

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY AMENDING CHAPTER 3.90, SUBSECTIONS 8.56.020.C, 8.76.010.E, 8.76.010.J, 8.76.017.C, SECTIONS 8.76.030, 8.76.110, 9.37.170, 14.04.015, CHAPTER 14.08, SECTIONS 21.33.045 AND 21.45.400; BY ADDING CHAPTERS 14.44 AND 14.48; AND BY REPEALING CHAPTERS 8.59 AND 14.32

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

Section 1. Chapter 3.90 of the Long Beach Municipal Code is amended to read as follows:

CHAPTER 3.90

DEVELOPMENT PERMIT CENTER SURCHARGE

3.90.010 Purpose.

The purpose of this Chapter is to impose a surcharge to fund the continuous upgrade, improvement and maintenance of technology for development projects and services.

3.90.020 Surcharge.

A. There shall be added to each fee imposed or authorized by the provisions of Titles 12, 14, 18, 20 and 21 of this Code; and Part 12.01 of the rules, regulations, and charges governing potable water, reclaimed

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1 water, sewer service, and the emergency water conservation plan adopted  
2 by the Long Beach Board of Water Commissioners, a surcharge in an  
3 amount as set forth in the Schedule of Fees and Charges established by  
4 City Council resolution.

5 Exception: The surcharge shall not apply to the fees or  
6 charges required in Chapters 18.15, 18.16, 18.17, and 18.18 of this Code,  
7 and Sections 18.20.150, 21.60.650 and 21.61.070 of this Code.

8 B. The City Manager is authorized to establish appropriate  
9 procedures to carry out the provisions of this Chapter.

10  
11 Section 2. Subsection 8.56.020.C of the Long Beach Municipal Code is  
12 amended to read as follows:

13 C. "Weeds" and/or "debris" includes all bushes, vines, trees,  
14 grass or other vegetation, whether cultivated or uncultivated, and whether  
15 dead or growing, and all refuse and rubbish of any kind or description, or  
16 wood, asphalt, concrete and similar materials, or tin cans, parts of  
17 machinery, implements and automobiles, any of which cause unpleasant or  
18 noxious odors, or which are or may become a refuge or breeding place for  
19 insects and vermin, or which conceal or are capable of concealing filth and  
20 other unsanitary conditions, or which are, or are capable of becoming, a fire  
21 or other hazard to the use and occupancy of neighboring properties, or  
22 which obstruct or hinder the use of any public street, sidewalk, alley or way.

23  
24 Section 3. Subsection 8.76.010.E of the Long Beach Municipal Code is  
25 amended to read as follows:

26 E. Dead, decayed, diseased or hazardous trees, vegetation, weeds  
27 and debris constituting unsightly appearance, dangerous to public safety and  
28 welfare, or detrimental to neighboring properties or property values;

1 Section 4. Subsection 8.76.010.J of the Long Beach Municipal Code is  
2 amended to read as follows:

3 J. Clothesline visible from public view including front yard areas,  
4 in side yard areas, and corner lots;

5  
6 Section 5. Subsection 8.76.017.C of the Long Beach Municipal Code is  
7 amended to read as follows:

8 C. Prohibited materials. No wood, plastic or similar materials  
9 shall be used to cover window openings, whether glazed or unglazed,  
10 provided that plywood may be used if painted in a color conforming to and  
11 consistent with the existing color of the vacant unit or units and is so  
12 approved by the Director of Development Services or his/her designee.

13  
14 Section 6. Section 8.76.030 of the Long Beach Municipal Code is  
15 amended to read as follows:

16 8.76.030 Abatement—Hearing—Notice—Form.

17 If the owner fails to comply with the notice of the appropriate City  
18 official to abate the subject nuisance within the time specified in the notice  
19 to abate, the City official shall apply to the Board of Examiners, Appeals and  
20 Condemnation for a hearing and a finding of a nuisance. Notice of such  
21 hearing shall be substantially in the following form:

22  
23 NOTICE OF HEARING TO DETERMINE EXISTENCE OF  
24 PUBLIC NUISANCE AND TO ABATE IN WHOLE OR IN PART

25  
26 NOTICE IS HEREBY GIVEN that on the \_\_\_\_\_ day of  
27 \_\_\_\_\_, 20\_\_ , at the hour of \_\_\_\_\_ m., the Board of  
28 Examiners, Appeals and Condemnation of the City of Long Beach will hold

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a public hearing in the Council Chambers of the Long Beach City Hall, located at 411 West Ocean Boulevard, Long Beach, California, to ascertain whether certain premises situated in the City of Long Beach, State of California, known and designated as \_\_\_\_\_, constitute a public nuisance subject to abatement by the rehabilitation of such premises or by the repair or demolition of buildings or structures situated thereon. If said premises, in whole or part, are found to constitute a public nuisance as defined by Section 8.76.010 of the Long Beach Municipal Code, and if the same are not promptly abated by the owner, such nuisances may be abated by municipal authorities, and the costs of rehabilitation, repair or demolition plus incidental enforcement costs will be assessed upon such premises and such costs will constitute a lien upon such land until paid.

