are defined as those that are defective, have a potential to fail, and would cause damage to persons and property upon failure. The City Arborist will perform a Level 2: Basic, Tree Risk Assessment whenever a tree is identified as hazardous. The assessment will identify: structural defects of the tree, parts of the tree most likely to fail, targets where imminent personal injury or property damage may result with tree failure, and procedures or actions necessary to mitigate the hazard. After assessment, the City Arborist will expeditiously convey his written findings and recommendations to the Landscape Manager for evaluation. In the case of imminent tree failure, the Landscape Manager or the City Arborist shall have the authority to direct the emergency removal of a hazardous tree without further approvals; or
- D. The tree(s) have been requested to be removed in conjunction with a City Council-approved City, commercial, neighborhood, or homeowners association beautification program; or

- E. The tree(s) have been requested to be removed in conjunction with a commercial or residential project. Approval will only be granted if the City tree unreasonably impedes the planned construction. In these cases, the applicant will coordinate and assume all costs for the removal and replacement. Replacements will be a minimum of 36-inch box size, but larger sizes may be required at the Landscape Manager's discretion; or
- F. The City Manager, upon the advice of the Public Works Deputy Director, City Attorney, Risk Manager or the Traffic Engineer, shall have the authority to remove individual Problem or Standard Trees to resolve claims or safety issues.

#### IV. REMOVAL OF CITY TREES

A flowchart detailing tree removal procedures is available on the Public Work's website: [www.newportbeachca.gov/government/departments/public-works/municipal-operations](http://www.newportbeachca.gov/government/departments/public-works/municipal-operations)

The initiation to remove City tree(s) may be made by the staff of the Public Works Department, a homeowners association, or a private property owner by submitting an application to the City Arborist, utilizing the City Tree Removal form available on the Public Works website: [www.newportbeachca.gov/government/departments/public-works/municipal-operations](http://www.newportbeachca.gov/government/departments/public-works/municipal-operations)

The City will replace all trees removed in accordance with the Standard Trees removal criteria on a one for one basis, as funding, availability, and growth space permits. Replacement trees will be a minimum of a 36-inch boxed size. If 36-inch boxed trees are not available or if funding or space constraints prevent planting of a 36-inch boxed tree, then the largest tree available for the space available will be planted. The full costs of removal and replacement of all City Tree(s) will be the sole responsibility of the City, unless an applicant voluntarily pays for a new tree(s), or desires to upgrade to a box size larger than a 36-inch box as a replacement (if available), then the resident will be responsible for the difference in price.

##### A. Removal of Special City Trees

- Special Trees, other than Landmark Trees, may be considered for removal under the same criteria as Standard Trees in Section III if a full staff report, prepared by the Public Works Deputy Director and approved by the City Manager, is provided to the Commission detailing the necessity of removal and any specific previous treatment of the tree.
- Removal of a Special Tree(s) is initiated by submitting an application utilizing the City Tree Removal form.

- After receipt of the application, a Tree Inspection Report shall be prepared by the City Arborist to determine if the tree(s) meets the criteria for consideration for removal outlined in Section III. The City Arborist shall determine whether in his/her judgment additional specific mitigation measures can be initiated to retain the tree provided the costs are reasonable.
- Private property owners, residential communities, neighborhoods, or business organizations who apply for a Special Tree removal(s) must submit a petition signed by a minimum of 60% of City of Newport Beach property owners within a radius of 500 feet from the location of the proposed tree removal. The petition content must be approved and dated by City staff prior to distribution by the applicant. The staff-approved petition must be distributed by the applicant to all private property owners within the 500-foot radius. Signatures by non-property owners are not acceptable for petition purposes, and there may be no more than one signature per property. All petition signatures shall be verified by City staff for property owner status of the person(s) signing the petition.
- Private property owners represented by a homeowners association with mandatory membership and within the 500-foot radius must, instead of the above petition procedure, submit a petition through their association. The association shall submit a resolution of the Board of Directors formally requesting a Special Tree removal(s) with a statement that all members of the homeowners association affected have been officially notified and given an appropriate opportunity to respond before the Board voted on the request.
- The City Arborist shall also provide a notice of the proposed tree removal to the adjacent property owner (if not the applicant), the private property owners immediately adjacent to the applicant's property, and the appropriate homeowners association if applicable (not applicable to the emergency removal of hazardous trees under Section I (Special Trees)).
- Once a recommendation is made by the City Arborist and the Landscape Manager to the Public Works Deputy Director or designee and the Deputy Director concurs, then the applicant, and private property owners within a 500-foot radius of the tree location, and a homeowners association if applicable, shall be notified via postcard of the recommendation at least 30 days before the Commission meeting. The postcard will include the date, time, and location of the Commission meeting and a City contact number. A homeowners association is responsible for notification of all association members pursuant to their established procedure.
- An 8" x 5" placard will be posted on the Special Tree(s) considered for removal at least 30 days before the Commission meeting. The placard will include the following information: the date of its posting, the date, time and location of the Commission meeting, and a City contact number.

- The Public Works Deputy Director, or a designee, shall prepare a full staff report for a regularly scheduled Commission meeting of all trees recommended for removal, except for the emergency removal of hazardous trees in Section I (Special City Trees) of this Policy.
- Following Commission approval for removal of a Special Tree(s), the tree(s) will be posted with a new 8" x 5" placard at least 30 days prior to the removal notifying the public that they have the right to appeal. The placard shall also note a Staff contact number and a date on which it was posted.
- Any appeal to the Council regarding a Commission tree decision must be received by the Public Works Deputy Director no later than 30 calendar days following the date of the above reposting after the Commission decision. The Public Works Deputy Director will delay any tree removals until the appeal period has expired or until the Council has acted upon the appeal.
- The full costs of removal and replacement of a Special Tree(s) will be the sole responsibility of the City, unless an applicant voluntarily pays for a new tree(s).

