



Encroachment Permit Process

Public Works Department

Utility Services/Land Use/Energy Development
Committee

December 12, 2016

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CURRENT PROCESS

1. RMC Section 13.08.15: "No facilities or structures shall be constructed, or placed upon a street right-of-way or upon City-owned easements except upon issuance of an encroachment permit by the City."
2. It is standard practice for affected Departments to review the encroachment permit application and for the Director of Public Works to provide final approval.

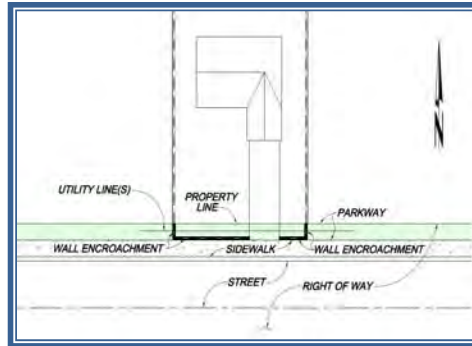


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PRIVATELY OWNED WALLS AND/OR FENCE ENCROACHMENTS

Typically occurs where the public sidewalk is adjacent to the curb and there is parkway between the sidewalk and the private property line.



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PRIVATELY OWNED WALLS AND/OR FENCE ENCROACHMENTS (CONT'D)

Private wall and/or fence encroachment applications are denied for the following primary reasons:

1. ROW is often set aside and relied on for various utilities.
2. ROW is often secured when streets are first constructed to allow for future widening of the roadway.
3. Private structures within the ROW present a liability to the City in terms of public safety.

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PRIVATELY OWNED WALLS AND/OR FENCE ENCROACHMENTS (CONT'D)

1. Requests for privately owned walls and/or fence encroachments have increased.
2. Many property owners City-wide have built such improvements in the right-of-way without City approval.
3. Code Enforcement notifies property owners of illegal encroachments on a complaint basis.



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REGIONAL CITIES' POLICY PRIVATELY OWNED WALLS AND/OR FENCE ENCROACHMENTS

Staff researched the following cities: Ontario, Rancho Cucamonga, East Vale, Fontana, Colton, Norco, Lake Elsinore, Grand Terrace, Loma Linda, Victorville, Moreno Valley, and Highland.

1. Only Ontario, Colton, Lake Elsinore, and Moreno Valley allowed private wall and/or fence encroachments in the public ROW.
2. These cities allow the subject encroachments only under specific conditions of approval.



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RECOMMENDED OPTIONS

1. No change to the current policy (i.e. not allow private wall and/or fence encroachments in the public ROW).

OR

2. Revise current policy to allow the issuance of private wall and/or fence encroachments only under specific conditions of approval.



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CONDITIONS OF APPROVAL COVENANT AND AGREEMENT

Solidifies a contractual agreement between the Owner/Applicant and the City for the wall and/or fence encroachment that it is transferred to future buyers of the subject property.



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CONDITIONS OF APPROVAL (CONT'D)

OWNER'S INSURANCE CERTIFICATE

If the subject encroachment causes injury to a person, the plaintiff could name the City as a defendant due to the encroachment being in the public right-of-way. Owner/Applicant would be required to provide a certificate of insurance naming the City as additionally insured.



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CONDITIONS OF APPROVAL (CONT'D)

PERMIT EXPIRATION/RENEWAL

To assure insurance requirements are met in perpetuity, a wall and/or fence encroachment permit would expire (e.g. after one year) with an automatic, no-fee renewal upon proof of current insurance certificate.



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CONDITIONS OF APPROVAL (CONT'D)

STREET OPENING PERMIT

Owner/Applicant to also obtain a Street Opening Permit for the construction of walls and/or fences in the public right-of-way. All applicable fees, insurance, business and contractor license requirements shall apply. Improvements shall be subject to City inspection.



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ADMINISTRATIVE POLICY

An Administrative Policy would formalize the procedure for obtaining a Fence/Wall Encroachment Permit and describes the circumstances and conditions under which such an encroachment permit would be issued.



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RMC AMENDMENT



Direct the City Attorney's Office to amend current Code to address private wall and/or fence encroachments and provide guidance pertaining to the conditions of approval.



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RECOMMENDATIONS

That the City Council:

1. Review the current policy and process related to the issuance of encroachment permits as they relate to privately owned walls and/or fences constructed in the public ROW.
2. Provide direction to staff regarding the policy and process related to the issuance of encroachment permits as they relate to walls and/or fences in the public ROW.
3. Direct the City Attorney's Office to amend RMC Section 13.08.015 to specifically state policy related to the construction of privately owned walls and/or fences in the public ROW.



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QUESTIONS?



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