Said alleged violations consist of the following: \_\_\_\_\_.

Said methods of abatement available are: \_\_\_\_\_.

All persons having any objection to or interest in said matters are hereby notified to attend a meeting of the Board of Examiners, Appeal and Condemnation of the City of Long Beach to be held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at the hour of \_\_\_\_\_ .m., when their testimony and evidence will be heard and given due consideration.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(City Official)

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1                   Section 7.   Section 8.76.110 of the Long Beach Municipal Code is  
2 amended to read as follows:

3           8.76.110    Abatement by City—Notice.

4                   If the nuisance is not completely abated by the owner within the  
5 designated abatement period, the City Manager or such other City official as  
6 may be designated by him shall serve notice on the owner of the affected  
7 premises by certified mail at his last known address as it appears on the last  
8 equalized assessment roll a notice of intent to abate nuisance which shall  
9 be substantially in the following form:

10  
11                                   NOTICE OF INTENT TO ABATE NUISANCE

12  
13           NOTICE IS HEREBY GIVEN that an inspection made of the premises or  
14 property known and designated as \_\_\_\_\_  
15 was made on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ , and a  
16 determination made that the order to abate the nuisance at said premises or  
17 property by the Long Beach City Council on \_\_\_\_\_ had not  
18 been complied with. Abatement of said nuisance will be accomplished by  
19 either City forces or private contractor in accordance with the specifications  
20 attached hereto and costs of such abatement will constitute a lien upon said  
21 property until paid. Notice is hereby given that said abatement will be  
22 undertaken ten (10) days after the date of this notice, and you are herewith  
23 notified to remove from the area of your affected premises those articles you  
24 deem of value within said ten-day period of time. Articles removed from the  
25 premises in the accomplishment of said abatement will be held in storage  
26 for a period of thirty (30) days at (location) \_\_\_\_\_  
27 and a claim for articles removed may be made within said thirty (30)-day  
28 period. Articles not claimed and removed from the storage location within

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said thirty-day period will be discarded or will be sold if determined to have value.

A statement of costs incurred in the abatement with charges to be assessed will be mailed to you after completion.

Section 8. Section 9.37.170 of the Long Beach Municipal Code is amended to read as follows:

9.37.170 Notice of lien.

The City shall file in the office of the County Recorder a certificate substantially in the following form:

NOTICE OF LIEN

Under the authority of Government Code Sections 38773.5 and 53069.4, as well as Chapter 9 of the Long Beach Municipal Code, the City did on \_\_\_\_\_, 20\_\_\_, abate a nuisance upon the real property hereafter described, and also on \_\_\_\_\_, 20\_\_\_, did impose the cost of the abatement and administrative costs and penalties upon the real property. The City of Long Beach claims a lien for costs/charges on the real property for the expense of doing the work in the amount of \$ \_\_\_\_\_ and for the amount of \$ \_\_\_\_\_ for administrative costs and \$ \_\_\_\_\_ for administrative penalties, for a total amount of \$ \_\_\_\_\_. This amount is a lien against the real property until it is paid, with interest at the legal rate per year from \_\_\_\_\_, 20\_\_\_ (insert date of confirmation of statement), and discharged of record. The real property referred to above, and upon which the lien is claimed is that certain parcel of land situated within the City of Long Beach, County of Los Angeles, State of California, more particularly as follows: \_\_\_\_\_

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\_\_\_\_\_

Dated \_\_\_\_\_, 20\_\_.

City of Long Beach

By \_\_\_\_\_

Section 9. Section 14.04.015 of the Long Beach Municipal Code is amended 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.

"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.

"After Hours Work" is defined as construction and obstruction activity in public right of way during outside of Regular Hours Work.

"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 affect the restoration of interrupted utility services (electrical, water, gas, sewer, wastewater and telecommunications).

"Parking Lane Closure" is defined as any activity within an existing designated parking lane where parking space is reserved and parking for public use is not allowed.

1 "Peak Hour Construction and Right-of-Way Obstruction Regulations" is defined as  
2 all regulations contained in this Section that control and limit all construction and  
3 obstruction activity in the public right-of-way during After Hours Work on Public  
4 Right-of-Way or Peak Traffic Hours on Street Classifications Subject to Work Hour  
5 Restrictions.

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

9  
10 "Regular Hours Work" is defined as construction and obstruction activity in the  
11 public right of way during Monday through Friday from 7:00 a.m. to 4:00 p.m.

12  
13 "Right-of-Way" means any easement or land owned by the City and used or  
14 designated for use as a street, parkway, alley, utility corridor, walkway,  
15 promenade, or bike path, and the surfaces thereof, and the airspace above such  
16 surfaces and the subsurface area below such surfaces and includes any right-of-  
17 way to be dedicated in the future.

