

RESOLUTION NO. 186396

RESOLUTION ESTABLISHING POLICY NO. 700-18
REGARDING UNDERGROUND STRUCTURES WITHIN
THE PUBLIC RIGHT OF WAY.


WHEREAS, the City Council in conference determined that a statement of its policy regarding underground structures within the public right of way should be made; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, as follows:

That the policy of The City of San Diego with respect to underground structures within the public right of way shall be as stated in the document filed in the office of the City Clerk as Document No. 696206.

BE IT FURTHER RESOLVED, that the Council Secretary be, and she is hereby instructed to add the aforementioned policy to the Council Policy Manual.

Presented by T. W. Fleeter

APPROVED: EDWARD T. BUTLER, City Attorney 

By James S. Milch
James S. Milch, Deputy

COUNCIL POLICY

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PURPOSE

To establish a policy for the approval of underground building or foundation structures within the public right of way.

BACKGROUND

The Council has approved the encroachment of underground building or foundation structures within the right of way principally within the core area of the City. In view of the increasing value of real estate throughout the City, it is anticipated that this method of construction will increase. This policy sets forth basic criteria to be used in the approval of such underground structures.

POLICY

The encroachment of building or foundation structures within the public right of way may be approved under the following conditions:

- A. General conditions for permanent underground structures located within a public right of way:
 1. The property owner shall provide for necessary steps to protect, maintain, replace, or relocate existing facilities within the right of way during construction.
 2. Consideration shall be given to the amount of property frontage used by permitted use under this policy in order to protect the use of the street for traffic purposes, utility facilities and services to adjoining property.
 3. Prior to the issuance of any permits for construction within the right of way, the owner shall enter into an agreement with the City which shall contain the following provisions and any other provisions deemed necessary to protect the public interest:

- a. Absolve the City of any liability for damage to public or private property or personal injury as a result of the encroachment.
 - b. Grant the City and utility company free and unlimited access to the structure as may be required to maintain, repair, replace, or relocate any public improvements or utility company facilities within or immediately adjacent to the encroaching structure.
 - c. Hold the City and utility company harmless against liability from property damage or personal injury with respect to any City-owned or utility company-owned or leased facilities therein.
 - d. Provide for the removal of a structure and restoration of the right of way and affected utility facilities upon abandonment or removal of a structure.
3. Structures must be constructed within the limits of the reversionary rights of the property unless specific approval is obtained from the owner of the fee. If the owner of the fee is the City, the Council may approve a lease agreement for the area occupied by the structure at an amount commensurate with the use, but in no case less than 6% of the assessed value of the adjoining property per year.
- B. Special conditions for permanent underground structures encroaching into the right of way to a point no farther than three feet behind the existing or future curb line:

1. The top of such structures shall be at least three feet below the existing curb grade.
2. The use of the structure may be any of those uses permitted in the zone for the adjacent property, or as adopted in the Master Plan of the area.
3. Such encroachments must be approved by the City Engineer.

C. Special conditions for permanent underground structures encroaching into the right of way farther than a point three feet behind the existing or future curb line:

1. In general, all such structures shall be located at least five feet below the existing curb line to a point eight feet beyond the curb line; 15 feet below the street to a point five feet from the center line; and 30 feet below the street in the five foot area on each side of the center line.
2. An exception may be permitted for the construction of access ramps to underground structures provided:
 - a. Ramps do not extend further than 8 feet beyond the curb line.
 - b. Adequate space is left along the property frontage for the installation of utility facilities as may be required for utility service.
 - c. Ramps shall be constructed only in front of the property to be served.
3. Provision shall be made for protection, replacement, or relocation of such utility facilities as directed

by the City Engineer, such work to be done in accordance with the engineering requirements of the owner of said facilities.

4. The encroaching structures shall be limited to uses in conformance with the zoning of adjacent property.
5. Such encroachment shall be granted only upon approval of the City Council.

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4. The encroaching structures shall be limited to uses in conformance with the zoning of adjacent property.
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