#### B. Removal of Problem City Trees

- Problem Trees may be proposed for removal by either City staff, a homeowners association, or private property owners by written application utilizing the City Tree Removal form. The City Arborist has the authority to remove Problem Trees.
- If there are no removal criteria other than it being a Problem Tree species, then no more than 50 Problem Trees may be removed per year by staff without special approval of the Commission.
- If there are no removal criteria other than it being a Problem Tree species, then no more than one of three problem parkway trees in a continuous row may be removed in a one-year period unless part of a reforestation approved by the Commission. Replacement trees of a 36" boxed size shall be planted if funding, availability, and growth space permits.
- Staff is responsible for providing advance written notification, as applicable, to the adjacent property owner, the legally established homeowners association, and the Councilperson of the district where the removal is proposed of the intent to remove or retain a Problem Tree.

- Except for those trees categorized as Item C (dead, diseased, or dying trees) or Item F (claims and safety issues) in Section III (Standard City Trees), all Problem Tree removal(s) shall be posted with a minimum 8" x 5" placard at least 14 calendar days prior to the scheduled removal. The placard shall also note a Staff contact number and a date on which it was posted. Unless deemed an emergency, posting for the removal of dead, diseased, or hazardous trees shall be at least 72-hours prior to the scheduled removal.
- The decision by the Landscape Manager to remove a problem tree is final unless called up by at least one Councilperson. The City Arborist shall report the removal of Problem Trees on a monthly basis to the Commission.
- The cost to remove and replace Problem Trees will be the sole responsibility of the City based on availability of funding, with the exception of Category C (view) in Section II, which is the sole responsibility of the applicant.

#### C. Removal of Standard City Trees

- The initiation to remove a Standard Tree(s) may be made by the staff of the Public Works Department, a homeowners association, or a private property owner by submitting an application to the Landscape Manager, utilizing the City Tree Removal form.
- After receipt of the application, a Tree Inspection Report shall be prepared by the City Arborist to determine if the tree(s) meets the criteria for consideration for removal as outlined in the above Section III (Standard City Trees). The City Arborist shall determine whether in his/her judgment additional specific mitigation can be initiated to retain the tree provided the costs are reasonable.
- Once a recommendation is made by the City Arborist to the Landscape Manager, or designee, and the Manager agrees with the recommendation, the City may remove the tree(s). The authority to remove Standard Trees rests with the Landscape Manager.
- Staff is responsible for providing advance written notification, as applicable, to the adjacent property owner, the legally established homeowners association, and the Councilperson of the district where the removal is proposed of the intent to remove or retain a Standard Tree.
- Except for those trees categorized as Item C (dead, diseased, or dying trees) or Item F (claims and safety issues) in Section III (Standard City Trees), all Standard Tree removal(s) shall be posted with a minimum 8" x 5" placard at least 14 calendar days prior to the scheduled removal. The placard shall also note a Staff contact number and a date on which it was posted. Unless deemed an emergency, posting for the dead, diseased, or hazardous trees shall be at least 72-hours prior to the scheduled removal.

- Any appeal to the Commission regarding a tree decision must be received by the Public Works Deputy Director no later than 14 calendar days following the date of posting or notice of intent. The Public Works Deputy Director will delay any tree removals until the appeal period has expired or until the Commission has acted upon an appeal.
- The City will replace all trees removed in accordance with the Standard Trees removal criteria on a one for one basis. Replacement trees will be a minimum of a 36" boxed size. If 36" boxed trees are not available, or funding or space constraints prevent planting of a 36-inch box tree, then the largest tree available for the space available will be planted. If resident/applicant desires to upgrade to a 48-inch boxed tree or larger, the resident/applicant will be responsible for the difference in price.
- The full costs of removal and replacement of a Standard Tree(s) will be the sole responsibility of the City, unless an applicant voluntarily pays for a new tree(s) or desires to upgrade to box size larger than 36-inch planted as a replacement, then the applicant will be responsible for the difference in price.

## V. REFORESTATION OF CITY TREES

### A. Description of Reforestation

*Reforestation* is defined as the concept of systematically replacing Problem or Standard Trees which are creating hardscape and/or view problems and cannot be properly trimmed, pruned or modified to alleviate the problem(s) they create; or those which have reached their full life and are declining in health; or are simply the wrong species of trees for the planted location.

It is recognized and acknowledged that many City trees were planted years ago and in some cases were planted with specific species that when fully mature cause damage to curb, gutter, sidewalk, or underground utilities. Within the geographical boundaries of certain view neighborhoods, City street trees may encroach into blue water views from public and private property depending on the length of time since the trees were last trimmed, or the age and height of the trees. In other cases, the wrong species of tree was planted originally and simply does not conform to the current treescape or may represent a safety hazard. The City Street Tree Designation List and the City Parkway Tree Designation List attached to City Council Policy G-6 reflect an effort by the City to designate appropriate tree species that will not cause future problems.

The City understands the importance of trees and the beauty they bring to a community, and desires to continually improve the urban forest through reforestation. In areas where City trees have been removed through City initiation, the City will endeavor to replace the trees one for one with the appropriate street tree.