18  
19 "Sidewalk Closure" is defined as any activity within the sidewalk (property line to  
20 curb) which reduces the usable sidewalk width, interrupts pedestrian traffic and is  
21 a possible cause of safety hazard.

22  
23 "Street Classifications Subject to Work Hour Restrictions" is defined as Temporary  
24 Street Closure or Traffic Lane Closure on major and secondary highways, or  
25 collector streets, as designated in the Transportation Element of the General Plan.

26  
27 "Temporary Street Closure" is defined as the temporary restriction of all vehicular  
28 traffic for construction purposes authorized by a valid permit, and an approved



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Traffic Management Plan.

"Traffic Lane Closure" is defined as any activity within the public street, travel lane, bike lane or in an alley, which reduces the usable width to the point where one or more lanes of traffic cannot move safely and efficiently.

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

"Worksite Traffic Conditions" is defined as those physical conditions, including signage, signal devices, operation of equipment, and conduct of workers (which are required by law), permit and plans to provide adequate street space, and accommodate traffic demands, particularly during Peak Traffic Hours on Traffic Lane Closure.

B. Permit required. No person shall affect a Traffic Lane Closure, Sidewalk Closure or Parking Lane Closure or perform work within or on any Public Street or public Right-of-Way, or obstruct any Public Street or public Right-of-Way for any reason without first applying for and obtaining a permit from the City. The person or entity requesting the permit shall pay all applicable permit fees required for any Activity or Work Permissible within a Public Street or public Right-of-Way.

1. Exemption from obtaining permit prior to any work or obstruction on Public Street or Right-of-Way. Emergency Work as defined above shall be exempt from Peak Hour Construction and Right-of-Way

1 Obstruction Regulations during Peak Traffic Hours on Street Classifications  
2 Subject to Work Hour Restriction. Advance notification shall be given to  
3 the Department of Public Works prior to the work being initiated. A permit  
4 shall be obtained within forty-eight (48) hours of beginning the Emergency  
5 Work.

6 2. Exemption from Peak Hour Construction and Right-Of-  
7 Way Obstruction Regulations for Public Works Approved Non-Emergency  
8 Work. The permittee or applicant shall submit the request with a complete  
9 permit application to the Department of Public Works. Applicable Traffic  
10 Management Plan and After Hours Work or Peak Traffic Hours shall be  
11 approved by the Department of Public Works.

12 3. Applicable fees for processing applications shall be  
13 applied. A fee for processing each request submitted pursuant to the  
14 provisions of paragraph 2 of this Subsection shall be established by City  
15 Council resolution.

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

18 1. The name, address and telephone number of the  
19 applicant and the person responsible for the work or obstruction of the  
20 public street or any right-of-way;

21 2. The name, location and area of the street or right-of-  
22 way for which the permit is desired; and

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

26 4. Any other items as requested on the most current  
27 application form or requested during review of a permit application  
28 submittal.

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D. Penalties for non-compliance.

1. Administrative penalties.

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

b. Any administrative penalty issued pursuant to this Section shall be governed by the provisions set forth in Section 9.65.060.

2. Criminal prosecution for multiple violations. Four (4) or more administrative citations issued to the same person or entity within twelve (12) months may constitute a misdemeanor under the Long Beach Municipal Code, may subject the violator to prosecution by the City and may subject the violator to other potential criminal penalties as allowed by law.

Section 10. Chapter 14.08 of the Long Beach Municipal Code is amended to read as follows:

CHAPTER 14.08

EXCAVATIONS, STREET IMPROVEMENTS AND TEMPORARY  
OCCUPATION OF RIGHTS-OF-WAY

ARTICLE I. – GENERAL PROVISIONS

14.08.010 Definitions.

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For the purpose of this Chapter, unless the context clearly requires a different meaning, the words, terms and phrases set forth in this Section are defined as follows:

"Applicant" means any person who applies for a permit under this Chapter.

"City" means the City of Long Beach, California, acting by and through the City Council.

"Contractor" means a person who, for a fixed sum, price, fee percentage or compensation other than wages, undertakes or offers to undertake or purports to have the capacity to construct, alter, repair, add to, improve or install surface improvements to streets or any part thereof, or makes or commences to make any excavation in or under the surface of any right-of-way for the installation, repair, or removal of any pipe, conduit, duct or tunnel in the right-of-way.

"Facilities" means pipes, pipelines, conduits, ducts, tunnels, poles, pole lines, cables, wires, vaults, traps, manholes, appliances, attachments and appurtenances used in connection therewith, for the purpose of the transmission, transportation or conveyance of any liquid or gaseous substance or substances, steam, air, electrical energy, or for communication purposes, or for the purpose of providing housing or protection for interior lines used, intended to be, or capable of being used for such purpose or purposes.

