

OLD LANGUAGE: Struck Out
NEW LANGUAGE: Underline

CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

SUBJECT: ENCROACHMENTS ON CITY PROPERTY
POLICY NO.: 700-06
EFFECTIVE DATE: ~~May 24, 1999~~

BACKGROUND:

Many instances of unauthorized encroachments on City property are reported or discovered each year. Responsibility for the protection of City property from unauthorized encroachments and the mechanisms by which the City can enforce its property rights have not been clear. Additionally, there are currently no guidelines for City staff to use in evaluating proposed encroachments which could benefit the public and generate revenue for the City.

PURPOSE:

To establish policies related to the protection of City property from unauthorized encroachment by private parties; to establish guidelines by which requests for encroachments may be considered; to establish the responsibilities of City departments regarding the protection of City property from unauthorized encroachments; to establish policies specifically related to erosion and drainage control measures on City property; and to establish policies regarding the disposition of existing unauthorized encroachments; ~~and to establish guidelines and an evaluation process for encroachment authorization of telecommunication facilities on parkland and open space.~~

DEFINITIONS:

Encroachment through Permittee [No change in text.]

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1. POLICIES – GENERAL

A. [No change in text.]

B. Guidelines for Encroachment Authorization. It is the City’s policy that requests for authorization to encroach on City property be considered as follows:

1. General City Property. [No change text.]

2. Dedicated or Designated Parkland and Open Space: The City may grant authorization for encroachment on dedicated or designated parkland and open space if it is determined by the responsible department that the requested action would not only meet criteria for General City property as stated above, but would also be consistent with City Charter Section 55; i.e., that it would not change or interfere with the use or purpose of the parkland or open space. Permission for encroachment on dedicated or designated parkland and open space that would benefit only a private party shall not be granted.

~~a. In addition to complying with the above criteria, proposed telecommunications facilities must be disguised such that they do not detract from the recreational or natural character of the parkland or open space. Further, proposed telecommunication facilities must be integrated with existing park facilities, and must not disturb the environmental integrity of the parkland or open space.~~

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- ~~b. — Prior to encroachment authorization, the proposed telecommunication facility must be reviewed by the Park and Recreation Department to determine whether the facility complies with the criteria of Section B. If the Park and Recreation Department determines that the proposed facility complies with Section B, the Community Planning Committee for the potentially affected parkland or open space must be notified. The proposed facility must then be reviewed by the following advisory bodies for a recommendation:~~
- ~~i) — Community Recreation Council for park or open space where encroachment is proposed;~~
 - ~~ii) — Area Committee, a subcommittee of the Park and Recreation Board, or Citizens' Advisory Committee for open space area where encroachment is proposed, as appropriate;~~
 - ~~iii) — Design Review Committee, subcommittee of the Park and Recreation Board, as appropriate; and~~
 - ~~iv) — Park and Recreation Board, or governing open space Task Force for those areas where they exist.~~
- ~~c. — The recommendation of the Community Recreation Council, the Area Committee or Citizen's Advisory Committee, and the Design Review Committee, as applicable, shall be submitted to the Park and Recreation Board or governing open space Task Force. The Park and~~

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~~Recreation Board, or governing open space Task Force, shall submit its recommendation as follows:~~

- ~~i) For minor telecommunication facilities, to the Park and Recreation Director, who shall determine whether the facility should be authorized.~~
- ~~ii) For major telecommunication facilities, to the City Council, who shall determine whether the facility should be authorized.~~

~~If the facility is authorized, the Real Estate Assets Department shall negotiate and prepare the necessary encroachment authorization.~~

C. Written Encroachment Authorization Required.

[No change in text.]

1) through 7) [No change in text.]

D. Fees and Costs.

~~4.~~ It is the City's policy that the Permittee shall pay an encroachment authorization fee established to recover costs associated with processing the request for encroachment authorization, and with monitoring, inspection or installation of the encroachment where appropriate. In addition, the City shall require payment of an annual encroachment fee which will include a reasonable charge for use of City property and recovery of annual inspection cost.

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~~2. All monies received for placement of minor telecommunication facilities on parkland and open space areas shall be deposited into the Park and Recreation Department General Fund budget. All monies received for placement of major telecommunication facilities shall be deposited into an appropriate account for use within the parkland or open space area where the facility is located.~~

~~3. Telecommunication facilities receiving encroachment authorization for parkland or open space may be subject to additional costs, including but not limited to, costs associated with mitigation of visual or physical impacts to the specific park or open space site, and costs associated with complying with applicable local, state or federal law.~~

E. Development Permits.

[No change text.]

F. Permit Issuing Authority/Responsibilities.

~~1. Neighborhood Code Compliance Department - Responsible for the protection of City property from unauthorized encroachments and enforcement related thereto.~~

~~2. 1. Neighborhood Code Compliance Department - Responsible for the protection of City property from unauthorized encroachments and enforcement related thereto.~~

~~3. 2. Real Estate Assets Department - Responsible for the issuance of encroachment authorization on general City property and leaseholds. and, for~~

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~~negotiation and preparation of encroachment authorizations for previously approved telecommunication facilities to be located on dedicated or designated parkland or open space. It is also responsible for providing the other departments with information regarding property lines, ownership and title, as necessary.~~

4. Park and Recreation Department - Responsible for the issuance of encroachment authorizations, ~~and for approval by the Park and Recreation Director of the placement of minor telecommunication facilities,~~ on dedicated and designated parkland and open space. It is also responsible, in consultation with the ~~Planning and Development Review~~ Development Services Department for certain coastal rights-of-way which are not used as streets.
- ~~5.4.~~ Engineering and Capital Projects Department - Responsible for issuance of encroachment authorization on land owned by the Water and Sewer Funds.
- ~~6.~~ ~~Planning and Development Review Department~~ - Responsible for the review ~~and issuance of discretionary permits associated with all applications for telecommunication facilities.~~

II. POLICIES – EROSION CONTROL MEASURES

A. through C. [No change in text.]

III. POLICIES – DRAINAGE CONTROL MEASURES

A. through B. [No change text.]

IV. POLICIES – EXISTING ENCROACHMENTS

A. through D. [No change text.]

HISTORY:

“Horton Plaza - Billboards”

Adopted by Resolution R-169963 03/15/1962

Repealed by Resolution R-254869 08/24/1981

(Incorp. into Council Policy 700-05 “Horton Plaza - Use Of”)

“Encroachments on City Property”

Adopted by Resolution R-282396 07/26/1993

Amended by Resolution R-291658 05/24/1999

Amended by Resolution R-_____