## B. Application for Reforestation

Reforestation requests shall be made by submitting an application to the Landscape Manager for consideration by the Commission. Requests shall comply with the following requirements:

- The proposed area must have clearly defined contiguous geographical boundaries that include the tree(s) proposed for removal and replacement, street address(es), block number(s), or other geographical information.
- Submission of a petition signed by the owners of a minimum of 60% of the properties within a radius of 500 feet from the location of the proposed reforestation. The petition content must be approved and dated by City staff prior to distribution by the petitioner. Signatures by non-property owners shall be invalid and only one signature per property shall be counted towards the 60% threshold. The 60% threshold is based on the number of properties, not the number of property owners. All petition signatures shall be verified by City staff for property owner status of the person(s) signing the petition.
- Private property owners who are mandatory members of a homeowners association must submit reforestation requests through their association. The request shall include a resolution of the Board of Directors formally requesting a reforestation with a statement that all members of the homeowners association have been officially notified and given an appropriate opportunity to respond before the Board voted on the request. The homeowners association is responsible for notification of the outcome of the Board's vote to all association members, pursuant to their established procedure.
- The requestor agrees, in writing, to pay 100% of the costs of the removal and replacement of the public tree(s) in advance of any removal activity. The actual removal and replacement work will be performed by a City contractor coordinated by the Public Works Department, Municipal Operations Division. The total costs for removal and replacement work shall include only the contractor's costs and be paid in advance of any removal actions.

## C. Action Upon Application

- Petitions that are submitted more than 90 days past the date stamped by staff before distribution shall be invalid and the request shall not be forwarded to the Commission for consideration. The Landscape Manager may extend this timeframe at his or her discretion.

- City staff shall post the tree(s) proposed for reforestation with an 8” x 5” placard at least 14 calendar days prior to the scheduled Commission meeting. The placard will include the date it was posted, the date, time and location of the Commission meeting and a City contact number.
- For requests from a homeowners association: City staff shall notify private property owners within a 500-foot radius of the tree(s) requested for reforestation via postcard at least 14 calendar days prior to the Commission meeting. The postcard will include the date, time and location of the Commission meeting and a City contact number.
- In hearing reforestation requests, the Commission may consider any and all relevant circumstances, including but not limited to the following:
  - Health or overall condition of the tree(s)
  - Degree of verifiable public or private property damage from the tree(s)
  - Degree of verifiable view impairment from the tree(s)
  - If the tree species is a Problem City Tree (Section II)
  - The level of community support and/or opposition
  - The value of the existing tree(s) versus the value of the replacement tree(s)
  - Whether the tree species is inappropriate for the location or does not conform to the current treescape
  - Efforts made to ensure adequate notification
- The decision of the Commission shall be final unless called up by a Councilmember.

#### D. Reforestation Work

- The replacement tree(s) shall be an appropriate tree(s) that meets the criteria of the City's Street Tree Designation List or the City Parkway Tree Designation List as identified in City Council Policy G-6, or the requestor must obtain approval from the Commission of the designation of a different tree species other than the designated street tree, or an appropriate species based on the City Tree Designation Lists.
- There shall be a minimum of a one-for-one replacement of all trees. Replacement trees shall be a minimum size of 36-inch boxed trees, unless the parkway space will not accommodate a 36-inch boxed tree or a tree cannot be planted due to planting restrictions contained in City Council Policy G-6. Per the Landscape Manager’s discretion, a larger sized box tree may be planted if it is replacing a tree of significant size or value in the City’s inventory and ample planting space is available. If there is not room for the replacement tree(s) at a specific site as designated by City Council Policy G-6, then the replacement tree(s) shall be planted in a public area in the same neighborhood at the option of the requestor.

- The requestor shall be responsible for the watering and fertilizing of replacement trees to ensure their proper growth and development as outlined in City Council Policy G-6. Section 13.09.030 of the Municipal Code also requires property owners to water and fertilize parkway trees adjacent to their property.

## VI. TREE MAINTENANCE

The City will endeavor to fund the care of the Urban Forest to the highest level possible through the efficient use of regular tree trimming, root pruning, root barrier and pesticide programs in accordance with City Council Policy G-6. Section 13.08.040 of the Municipal Code prohibits any person from tampering with City trees.

## VII. ENCROACHMENT AND DEMOLITION PERMITS

All encroachment permits (permits for private property development which are proposed to install improvements in the City right of way) or demolition permits that involve the removal or replacement of City tree(s) must be specifically noticed by the property owner to City staff prior to the building and/or demolition permit process whenever possible. The proposed construction plans must indicate preservation of existing City trees wherever possible (except trees that are dead, dying, or in an advanced state of decline). If the proposed development requires the removal of City trees (that are not dead, dying or in decline), the property owner must submit a tree removal form to the Landscape Manager, pay for all related tree removal and one-for-one replacement costs, and meet all provisions of City Council Policies L-2 and L-6 and City Municipal Code Sections 13.08 and 13.09, or any successor policies or sections. Approval or disapproval of all tree removal/replacement requests associated with encroachment and demolition permits will be the responsibility of the Public Works Deputy Director or a designee.

## VIII. TREE TRIMMING STANDARDS

The City Council has adopted tree trimming cycles for trees of different ages and species. Tree trimming cycles and trimming standards shall represent the maximum feasible frequency given current fiscal conditions. Except as provided in the Supplemental Trimming Section below, trimming shall be in accordance with the standards of the International Society of Arboriculture (ISA). In those communities with a homeowners association, periodic tree trimming with an emphasis on crown reduction or vista trimming will be considered by the City Arborist upon written request by the association.

## IX. SUPPLEMENTAL TREE TRIMMING

The City will consider requests to trim certain trees more frequently or to trim trees consistent with practices applied prior to the adoption of ISA standards (to enhance public and private views, preserve required sight/distance standards, or other public purposes) which are submitted by affected private property owners or the board of a homeowners association and the request is accompanied by a completed "Supplemental Tree Trimming Form" and full payment for the requested tree trimming. However, since these practices often require 'topping' or possible disfiguring of a tree(s) and are often aesthetically displeasing and injurious to a tree, reforestation shall be considered when supplemental tree trimming is impractical or infeasible as determined by the City Arborist.