"Permit" means the document issued to an applicant by the City under this Chapter and includes any amendment or supplement to any such permit.

1 "Permittee" means any person to whom a permit has been granted and  
2 issued under the terms of this Chapter.

3  
4 "Person" means an individual, a receiver, a trustee, a co-partnership, a  
5 joint venture, a firm, an unincorporated association, a syndicate, a club, a  
6 society, a trust, a private corporation, a limited liability company, a public  
7 corporation, a municipal corporation, a County, a State, a national  
8 government, a municipal, County, State or federal agency, board or  
9 commission, a water district, a utility district, a political subdivision, a school  
10 district, a drainage, irrigation, levee, replenishment, reclamation or  
11 conservation district, and a flood control district, whether acting for  
12 himself/herself/itself or in any representative capacity.

13  
14 "Right-of-way" means any easement or land owned by the City and used or  
15 designated for use as a street, parkway, alley, utility corridor, walkway,  
16 promenade, or bike path, and the surfaces thereof, and includes any right-  
17 of-way to be dedicated in the future.

18  
19 "Improvements" means the repair, modification, alteration, removal, or  
20 addition of facilities including, but not limited to, grading, paving, curbs,  
21 gutters, sidewalks, driveways, landscaping, street lighting, traffic signals,  
22 stairs, fences, walls, and any other work in the right-of-way.

23  
24 ARTICLE II. – PERMITS

25 14.08.020 Public works permit—Required.

26 A. No person shall perform any of the following activities without  
27 first obtaining a permit from the City Engineer authorizing such person to  
28 make such excavation, improvement, or temporary occupancy:

1                   1.     Make any excavation or improvements in, on, or under  
2     the surface of any right-of-way.

3                   2.     Use or occupy any right-of-way with a temporary  
4     occupancy consisting of any structure, container, materials, equipment,  
5     vehicles, or construction signs related to work on private property.

6                   3.     Make any excavation or improvements in, on, or under  
7     the surface of private property adjacent to any right-of-way, where lateral  
8     support to such right-of-way or improvements or property within such right-  
9     of-way is affected by such excavation. Such excavation shall be subject to  
10    the additional requirements specified in Article IV of this Chapter.

11                  B.     This Section shall not be applicable to excavations performed  
12    pursuant to contracts awarded for such work by the Board of Harbor  
13    Commissioners, or any activity for which a permit has been granted  
14    pursuant to Chapter 5.60.

15  
16    14.08.030    Public works permit—Application.

17                  A.     The application for a permit under this Chapter shall be  
18    completed and filed with the City Engineer on the City's application form.  
19    Such permit application shall contain the name and street address of the  
20    applicant and shall describe in detail the excavation, improvement, or  
21    temporary occupancy to be made and the purpose of the excavation,  
22    improvement or temporary occupancy.

23                  B.     The application for excavation or improvements shall include  
24    seven (7) copies of a construction plan, twenty-four inch by thirty-six inch  
25    (24" x 36") size showing the proposed location of the excavation or  
26    improvements and the dimensions thereof, together with such other details  
27    as the City Engineer may require on such plan. The plan shall be drawn to  
28    a scale of not more than twenty feet to the inch (20' = 1") and all copies

1           thereof shall be to this scale. In addition, the application shall include  
2           evidence that the applicant is either:

3                     1.     Under contract with the City for the excavation or  
4           improvement; or

5                     2.     Authorized by law or a valid franchise to use the right-  
6           of-way for which an excavation or improvement is being requested; or

7                     3.     Authorized by a pipeline permit issued under Chapter  
8           15.44 to use the right-of-way for which an excavation or improvement is  
9           being requested; or

10                    4.     Required to construct the excavation or improvement  
11          in conjunction with a building permit issued under Chapter 18.04 or a  
12          conditional use permit issued under Chapter 21.25.

13                    5.     All construction plans submitted with an application for  
14          an excavation permit relating to any hazardous liquid facilities shall be  
15          signed by a California registered civil and/or mechanical engineer and shall  
16          be accompanied by a certification, signed by the engineer, that all facilities  
17          are in compliance with either the Federal Hazardous Liquid Pipeline Safety  
18          Act of 1979 and its amendments, the California Pipeline Safety Act of 1981  
19          and its amendments, or the City hazardous liquid pipeline ordinance and its  
20          amendments, whichever one applies.

21                    6.     The applicant shall provide any additional information  
22          which the City Engineer may deem necessary.

23                    7.     The application and permit shall be signed by the  
24          applicant or the authorized agent of the applicant. Any person signing the  
25          application and permit as an agent shall furnish written authorization signed  
26          by the applicant designating the person as an authorized agent for such  
27          purpose.

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1 14.08.040 Public works permit—Fees.

