



CITY OF DEL MAR CITY COUNCIL POLICY BOOK

110	PRIVATE ENCROACHMENTS INTO CITY RIGHTS-OF-WAY	DATE ADOPTED:	10/19/15
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POLICY

This policy memorializes the City Council’s position on which types of private encroachments are compatible with and enhance the public areas that City rights-of-way represent and, conversely, which types of encroachments are inappropriate because they would change the character and perception of a right-of-way area to one of being under private ownership and/or benefit rather than being a public space.

Appropriate Uses of City Rights-of-Way or Easements

There are numerous circumstances in Del Mar where an improved (paved) section of a City right-of-way is narrower than the width of the right-of-way itself. This results in an area of unimproved right-of-way adjacent to private property. In many cases, the owner of the adjacent property, or designee, proposes to install landscaping and other landscape-related improvements in the unimproved portion of the right-of-way. This has the beneficial effect of beautifying the area adjacent to the paved roadway, without the City having to bear the costs for installing or maintaining the improvements. These are generally considered to be an appropriate use of a right-of-way but still subject to review under the Encroachment Permit process.

There are also circumstances where an encroachment is proposed as a means to provide a driveway or entry path across the unimproved right-of-way between the paved section of the right-of-way and the adjacent private property. These too are deemed an appropriate and justifiable use of a City right-of-way or easement. Such proposals are generally approved, unless it is determined that the proposed encroachment would:

1. Present a public health or safety hazard, such as:
 - a) Creating a trip hazard or other impediment to pedestrians
 - b) Creating an unsafe line of sight for pedestrians or motorists
 - c) Interfering with or not accommodating safe pedestrian passage (retention/provision of a continuous, minimum five-foot-wide “safe harbor” along the edge of the paved roadway is the standard applied by the City);
2. Result in a loss of on-street public parking;
3. Be inconsistent with the City’s planned use for the area;
4. Result in a wholesale change in appearance or use of the area, to the detriment of the community;
5. Interfere with development or use on an adjacent public or private property;
6. Result in a permanent feature (e.g., stone wall or reinforced structure) that would be difficult to remove if the City exercises its right to modify the use of the area subject to the Encroachment Permit



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Inappropriate Proposals for Use of a Right-of-Way or Easement

It is the City's policy that proposals for development encroachments that would result in an impression or appearance that the encroached upon area is owned by or reserved solely for the private use of the adjacent property will not be authorized unless the City Council makes a finding that the proposed encroachment will result in a public benefit to the community.

Examples of such inappropriate encroachments include: fences, hedges, or vegetation that would create the impression that the "walled-off" area is private vs. public property; and pools, spa or other amenities that would be used primarily for the benefit of the adjacent property, rather than for the public at large.