The Landscape Manager shall establish procedures to implement the supplemental trimming provisions of this Policy. In areas with an active homeowners association, approval must be obtained from a legally established association by the requestor of supplemental tree trimming if the requested trimming is to be undertaken within the association boundaries.

[Attachment - Exhibit A Special City Trees]

### ***History***

Adopted 1-9 - 5-9-1966  
Reaffirmed 1-9 - 8-30-1966  
Amended 1-9 - 8-14-1967  
Reaffirmed 1-9 - 11-12-1968  
Reaffirmed 1-9 - 3-9-1970  
Reaffirmed 1-9 - 2-14-1972  
Amended 1-9 - 11-9-1976  
Amended 1-9 - 11-12-1985  
Amended 1-9 - 11-28-1988  
Amended 1-9 - 3-14-1994 (changed to G-1)  
Amended G-1 - 4-11-1994  
Amended G-1 - 2-26-1996  
Amended G-1 - 7-14-1997  
Amended G-1 (Administratively)-11-24-1997  
Amended G-1 - 8-10-1998  
Amended G-1 - 1-25-1999  
Amended G-1 - 2-22-2000  
Amended G-1 - 4-23-2002  
Amended G-1 - 4-27-2004  
Amended G-1 - 10-11-2011

Amended G-1 - 9-8-2015

Amended G-1 - 8-8-2017

Amended G-1 - 2-9-2021

Amended G-1 - 5-9-2023

## EXHIBIT A

### SPECIAL CITY TREES

#### LANDMARK TREES

Balboa Boulevard Median	Araucaria heterophylla (1)
Balboa Library	Eucalyptus globulus (3)
Balboa Library	Phoenix canariensis (1)
Bob Henry Park	Ficus rubiginosa (1)
Castaways Park	Phoenix canariensis (1)
Lido Hotel Site	Ficus microcarpa 'Nitida' (2)
Dover Drive east of Irvine Avenue	Erythrina caffra (1)
Dover Drive at Westcliff	Liquidambar styraciflua (4)
John Wayne Park	Erythrina caffra (1)
Lido Isle Medians	Pinus pinea (4)
Main Street	Ficus microcarpa 'Nitida' (1)
Marine Avenue (Balboa Island)	Eucalyptus (Various Species) (47)
Ocean Blvd. Corona del Mar	Phoenix canariensis (5)
Wedge Area	Myoporum laetum (2)
West Jetty View Park (near Historical Marker)	Phoenix canariensis (2)
Westcliff & Dover (Groves) Bike Trail	Eucalyptus globulus (49)

#### DEDICATED TREES

Bayside Park (Newport-Irvine Rotary Club)	Pyrus calleryana
Bayview Park (Gene Atherton)	Cinnamomum camphora
<u>Bayview Park</u> <u>(Thomas Edward Mansfield and Owen Thomas Vatter)</u>	<u>Cassia leptophylla</u>
Begonia Park (Dr. Leo V. Turgeon)	Bauhinia blakeana
Begonia Park (Cheryl Bailey Ringwald)	Prunus cerasifera
Bob Henry Park (Bob Henry)	Ficus rubiginosa
Bonita Canyon Sports Park (Elaine Linhoff) (Fern Pirkle)	Melaluca linariifolia
Buffalo Hills Park (Bahia Community Earth Day Celebration)	Erythrina caffra
Buffalo Hills Park (N. Beach Sunrise Rotary Club)	Stenocarpus sinuatus
Castaways Park (Kevin Murphy)	Pinus torreyana

(Mary Louise Romine)

Castaways Park (Joe Clarkson) (Michael F. Gustin) (Arthur Grant Kidman Junior) (Grover Stephens, PH.D.) (Arthur C. Wahlstedt, Jr.) (John D. Woodruff)	Platanus racemosa
Castaways Park (Nancy Bergeson) (Logan David Burley) (Sawyer Dean Burley) (Sawyer Dean Burley) (Bob & Susan Caustin) (Joe Clarkson) (Yen Chu Kuo) (Ryan Lemmon) (Virginia Najera) (Eva Victoria Najera) (David Rapp) (Nancy & Jack Skinner) (Staycee Stone) (Jason Stradtman) (Robert T. Talbot) (Jan Vandersloot) (Jean Watt)	Quercus agrifolia
Castaways Park (Gregory Courteau)	Quercus kelloggii
Cliff Drive Park (Susan Benz)	Bauhinia blakeana
Cliff Drive Park (Francis P. Hemenway)	Cassia leptophylla
Cliff Drive Park (Gary Lovell) (Dr. Vandersloot)	Quercus agrifolia
<u>Coastal Peak Park</u> <u>(Jared Romine)</u>	<u>Quercus agrifolia</u>
Eastbluff Park (Lucy Huntsman)	Hymenosporum flavum
Eastbluff Park (Billy Covert)	Ficus macrophylla
Galaxy View Park (Trey Hunter)	Cupaniopsis anacardioides
Galaxy View Park	Metrosideros excelsa