2 A. Every applicant for a permit under this Chapter shall, when  
3 the application is filed, pay to the City a fee established by resolution of the  
4 City Council. If, at any time, the City Engineer determines that the original  
5 fee paid by the applicant is not sufficient to recover costs accrued by the  
6 City, then the City Engineer may, at his discretion, require that an additional  
7 fee be paid in an amount sufficient to recover said costs.

8 B. The holder of a valid franchise or permit, with the approval of  
9 the City Engineer, may pay pipeline permit and inspection fees on a  
10 monthly basis. The City Engineer shall bill the holder each month for the  
11 fees accrued during the preceding month.

12  
13 14.08.050 Public works permit—Deposit or bond.

14 A. Unless the City Engineer has authorized the permittee to  
15 perform the resurfacing or repair of the surface of any highway, public street  
16 or alley which may be removed in part or damaged by excavation, fill or  
17 temporary occupancy pursuant to a permit issued under this Chapter, the  
18 permittee shall deposit with the City the estimated cost of resurfacing or  
19 repairing the surface of the highway, public street or alley which may be  
20 damaged or destroyed.

21 B. To ensure compliance with conditions established in the  
22 permit, the City Engineer may require that the permittee furnish a surety  
23 bond, cash deposit, or letter of credit. All bonds shall comply with  
24 regulations issued by the City pursuant to Section 2.84.040 and shall be in  
25 an amount equal to twice the estimated cost of performing the work  
26 provided, however, that the minimum amount of such bond shall not be less  
27 than one thousand dollars (\$1,000.00), and the minimum duration of the  
28 bond shall not be less than one (1) year. The condition of such bond shall



1 be that the permittee will perform the work authorized by any permit issued  
2 pursuant to this Code in a good and workmanlike manner and to the  
3 satisfaction of the City Engineer.

4  
5 14.08.060 Public works permit—Issuance.

6 A. If the applicant complies in all respects with this Chapter and  
7 with all other applicable laws, rules, regulations and ordinances of the City,  
8 and pays the fees and deposits required by this Chapter, and said permit is  
9 not being sought for excavation in a right-of-way that has been constructed,  
10 reconstructed, or resurfaced within the previous sixty (60) months or slurry  
11 sealed within the previous twenty-four (24) months, then the City Engineer  
12 shall issue the permit.

13 B. However, permits for excavation in a right-of-way that has  
14 undergone construction, reconstruction or resurfacing within the previous  
15 sixty (60) months or slurry sealed within the previous twenty-four (24)  
16 months and are not for an emergency repair or a new service connection to  
17 an underground utility shall be deemed discretionary and subject to the  
18 approval of the City Council.

19 C. The City Council may authorize a discretionary permit under  
20 the following criteria:

21 1. The applicant can demonstrate that the permit for  
22 excavation in a right-of-way is immediately required for the general health,  
23 safety, and welfare of the City and, as such, cannot be delayed until the  
24 sixty (60) month or the twenty-four (24) month period, described above,  
25 has expired; and

26 2. The applicant can demonstrate that alternatives to  
27 excavating in the right-of-way, such as alternative routing or construction  
28 methods, including boring or excavation of the parkway, are not possible.

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14.08.070 Public works permit—Failure to obtain.

A. If a person begins excavation, the construction of any improvement, or occupies the right-of-way prior to obtaining a permit, the fee to obtain a permit shall be double the fee prescribed in Section 14.08.040, as a penalty for the failure to obtain a permit as required herein.

B. The payment of the penalty shall not relieve such person from fully complying with this Chapter in the execution of the work, or from penalties prescribed herein.

14.08.080 Public works permit—Defective work.

If improvements are made under a permit and do not comply with the specifications and this Chapter, the City Engineer shall notify the person to whom the permit was granted and identify the defect or failure and the person shall, within a period of five (5) days after the service of the notice, proceed with reasonable diligence to remedy the defect or failure. If the person does not comply with the requirements of the notice, the City Engineer may order the improvements removed at the expense of the permittee and the permittee shall promptly reimburse the City for the cost of removal.

14.08.090 Default.

A. If a permittee fails to comply with this Chapter, the City may notify the permittee in writing of the failure and identify the time within which the failure must be remedied. If the permittee fails or refuses to remedy the failure within the period of time stated in the notice, the City Engineer may revoke the permit and correct the failure. The permittee shall promptly reimburse the City for any expense incurred by the City in correcting the failure. If the permittee continues work after the permit has

1           been revoked and if the City files suit to restrain the permittee or otherwise  
2           enforce this Chapter, then the permittee shall reimburse the City for its  
3           reasonable costs and expenses in connection therewith, including attorney  
4           fees and court costs.

5           B.     Any structure, materials, barricade, vehicle or other object  
6           placed in the right-of-way in violation of this Chapter may be removed and  
7           stored in any convenient place by the City Engineer or City officer or  
8           employee designated by him/her. If it is removed, the City will notify the  
9           owner thereof, in writing, within three (3) working days after its removal. If  
10          the owner fails to claim the items and pay the expenses of removal and  
11          storage within thirty (30) days after removal, the items shall be deemed to  
12          be unclaimed property in possession of the Police Department and may be  
13          disposed of pursuant to Chapter 2.78.

