

MEMORANDUM OF LAW

DATE: April 11, 1995

TO: Councilmember Scott Harvey

FROM: City Attorney

SUBJECT: Legal Questions Regarding Sign Requirements for
Mission Beach Boardwalk

I. QUESTIONS PRESENTED

You recently asked certain questions about signs for the eight mile per hour speed limit on the Mission Beach Boardwalk. In general, neither the California Streets and Highways Code ("S & H") nor the California Vehicle Code ("CVC") requirements for the setting or enforcement of speed limits applies specifically to the boardwalk since it fits neither the definition of a Class I bikeway F

S & H ' 890.4(a): "Class I bikeways, such as a `bike path,'
. . . provide a completely separated right-of-way designated for the exclusive use of bicycles and pedestrians with crossflows by motorists minimized."

nor of a sidewalk.F

CVC ' 555, Sidewalk: "That portion of a highway, other than the roadway, set apart by curbs, barriers, markings or other delineation for pedestrian travel."

Therefore, any regulations the City establishes will of necessity be an interpretation of existing law, tailored to fit the particular circumstances of the boardwalk. With this caveat, we will proceed to answer your questions.

II. DISCUSSION

1. Is this signage regarding the speed limit legally required?

There is no specific legal requirement for speed limit signs on the boardwalk. However, in order for the City to enforce a speed limit, and to issue citations for violation of that limit, notice is required.

Both the federal Constitution and the California Constitution require due process, which includes notice for the enforcement of criminal statutes. For example, for vehicles (but not bicycles), CVC section 21103 states that highway regulations shall not be effective until signs giving notice of local traffic laws are posted at all entrances to the highway or part thereof affected.

In addition, CVC section 21359, regarding speed signs for special areas, requires that: "Appropriate speed restrictions shall be

erected and maintained at the outside entrance of the highway or portion thereof upon which the speed limit is applicable." CalTrans Traffic ManualF

California Department of Transportation, Traffic Manual (12th ed. 1988).

section 8-03.4(B) states: "Speed limit signs shall be placed at the beginning of all restricted speed zones. Where speed zones are longer than 1 mile, intermediate signs may be placed at approximately 1-mile intervals."

Although there is no specific statutory requirement for speed limit signs for bicycles on the boardwalk, operation of bicycles in certain areas is regulated by statute. CVC section 21100 authorizes local authorities to regulate bicycle operation on sidewalks. CVC section 21206 states that local authorities are not prevented from regulating parking and operation of bicycles on pedestrian or bicycle facilities, provided that such regulations are not in conflict with other provisions of the CVC. In addition, CVC section 21207 does not prohibit local authorities from establishing bicycle lanes, other than on state highways. According to a California Attorney General's opinion, 76 Ops. Atty. Gen. 418 (1993), persons riding bicycles on sidewalks are subject to the same CVC requirements that apply to persons riding bicycles on roadways, and may also be subject to additional local regulations.

The California Bicycle Transportation Act, codified at S & H sections 891 through 894.2, requires that all local agencies responsible for the development or operation of bikeways, or roadways where bicycle travel is permitted, shall utilize all minimum safety design criteria and uniform specifications and symbols for signs, markers, and traffic control devices. Specifications and standards are found in both the CalTrans Traffic and Highway Design Manuals.F

State of California Department of Transportation, Highway Design Manual (4th ed. 1990).

CVC sections 21968 and 21969, respectively, regulate skateboards and rollerskates on highways, sidewalks, or roadways, but do not include signage requirements for skateboards and rollerskates.

In sum, there is no specific statutory requirement for signs on the boardwalk. In order to enforce the limit, however, minimum signage would be required which, in our opinion, should mirror the requirements for vehicles.

2. If signage is legally required, what can be done to allow for a waiver in this case?

Since notice is required in order to enforce speed limits, a waiver would not be an option.

3. What is the legal definition of posting?

Black's Law Dictionary 1166 (6th ed. 1990) defines Post: "To bring to the notice or attention of the public by affixing to a post or wall, or putting up in some public place; to announce, publish, or advertise

by use of placard."

4. Would stenciled wording on the boardwalk suffice?

Section 1004.2 of the CalTrans Highway Design Manual states: "White painted word (or symbol) warning markings on the pavement may be used as an effective means of alerting bicyclists to approaching hazards, such as sharp curves, barrier posts, etc." Furthermore, CalTrans Traffic Manual section 8-03.4(E) states: "Pavement markings with appropriate figures may be used to supplement speed limit signs." Pavement markings, however, may not be utilized in lieu of required signs for enforcement purposes, since they do not comply with standardized CalTrans sign requirements.

5. Are there any existing laws prohibiting visual blight, clutter, or limiting the number of signs allowable within a specified area or distance?

The City's sign ordinance deals with commercial signs and the City's sign regulations do not apply to City signs in the right-of-way when the signs are for the purpose of enforcing City regulations. The CalTrans Traffic Manual addresses number of signs and method of posting. Section 4-01.6 states: "Care should be taken not to install too many signs. A conservative use of regulatory and warning signs is recommended as these signs, if used to excess, tend to lose their effectiveness." Section 4-01.7 states: "Different types of signs should not be mounted on the same post." In other words, for maximum effectiveness, prudent placement and number of signs are important.

It is our understanding that a City Manager's Report expanding on these answers will be available for the Natural Resources, Culture & Arts Committee meeting of April 12, 1995. In any case, we will be glad to answer any further questions you may have.

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By

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