(Dylan Ayres) Galaxy View Park (Virginia Herberts)	<i>Cassia leptophylla</i>
Grant Howald Park (Jean & Coalson Morris)	<i>Cassia leptophylla</i>
Grant Howald Park (Skipper Mark Howes)	<i>Hymenosporum flavum</i>
Grant Howald Park (Mark Munro) (Pete Munro)	<i>Metrosideros excelsus</i>
Grant Howald Park (Cara Lee)	<i>Spathodea campanulata</i>
Irvine Terrace Park (Beckett Glyer)	<i>Platanus racemose</i>
Irvine Terrace Park (U.S. Bicentennial Freedom Tree)	<i>Platanus racemosa</i>
Irvine Terrace Park (Calif. Bicentennial)	<i>Pinus pinia</i>
Irvine Terrace Park (Dana Harmon)	<i>Liquidambar styraciflua</i>
Irvine Terrace Park (Sister City of Okazaki)	<i>Pinus nigra</i>
L Street Park (Tim Van Ostenbridge)	<i>Cassia leptophylla</i>
Las Arenas Park (Ed Healy)	<i>Melaleuca linarifolia</i>
M Street median (Walter Knott)	<i>Pinus pinea</i>
Mariners Park (Sierra Beth)	<i>Bauhinia variegata</i>
Mariners Park (Dr. Anthony & Madeline DeCarbo)	<i>Cedrus deodara</i>
Mariners Park (Isy Pease)	<i>Pinus halepensis</i>
Mariners Park (Christopher & Marisha Thomposn) (Meghan & Camielle Thompson)	<i>Pinus eldarica</i>
Mariners Park (Frank Tallman)	<i>Pinus radiata</i>
Mariners Park (N. Beach Sunrise Rotary Club)	<i>Stenocarpus sinuatus</i>
Mariners Park (Graci Lee Henry)	<i>Magnolia 'Little Gem'</i>
Mariners Park	<i>Bauhinia variegata</i>

(Susana Lee Niederhaus) No. Mariners Park (Marcie Schrauder)	<i>Pinus radiata</i>
Newport Pier/ 24 <sup>th</sup> Street Bike Path (Marie "Maxine" Louchis)	<i>Chamaerops humilis</i>
Old School Park (Mary Jo Tyler)	<i>Bauhinia variegata</i>
Old School Park (Jean & Coalson Morris)	<i>Cassia leptophylla</i>
Peninsula Park (Gray Lunde Tree)	<i>Chamaerops humilis</i>
Peninsula Park (Don Perdue)	<i>Ravenea rivularis</i>
San Miguel Park (Jon Walters)	<i>Schinus molle</i>
Spyglass Hill Park (Dennis George Brice) (Edith Mary Brice)	<i>Acacia baileyana</i>
Veterans Park (Rosemary Rae Hill Hansen)	<i>Lagenstroemia indica fauriei</i>
WCH & Superior Ave City Parking Lot (Louise Greeley)	<i>Cassia leptophylla</i>
West Newport Park (Russell Marc Beaumont) (Jeff Steven Reinker)	<i>Erythrina caffra</i>
West Newport Park (Brownie Girl Scout Troop 2072)	<i>Spathodea campanulata</i>
Various locations: Castaways Park and Cliff Drive Park slopes (Dr. Jan David Vandersloot & Family)	<i>Quercus agrifolia</i>

NEIGHBORHOOD  
TREES

Along Avon Avenue	<i>Eucalyptus globulus</i> (8)
Buena Vista and Lindo Avenue	<i>Erythrina caffra</i> (1)
Candlestick Lane (Baycrest)	<i>Eucalyptus citriodora</i> (17)
Clay Street (Irvine Ave to St. Andrews Road)	<i>Ficus microcarpa</i> 'Nitida' (21)
Cliff Drive (north side, west of Dover Drive)	<i>Agathus robusta</i> (4)
Cliff Drive Park (Scout House)	<i>Ficus benjamina</i> (1)
Commodore Road	<i>Eucalyptus citriodora</i> (2)
Corona del Mar State Beach	<i>Washingtonia robusta</i> (74)
601 Dover Drive	<i>Eucalyptus ficifolia</i> (1)

Dover Drive (Mariners to Irvine)	<i>Eucalyptus globulus</i>
Eastbluff Park	<i>Ficus macrophylla</i> (6)
Glenwood Lane	<i>Eucalyptus citriodora</i> (10)
Goldenrod Avenue (Ocean Blvd to Fifth Ave)	<i>Washingtonia robusta</i> (144)
Heliotrope Avenue (Corona del Mar)	<i>Pinus radiata</i> (2)
Irvine Avenue (17 <sup>th</sup> St. to Dover)	<i>Phoenix dactylifera</i> (Date palm) (30)
Irvine Avenue (17 <sup>th</sup> St. to Dover)	<i>Spathodea campanulate</i> (African tulip) (39)
128 Kings Road	<i>Roystonea regia</i> (1)
128 Kings Road	<i>Pseudobombax ellipticum</i> (1)
L Street Park	<i>Quercus suber</i> (39)
Leeward Lane	<i>Fraxinus uhdei</i> "Tomlinson" (39)
M Street Park	<i>Pinus pinea</i> (1)
Margaret Drive Median	<i>Erythrina caffra</i> (1)
Marguerite Avenue (Ocean Blvd to Fifth Ave)	<i>Phoenix canariensis</i> (79)
Mariners Drive	<i>Jacaranda mimosifolia</i> (52)
Newport Center Drive	<i>Washingtonia robusta</i> (363)
Poppy Avenue (Corona del Mar)	<i>Eucalyptus rudis</i> (40)
Rhine Wharf Park	<i>Archontophoenix</i> <i>cunninghamiana</i> (12)
Along Riverside Avenue (adjacent to Cliff Drive Park)	<i>Schinus terebinthefolius</i> (11)
725 St. James Road	<i>Eucalyptus ficifolia</i> (1)
Sandalwood Lane	<i>Eucalyptus citriodora</i> (3)
Santa Ana Avenue	<i>Eucalyptus robusta</i> (38)
Seaview Avenue (Corona del Mar)	<i>Pinus radiata</i> (5)
Shorecliffs Entrance	<i>Erythrina caffra</i> (40)
Starlight Circle	<i>Eucalyptus citriodora</i> (10)
Via Lido Bridge	<i>Eucalyptus globulus</i> (14)
Vista Del Oro Median	<i>Erythrina caffra</i> (6)
Waterfront Drive (Avocado Ave to Acacia Ave)	<i>Schinus molle</i> (16)
West Newport Park	<i>Metrosideros excelsus</i> (55)

## MAINTENANCE AND PLANTING OF PARKWAY TREES

The City Council is vitally interested in beautification of City parkways. Public cooperation in helping to develop and maintain healthy and attractive parkway trees is encouraged.