14  
15       14.08.100    Liability insurance.

16                Permittee shall secure and maintain, during the life of the permit,  
17                commercial general liability insurance as described in regulations issued by  
18                the City pursuant to Section 2.84.040.

19  
20       14.08.110    Exemption from fees, bonds and deposits.

21                If improvements or excavations are made under this Chapter by or  
22                for a municipal corporation, a County, a State, the federal government, a  
23                County, State or federal agency, board or commission, a drainage,  
24                irrigation, levee, replenishment, reclamation or water district, or a  
25                conservation or flood control district, then no fees or deposits shall be  
26                required prior to the issuance of the permit.

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14.08.120 Public works permit – Terms and conditions.

A. A permit shall be subject to the following conditions:

1. The permit shall be kept at the site of the work and shall be shown on demand to a City representative.

2. Permittee shall comply with California Government Code Section 4216 and following. Markings made pursuant to such Code Section shall not be made more than fourteen (14) calendar days prior to commencement of work and all markings shall be removed within two (2) months after the date markings are no longer needed or completion of the work, whichever occurs first.

3. The permit is nontransferable.

4. Improvements that will be maintained by the permittee may require the execution of a maintenance agreement with the City by the permittee.

5. For excavations or improvements, the City Engineer may revoke the permit unless the work begins within sixty (60) days after the issuance of the permit and is diligently performed to completion in the sole opinion of the City Engineer.

6. Permittee shall defend, indemnify and hold harmless the City, its officials and employees from and against all liability, loss, damage, demands, causes of action, proceedings, fines, penalties, costs, and expenses including attorney fees arising in any way from permittee's work under the permit and, furthermore, permittee shall obtain the commercial general liability insurance required in regulations issued by the City pursuant to Section 2.84.040.

7. Permittee shall, at permittee's sole expense, within ten (10) days after receipt of written notification from the City Engineer to do so, remove any improvement or facilities or, with the prior approval of the City

1 Engineer, relocate them to a site designated by the City Engineer if at any  
2 time the improvement or facilities interfere with the use, repair, improvement,  
3 widening, change in grade, or relocation of any right-of-way or highway, or  
4 interfere with the construction of any subway, viaduct or other underground  
5 conduit or structure of any kind.

6 B. Either when the permit is issued or at any time thereafter until  
7 the completion of work or end of the temporary occupancy, the City  
8 Engineer may require additional conditions as he finds reasonably  
9 necessary for the protection of the right-of-way or highway, for the  
10 prevention of undue interference with traffic, or to assure the safety of  
11 persons using the right-of-way or highway.

12  
13 14.08.130 Refusal to issue authorized.

14 The City Engineer may refuse to issue a permit for improvements,  
15 excavation, or temporary occupancy in the right-of-way if the applicant has  
16 previously failed or refused to comply with this Chapter or if the excavation,  
17 improvement, or temporary occupancy will endanger the health and welfare  
18 of the residents of the area where the work will be performed.

19  
20 14.08.140 Public works permit—Construction standard.

21 All improvements shall be performed to the satisfaction of the City  
22 Engineer and in accordance with the "Standard Specifications For Public  
23 Works Construction" current edition, approved plans, and with this Chapter.

24  
25 ARTICLE III. – CONSTRUCTION STANDARDS

26 14.08.150 Removal of materials and debris.

27 Any person performing or causing to be performed any work under  
28 this Chapter shall remove or cause to be removed from the site of any

1 excavation or improvements all debris and excess materials within three (3)  
2 days after the completion of the work.

3  
4 14.08.160 Inspection.

5 At least two (2) working days prior to beginning work or temporary  
6 occupancy, permittee shall notify the City Engineer by giving permittee's  
7 name, permit number, type of work, starting date, time of construction,  
8 name of permittee's representative at the site and the underground service  
9 alert ticket number. After work begins, permittee shall notify the City  
10 Inspector of the daily work in progress and the type of inspection required.  
11 Failure to contact the City Engineer or his representative or the use of  
12 unacceptable materials or unacceptable work shall result in a stop  
13 construction notice being issued. Work shall not resume until corrections  
14 have been made.

15  
16 14.08.170 Subsurface installations—Depths.

