



OFFICE OF THE CITY ATTORNEY
Long Beach, California

ORD-21

CHARLES PARKIN
City Attorney

MICHAEL J. MAIS
Assistant City Attorney

MONTE H. MACHIT
Assistant City Attorney

PRINCIPAL DEPUTIES

Gary J. Anderson
Charles M. Gale
Anne C. Lattime

DEPUTIES

C. Geoffrey Alford
Richard F. Anthony
William R. Baerg
LaTasha N. Corry
Haleh R. Jenkins
Monica J. Kilaita
Nicholas J. Masero
Dawn A. McIntosh
Barbara J. McTigue
Lauren E. Misajon
Katrina R. Pickett
Howard D. Russell
Arturo D. Sanchez
Victoria A. Silcox
Linda T. Vu
Amy R. Webber
Theodore B. Zinger

July 24, 2018

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Recommendation to declare ordinance amending the Long Beach Municipal Code by adding Section 14.04.015 relating to work within or on a public street or right-of-way, obstruction of a public street or right-of-way, read the first time and laid over to the next regular meeting of the City Council for final reading. (Citywide)

DISCUSSION

Pursuant to your request on May 15, 2018, this ordinance has been prepared and is submitted for your consideration.

SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

CHARLES PARKIN, City Attorney

By

AMY R. WEBBER
Deputy City Attorney

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AMENDING THE LONG BEACH
MUNICIPAL CODE BY ADDING SECTION 14.04.015
RELATING TO WORK WITHIN OR ON A PUBLIC STREET
OR RIGHT-OF-WAY, OBSTRUCTION OF A PUBLIC
STREET OR RIGHT-OF-WAY

The City Council of the City of Long Beach ordains as follows:

Section 1. Section 14.04.015 is added to the Long Beach Municipal
Code to read as follows:

14.04.015 Work within or on a public street or right-of-way, obstruction of a
public street or right-of-way – permit required, regulations, penalties
for non-compliance.

A. Definitions.

1. “Activity or Work Permissible within a Public Street” is
defined as any work or activity permitted by this Code, or authorized by the
Director of Public Works.

2. “Emergency Work” is defined as immediate and
unplanned action that must be taken to alleviate a hazardous condition,
which represents an immediate threat to life, health, safety, or property.
This includes continuous efforts to effect the restoration of interrupted utility
services (electrical, water, gas, wastewater and telecommunications).

3. “Peak Hour Construction and Right-of-Way Obstruction
Regulations” is defined as all regulations contained in this Section that
control and limit all construction and obstruction activity in the public right-

1 of-way during "Peak Traffic Hours".

2 4. "Peak Traffic Hours" is defined as Monday through
3 Friday, 6:00 a.m. to 8:30 a.m. and 3:30 p.m. to 6:30 p.m.

4 5. "Street Classifications Subject to Work Hour
5 Restrictions" is defined as major and secondary highways, or collector
6 streets, as designated in the transportation element of the general plan.

7 6. "Temporary Street Closure" is defined as the temporary
8 restriction of all vehicular traffic for construction purposes authorized by a
9 valid permit, and an approved "Traffic Management Plan."

10 7. "Traffic Lane Closure" is defined as any activity within
11 the public street (from curb-line to curb-line), or in an alley, which reduces
12 the usable width to the point where one or more lanes of traffic cannot
13 move safely and efficiently.

14 8. "Traffic Management Plan" is defined as a plan that
15 addresses traffic control requirements in a construction area, and along
16 detour routes. The operation of a Traffic Management Plan is affected by
17 the project's construction phasing, construction schedules, and work area
18 required by the contractor, and shall be consistent with the contractor's
19 project requirements, provided by the Department of Public Works.

20 9. "Worksite Traffic Conditions" is defined as those
21 physical conditions, including signage, signal devices, operation of
22 equipment, and conduct of workers (which are required by law), permit and
23 plans to provide adequate street space, and accommodate traffic demands,
24 particularly during peak traffic hours.