### I. MAINTENANCE OF PARKWAY TREES

The Public Works Department will trim the parkway trees on a rotation schedule. An effort will be made to trim the parkway trees on less than a three-year cycle. More frequent trimming will be performed on approved trees and in approved view areas. Public safety issues such as low branches and heavy foliage will be given priority over view-type trimming. An effort will be made to trim parkway trees located in heavy summer traffic areas during the fall and winter months. Annual trimming of certain species of trees prone to wind damage will be done prior to the winter season.

### II. TREE DESIGNATION LISTS

The City Council has adopted an official street tree list, the Street Tree Designation List (Exhibit A), which will be used by the Public Works Department, Municipal Operations Division, to determine species for replacement of trees removed from established parkways and for planning purposes in all new subdivisions and commercial developments. A second list, the Parkway Tree Designation List (Exhibit B), has been added as a species palette for residents to choose approved, new and replacement, trees based on the size of parkway available for planting. The Eastbluff Community Association has its own City approved street tree list (Exhibit C).

The Public Works Deputy Director, or designee, will have the authority to add species to the Street and Parkway Tree Designation Lists, which will be updated on an as-needed basis by the Public Works Department staff and reviewed by the Parks, Beaches and Recreation Commission ("Commission") for approval before adoption by the City Council.

### III. STANDARDS AND SPECIFICATIONS FOR PLANTING PARKWAY TREES

[This Section is intended for planting parkway trees related to new construction, in accordance with City Code 13.09.010](#)

#### General Requirements

1. 72-hour notification shall be given to the Public Works Department staff by permittees prior to the initial installation of parkway trees for approval of species, material quality, and planting supervision. Inspection requests by permittees shall be scheduled 24-hours in advance using the Public Works inspection request line or via the City website as required.
2. Position of parkway trees is subject to approval by the Public Works Department, Municipal Operations Division, and any tree not properly placed will be relocated by permittees at no

cost to the City. In the interest of public safety, unless an exception is granted by the City Arborist, trees shall be planted not less than:

- 15 feet back of beginning of curb returns at intersections.
- 10 feet from lamp standards.
- 10 feet from fire hydrants.
- 5 feet from service walks or driveways.
- 10 feet from meters and sewers.
- 25 feet from stop signs.

3. Trees shall be a minimum container size of 36" size box, if growth space allows.

- Condition: Plants shall be symmetrical, typical for variety and species, healthy, vigorous, free from plant disease, insect pests and shall have healthy, normal root system free from being root bound. Trees shall not be pruned nor topped prior to delivery.
- Inspection: All plant material shall be subject to inspection and approval by the Public Works Department, Municipal Operations Division staff prior to planting. The City has the right to reject any item offered in its sole and absolute discretion.
- Parkway Tree Planting: Per City Standards as found in the Tree Planting Detail available on the City's website.

4. Newly planted trees shall be irrigated with an automated system tied to the property under construction.

#### IV. GUARANTEES

- 1. ~~36"~~ boxed trees shall be guaranteed as to growth and health for a period of one year after final acceptance by the Public Works Department, Municipal Operations Division staff.
- 2. ~~Trees that fail to grow or are injured or damaged during planting operations shall be replaced within 15 days after notification. Replacement material shall be guaranteed to be specified as original guaranteed material.~~

#### IV. ESTABLISHED PARKWAYS

1. For all City tree planting in established parkways (not permit related), adjacent property owners and/or applicants must:
  - Choose from the species listed on the Street Tree Designation List where it applies, or from the Parkway Tree Designation List for all other areas for planting new and replacement trees.
  - Accept responsibility for watering and fertilizing new trees.

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- Contact the City Arborist by sending a written request for one or more parkway trees or questions regarding this Policy to: Attn: City Arborist, P. O. Box 1768, Newport Beach, California 92659-1768. Email is also available at [pwinfo@newportbeachca.gov](mailto:pwinfo@newportbeachca.gov)

2. The City will:

- Approve species, location, and spacing of tree planting.
- Furnish, install, stake, and initially fertilize new trees (exception would be trees planted in accordance with City Code 13.09.010).
- Prune and spray tree as required.
- Approve type of root barriers for installation.
- Assume trimming responsibilities.

#### VI. PARKWAYS IN ESTABLISHED RETAIL COMMERCIAL/OFFICE CENTERS

Parkway street trees that are removed because they are diseased or have damaged property may be replaced with the same species of trees (or a species other than the designated street tree) provided (a) the parkway street tree is located adjacent to or within an established retail commercial/office development; (b) replacement with the same species will maintain the appearance of the streetscape and/or ensure consistency with an established landscape master plan adopted by the adjoining landowner; (c) the parkway street trees have a history of little or no hardscape damage nor injury claims related to hardscape damage caused by the tree; and (d) the property owner has agreed in writing to repair or pay the cost of repair/and or replacement of hardscape or underground utilities damaged by the new trees.

[Attachment – Exhibit A]

[Attachment – Exhibit B]

[Attachment – Exhibit C]

#### *History*

Adopted I-19 – 11-22-1982

Amended I-19 – 11-14-1983

Amended I-19 – 10-22-1990

Amended I-19 – 10-22-1992

Amended I-19 – 1-24-1994 (changed to G-6)

Amended G-6 – 7-23-2002

Amended G-6 – 4-13-2004

Amended G-6 – 8-24- 2004

Amended G-6 – 9-8-2015

Amended G-6 – 8-8-2017

Amended G-6 – 2-9-2021

## ENCROACHMENTS IN PUBLIC RIGHTS-OF-WAY

It is the general policy of the City that the public rights-of-way shall be reserved for public use or open space; and that the rights of the public, present and future, shall not be diminished by the installation of private improvements within the public rights-of-way.