17 A. No person shall install any conduit, duct, shoring structure or  
18 tunnel within three feet (3') below established grade of any right-of-way.  
19 Installations such as manholes, culverts, and catch basins, within three feet  
20 (3') below the established grade of the right-of-way will require the City  
21 Engineer's approval. For all other installations below the established grade  
22 of the right-of-way, the City Engineer may, at his or her discretion, upon  
23 receipt of sufficient evidence of necessity or public benefit, grant a special  
24 permit for these installations. A shoring structure shall include, but is not  
25 limited to, tiebacks, excavation, caisson/soldier piles, and raker/brace  
26 system. Tiebacks shall include, but is not limited to, the steel tendon,  
27 coupler, bearing plate, anchor plate, and element made of cementitious or  
28 similar material anchoring the tieback tendon in the soil or rock. For any

1 structure left in place within the public right-of-way, applicants shall provide  
2 to the satisfaction of the City Engineer the as-built construction drawings and  
3 electronic files in current Geographic Information System (GIS) format, as  
4 per the latest official City datum plane to be used to update the City's GIS.

5 B. This Subsection shall apply to a proposed subsurface shoring  
6 system requiring tiebacks pursuant to a permit issued under this Chapter.  
7 When the tiebacks are no longer required due to the construction of a  
8 permanent retaining structure to maintain the stability of the subterranean  
9 structure, the tiebacks shall comply with the following:

10 1. Remove the tiebacks installed within eight feet (8')  
11 below the established grade of the right-of-way.

12 2. For any proposed tieback left in place between eight  
13 feet (8') and twenty feet (20') below the established grade of the right-of-  
14 way, applicants shall pay to the Public Works Department a mitigation fee,  
15 as determined by City Council resolution, for each tieback or portion  
16 thereof. This fee will be refunded upon proof of the entire tieback removal.

17 3. Where the tieback is allowed to remain in place at  
18 more than eight feet (8') below the established grade of the right-of-way,  
19 de-tension, decouple and remove the last extension of the tendon installed.

20 4. For any portion of the tieback made of cementitious or  
21 similar material left in place between eight feet (8') and twenty feet (20')  
22 below the established grade of the right-of-way, the compressive strength  
23 shall not exceed two thousand (2,000) pounds per square inch (psi).

24 5. Tiebacks shall maintain a minimum of two feet (2')  
25 clearance from any existing utility line or subsurface structure.

26 6. The City Engineer may modify the tieback  
27 requirements if extensive utility lines are present in the area or the street is  
28 on the Paving Moratorium List.

1 C. Exception: The City Engineer shall have the authority to  
2 exempt City-owned projects.

3 D. The City may issue an administrative citation and impose  
4 administrative penalties for violation of and failure to satisfy these  
5 requirements in accordance with Chapter 9.65.  
6

7 14.08.180 Backfill—Standards.

8 All excavations shall be backfilled in a manner satisfactory to the  
9 City Engineer and in accordance with the "Standard Specifications For  
10 Public Works Construction," current edition. If, at any time, the backfill fails  
11 and creates an unsafe condition, the City Engineer shall notify permittee of  
12 the failure and permittee shall repair the failure, at his/her/its own expense,  
13 to the satisfaction of the City Engineer.  
14

15 14.08.190 Backfill—Temporary road surface.

16 Whenever the pavement or surfacing is not immediately replaced,  
17 the surface of the backfill shall conform to the level of the adjoining street  
18 surface and shall be compacted so that it is hard and smooth enough to be  
19 safe for traffic to travel any legal rate of speed. If required by the City  
20 Engineer, permittee shall cover the backfilled area with temporary  
21 surfacing.  
22

23 14.08.200 Right-of-way surface replacement.

24 The surface of the right-of-way shall be replaced under the direction  
25 and supervision of the City Engineer at the sole cost and expense of the  
26 permittee, who shall maintain the surface for one (1) year after the date of  
27 completion of the work. If permittee fails to maintain the surface during  
28 said one (1) year period, the City Engineer may give to permittee a written



1 notice specifying the manner in which the permittee has failed to maintain  
2 the surface and the work necessary to be performed to restore the surface.  
3 Permittee shall have five (5) days after notice is given to restore or repair  
4 the surface and, if permittee fails or refuses to do so, the City Engineer, if  
5 he deems it advisable, shall have the right to perform the restoration or  
6 repair. Permittee shall be liable for the actual cost of the work plus twenty-  
7 five percent (25%) for City's administration and overhead, and shall  
8 promptly pay these charges to the City on receipt of a statement from the  
9 City. All work shall be done in accordance with the requirements provided  
10 in the "Standard Specifications For Public Works Construction," current  
11 edition.

12  
13 14.08.210 Backfill—Responsibility.

14 Permittee shall maintain the surface of the backfill safe for vehicular  
15 traffic and pedestrian travel until the pavement or surfacing has been  
16 replaced and accepted by the City Engineer, and be liable for all accidents  
17 which occur to vehicles or pedestrians at the site of the excavation, until  
18 the pavement or resurfacing has been replaced. If it is impractical to  
19 maintain the surface of the backfill in a safe condition for traffic, then  
20 permittee shall maintain barriers and red lights around it until the pavement  
21 or surfacing has been replaced.

22  
23 14.08.220 Safe crossings to be maintained.