25 B. Permit required. No person shall effect a Traffic Lane Closure,
26 perform work within or on any Public Street or public right-of-way, or
27 obstruct any Public Street or public right-of-way for any reason without first
28 applying for and obtaining a permit from the Bureau of Engineering. The

1 person or entity requesting the permit shall pay all applicable permit fees for
2 the issuance of "SI", Excavation, Maintenance Hole, Sewer, Excavation "E"
3 and Excavation Utility permits for work in the public right-of-way or any
4 permit issued by the Bureau of Street Services for obstruction of the public
5 right-of-way.

6 1. Prohibition on work or obstructions during peak traffic
7 hours. Notwithstanding any other provision of this Code, no person or
8 entity shall effect a "Traffic Lane Closure," perform work within or on any
9 public street or right-of-way or in any manner obstruct a public street or
10 right-of-way on those "Street Classifications Subject to Work Hour
11 Restrictions" during "Peak Traffic Hours," all as defined above.

12 2. Exemption from work or obstruction prohibition during
13 peak traffic hours.

14 a. "Emergency Work" as defined above shall be
15 exempt from the prohibition on work or obstruction of public streets or
16 rights-of-way during "Peak Traffic Hours" if the party performing the
17 emergency work obtains approval from the Department of Public Works
18 prior to the work being initiated in the right-of-way and obtains a permit
19 within forty-eight (48) hours of beginning the emergency work.

20 b. If a party desires to have a non-emergency
21 public right-of-way construction project or other "Traffic Lane Closure"
22 exempted from the prohibition on work or obstruction of public streets or
23 rights-of-way during "Peak Traffic Hours," the party shall submit the request
24 with its permit application to the appropriate City permitting agency along
25 with a "Traffic Management Plan." If the "Traffic Management Plan" is
26 approved by the City for work during "Peak Traffic Hours," the project is
27 exempt.

28 3. Fee for processing applications for exemption from

1 work or obstruction prohibition during Peak Hours. A fee for processing
2 each request submitted pursuant to the provisions of Paragraphs B pf
3 Subdivision 2 of this Subsection shall be established by City Council
4 resolution.

5 C. Application for permit. Any application for a permit under this
6 Section shall include the following information:

7 1. The name, address and telephone number of the
8 applicant and the person responsible for the work or obstruction of the
9 public street or right-of-way;

10 2. The name, location and area of the street for which the
11 permit is desire; and

12 3. A description of the work to be done within the public
13 street or right-of-way and an explanation of why the proposed obstruction of
14 the public street or right-of-way is necessary.

15 D. Penalties for non-compliance.

16 1. Administrative penalties.

17 a. The failure to obtain a permit pursuant to this
18 Section, the failure to abide by the "Peak Hour Construction and Public
19 Right-of-Way Obstruction Regulations" contained in this Section, the failure
20 to comply with "Worksite Traffic Conditions" or the violation of any special
21 condition or requirement of a valid construction permit issued pursuant to
22 the Long Beach Municipal Code, shall subject the violator to administrative
23 penalties as set forth in Chapter 9.65 of this Code, in an amount
24 established by City Council resolution.

25 b. Any administrative penalty issued pursuant to
26 this Section shall be governed by the provisions set forth in Section
27 9.65.060 of the Long Beach Municipal Code.

28 2. Criminal prosecution for multiple violations. Four (4) or

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Lona Beach, CA 90802-4664

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more administrative citations issued to the same person or entity within twelve (12) months may constitute a misdemeanor under the City of Long Beach's Municipal Code, may subject the violator to prosecution by the City of Long Beach and may subject the violator to other potential criminal penalties as allowed by law.

Section 2. The City Clerk shall certify to the passage of this ordinance by the City Council and cause it to be posted in three (3) conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the Mayor.

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 2018, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

City Clerk

Approved: _____
(Date)

Mayor