For any project located within the Coastal Zone also look to Newport Beach Municipal Code Title 21, or any successor title.

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

### *Permit and/or encroachment agreement required.*

- A. Except as expressly set forth herein, permits and/or encroachment agreements are required for encroachments into the public rights-of-way.
- B. 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. Drawings for encroachment permits requiring Planning Commission review shall be prepared to scale. Plan and elevation drawings shall accurately depict location, height, and extent of the proposed encroachments.
- C. If the application is for a permit required under private encroachments that are prohibited without a waiver, it shall be submitted to the Planning Commission for consideration.
  - 1. The Planning Commission is designated to grant or deny a waiver and approve, conditionally approve, or deny applications for encroachment permits, subject to the findings in subsection (a), of this Section.
    - a. The Planning Commission may grant a waiver and may approve or conditionally approve an application for an encroachment permit if the Planning Commission finds the encroachment will not be a detriment to the health, safety, and welfare of the public.
    - b. If an application for a private encroachment that is prohibited without a waiver is part of a larger approval requiring City Council approval, then the Planning Commission shall make a recommendation to the City Council regarding whether this policy should be waived and the permit granted.
    - c. The Planning Commission shall have discretion to refer any request for a waiver or encroachment permit before the Planning Commission to the City Council for consideration.

- d. Any decision made by the Planning Commission may be appealed or called for review in accordance with Chapter 20.64.
2. Notice of the Planning Commission's review of a request to waive a provision of this policy shall be:
- a. Mailed to property owners within 300 feet of the project site at least ten (10) calendar days in advance of a meeting. The notice shall contain the address of the project site, the applicant's name, a brief description of the improvements, date, time, and place of the meeting, and a statement informing the public that they have the ability to provide comments to the Planning Commission; and
  - b. Posted on or close to the subject property in a prominent location at least ten (10) calendar days before the scheduled hearing by the Planning Commission in the following manner:
    - i. One or more sign(s) shall be posted as determined by the Public Works Director.
    - ii. The size and location of the sign(s) shall be as determined by the Public Works Director.
    - iii. The applicant for the encroachment permit/waiver shall be responsible for maintaining the sign(s) in a satisfactory condition.
    - iv. The applicant for the encroachment permit/waiver shall remove all sign(s) at the end of the appeal period.

***Private encroachments that are prohibited without a waiver and approval.***

- A. All structural encroachments including, but not limited to, fences, walls, patios, raised planters, landscaping, etc., which encroach in excess of one (1)-foot into the public right-of-way, or exceed three (3)-feet in height, measured from the top of curb elevation/ or from sidewalk elevation where sidewalk exists.
- B. Driveway approaches not conforming to Council Policy L-2.
- C. Modifications to original design concepts approved by the City.
- D. Private signs except as provided for in the Building Code.
- E. Lighting.

- F. 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.
- G. Private dwellings and appendages including raised patios decks and bay windows, except as provided for in this section and the Building Code.
- H. Pay telephones and private mail carriers drop boxes.

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

- A. Drive approaches conforming to Council Policy L-2.
- B. Standard sidewalks.
- C. Carriage walks (not to exceed twenty-five percent (25%) of the parkway area).
- D. Parkway surfacing (standard or colored/textured concrete or flat stone/brick) installed at grade (not to exceed twenty-five percent (25%) of the parkway area).
- E. CATV and public utility facilities.
- F. Structural encroachments including, but not limited to, fences, walls, patios, raised planters, etc., which encroach one (1) foot or less and do not exceed three (3) feet in height within the public right-of-way. If, however, in the opinion of the Public Works Department, the nature or location of this type of encroachment is such that Planning Commission review is warranted, the Department may forward the item to the Planning Commission for action in accordance with the procedures set forth for granting waivers for private encroachments that would otherwise be prohibited.
- G. Mailboxes, when required by the U.S. Postal Service. Mailboxes shall be installed per U.S. Postal Service requirements. Mailbox base construction length and width shall not exceed the length of the mailbox, or twenty-four (24) inches, whichever is less.
- H. 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.
- I. When connecting to or relocating public utilities.

- J. Artificial Turf (permeable) up to 100% of the required parkway landscape area. Artificial turf grass shall be installed in accordance to manufacturers' 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.

For artificial turf grass conversions in parkways with existing City trees:

1. Pruning of City tree roots shall be prohibited unless approved and inspected by the City Arborist.
2. Irrigation must be established or retrofitted to continue to provide automated irrigation for the City tree.
3. Openings for existing or new trees will allow for a minimum of 24-inch radius around the tree's trunk. If on existing trees a 24-inch radius cannot be achieved, the artificial will be discontinuous, with area around the tree squared off to allow a minimum of 24-inches on either side.

- K. Tree and shrub planting and removal.

- L. Median landscaping.

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

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

***Area specific private encroachments requiring an encroachment permit from the Public Works Department and subject to the execution of an encroachment agreement for non-standard improvements.***

- A. Structural encroachments 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:

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

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

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

2. 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.
  3. 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.
- F. 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. bay side is improved with a privately constructed bulkhead on public property. Improvements allowed at this location shall consist of the following:
1. A minimum six (6) foot wide public sidewalk along the inland side of the right-of-way line maintained by the City.
  2. 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.
  3. 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.
- G. 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:
1. A minimum six (6) foot wide public sidewalk along the inland side of the right-of-way maintained by the City.
  2. 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
- H. 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:

1. A minimum six (6) foot wide public sidewalk along the inland side of the right-of-way maintained by the City.
2. 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.

I. Bay Front Street Ends

1. 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:
  - a. At each side of the prolongation of the street and extending no more than fifteen (15) feet from the end of the paved street.
  - b. 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.
2. Bay front street ends where tidal flow prevents standard installation may be landscaped, subject to the prior approval by the City of specific plans prepared by the applicant. Access to beach areas shall be provided for in any such specific plans.
3. Improvements shall be installed at the expense of the adjacent property owners.
4. Landscape maintenance and watering shall be provided by the adjacent property owners to the satisfaction of the City. A sprinkler system connected to the adjacent property shall be installed in each planter.

J. Unimproved Ocean Front Street Ends

1. Improvements shall be installed at the expense of the adjacent property owners.
2. Landscape maintenance and watering shall be provided by the adjacent property owners to the satisfaction of the City. A sprinkler system connected to the adjacent property shall be installed in each planter.
3. All work shall be installed to grades established by the Public Works Department.
4. A four (4) foot wide sidewalk shall be provided on each side of the street right-of-way adjacent to the property line.

5. A minimum of twelve (12) feet of unobstructed access to the beach in the center of the right-of-way shall be surfaced with brick, asphalt, concrete or artificial turf, or an equivalent surfacing approved by the City.
  - a. Portland Cement Concrete. A minimum six (6) inches over native compacted material.
  - b. Asphalt Concrete. A minimum two (2) feet six (6) inches of asphalt concrete over a six (6) inch thick aggregate.
  - c. Brick. Brick installed over four inches of imported aggregate base. A dry mix of one-to-one cement and clean plaster sand to be swept into the one-quarter (1/4) to one-half (1/2) inch space between bricks. The dry mix shall be moistened with a fine spray of water after it is in place.
6. Planters five (5) feet wide shall be provided between the side and the center access along a portion of each side of the street with a heavy emphasis on drought resistant plant materials. Plant materials shall be installed to City specifications. A six (6) inch to eighteen (18) inch high lip of concrete, brick or rock may be installed as part of the planter.
7. Special provisions shall be made in the design when garage access is required from street ends.
8. Where unusually large quantities of sand exist in a street end area, the City shall assist the adjacent owners by moving the sand to an area determined by the City.

K. Unimproved Alleys that End at the Ocean Front

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

If, in the opinion of the Public Works Department, the nature or location of this type of encroachment is such that Planning Commission review is warranted, the Department may forward the application to the

Planning Commission for original action in accordance with the procedures set forth for granting waivers for private encroachments that would otherwise be prohibited.

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.

### ***Encroachments on public sidewalks***

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

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

#### **A. General**

1. Permitted encroachments shall not reduce the sidewalk width available for normal pedestrian movement.
2. Permitted encroachments may be located in areas between tree wells or other existing improvements as long as they do not interfere with pedestrian travel.
3. 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.
4. 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.
5. Encroachments shall not block access from parked cars.
6. They shall not be located within ten (10) feet 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 City and/or the California Department of Transportation (“CalTrans”) permit processing where necessary.
9. Applicant shall pay all costs associated with the installation and maintenance of the encroachments by the City or private installer.

B. Public 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. Public Bicycle Racks

1. 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.

## ***History***

Adopted I-12 – 8-25-1969 (“Ocean Front Street-End Improvement Policy”)  
Adopted L-6 – 8-25-1969 (“Private Encroachments in Public Rights-of-Way”)  
Amended I-12 – 3-9-1970  
Reaffirmed L-6 – 3-9-1970  
Reaffirmed L-6 – 2-8-1971  
Amended L-6 – 2-14-1972  
Reaffirmed I-12 – 2-14-1972  
Amended I-12 – 12-10-1973  
Reaffirmed L-6 – 12-10-1973  
Amended I-12 – 11-11-1974  
Reaffirmed L-6 – 11-11-1974  
Amended L-6 – 8-11-1975  
Adopted L-7 – 3-14-1977 (“Encroachments and Bay Access on Buena Vista Boulevard – Edgewater Avenue between Bay Avenue and Fernando Street”)  
Reaffirmed L-7 – 9-12-1977  
Amended I-12 – 2-9-1981  
Amended L-6 – 2-9-1981  
Adopted L-10 – 8-24-1981 (incorporating I-12)  
Amended L-6 – 11-23-1981  
Amended L-10 – 11-8-1982  
Amended L-6 – 10-27-1986  
Amended L-6 – 1-26-1987  
Amended L-6 – 7-13-1987  
Amended L-6 – 2-13-1989  
Amended L-6 – 8-14-1989  
Amended L-6 – 11-27-1989  
Amended L-10 – 11-27-1989  
Amended L-6 – 12-9-1991  
Amended L-6 – 12-14-1992  
Adopted L-18 – 1-11-1993 (“Encroachments on Public Sidewalks”)  
Amended L-6 – 7-12-1993  
Amended L-6 – 1-24-1994  
Reaffirmed L-7 – 1-24-1994  
Amended L-10 – 1-24-1994 (changed to L-8)  
Amended L-18 – 1-24-1994 (changed to L-15)  
Amended L-6 – 5-9-1994  
Amended L-6 – 2-27-1995  
Amended L-6 – 2-26-1996  
Amended L-15 – 2-26-1996  
Amended L-6 – 5-8-2001

Amended L-7 – 5-8-2001  
Amended L-8 – 5-8-2001  
Amended L-6 – 1-27-2015  
Amended L-6 – 8-14-2018 (incorporating L-7, L-8, and L-15)  
Amended L-6 – 11-27-2018  
Amended L-6 – 12-11-2018