24 Permittee making any excavation shall maintain safe crossings for  
25 vehicles and pedestrian traffic at all street intersections and safe crossings  
26 for pedestrians at intervals not to exceed six hundred feet (600'). If any  
27 excavation is made across a public street, at least one (1) safe crossing  
28 shall be maintained at all times for vehicles and pedestrians. All materials

1 excavated from the site shall be laid compactly along the side of the trench  
2 and kept trimmed to cause as little inconvenience as possible to public  
3 travel. If the right-of-way is not wide enough to hold the excavated material  
4 without using part of an adjacent right-of-way, permittee shall erect and  
5 maintain a tight board fence on and along the sidewalk and keep a  
6 passage at least three feet (3') wide open and along the right-of-way. The  
7 excavation shall be performed in such a manner so that it does not  
8 interfere with access to fire stations and fire hydrants. Materials or  
9 obstructions shall not be placed within fifteen feet (15') of fire hydrants.  
10 Passageways leading to fire escapes or firefighting equipment shall be kept  
11 free from piles of materials or other obstructions.

12  
13 14.08.230 Gutters and watercourses.

14 Permittee shall keep and maintain all gutters free and unobstructed  
15 for the full depth of the adjacent curb and for at least one foot (1') in width  
16 from the face of the curb at the gutter line. When a gutter crosses an  
17 intersecting street, an adequate waterway shall be provided and  
18 maintained at all times. Permittee shall also provide for the flow of any  
19 watercourse intercepted during the excavation and shall restore the  
20 watercourse to the same condition that existed prior to the excavation, or  
21 shall make other provisions for waterflow as the City Engineer may direct.

22  
23 14.08.240 Plan to conform to actual installation.

24 Every person owning, using, controlling or having an interest in any  
25 facilities in a right-of-way, except a service pipe or pipes, shall file in the  
26 office of the City Engineer, within sixty (60) days after the completion of  
27 installation of the facilities, a corrected record plan drawn to scale of not  
28 more than forty feet to the inch (40' = 1"), showing the facilities provided,

1           however, that if the plan filed with the City Engineer at the time the permit is  
2           issued is correct in every detail, permittee may make a notation to that effect  
3           on the plan, and the plan shall constitute compliance with this Section.

4                       Final acceptance by the City Engineer for the work performed under  
5           the permit is dependent on full compliance with this Section.

6

7           14.08.250    Abandonment of facilities.

8                       Whenever facilities (except a service pipe or pipes) located under  
9           the surface of any right-of-way or the use of the facilities is abandoned or  
10          removed, the person owning, using, controlling or having any interest  
11          therein shall, within sixty (60) days after such abandonment, file in the  
12          office of the City Engineer a plan giving in detail the location of the facilities  
13          that were abandoned.

14

15          14.08.260    Repair of ruptured oil and gas lines.

16                      Whenever facilities used for the transportation of oil, gasoline, gas or  
17          other petroleum products rupture in such a manner that the contents  
18          escape, the person maintaining or using the facilities shall immediately  
19          make repairs to ensure future safe operation of the facilities in accordance  
20          with Section 15.44.140. If the office of the City Engineer is closed when  
21          the break occurs, such person may make an excavation in the right-of-way  
22          to repair the facilities without first obtaining a permit from the City Engineer.  
23          Any person making an excavation under these circumstances shall apply  
24          for a permit not later than ten o'clock (10:00) a.m. on the first day the office  
25          of the City Engineer is open following the rupture. When the facilities are  
26          near a leaking facility, the person maintaining such facilities shall uncover  
27          them for inspection if required to do so by the City Engineer.

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1 14.08.270 Temporary occupancy standards.

2 Any temporary occupancy of a right-of-way subject to this Chapter  
3 shall meet the following requirements:

4 A. The maximum width of the temporary occupancy including  
5 contents shall be eight feet (8'), unless otherwise approved by the City  
6 Engineer in accordance with this Chapter;

7 B. The temporary occupancy shall not be located in a manner  
8 which interferes with the flow of traffic;

9 C. Proper warning devices shall be provided for the temporary  
10 occupancy, to the satisfaction of the City Engineer;

11 D. The temporary occupancy shall be kept in good repair, free of  
12 graffiti, and in a safe and sanitary condition;

13 E. Temporary occupancy shall be located in a manner which  
14 does not interfere with visibility, vehicular mobility, or access to facilities.  
15 Locations shall be determined by the City Engineer at the time of  
16 application;

17 F. Permits will be issued for a period not to exceed ninety (90)  
18 days. On expiration, a new permit must be obtained on the basis of a new  
19 application.

20

21 14.08.280 Warning lights and barricades.

22 A permittee shall keep and maintain barriers at each end of  
23 excavations, at such places as may be necessary along the excavation,  
24 and at the site of the improvements or temporary occupancy. Permittee  
25 shall place and maintain signs or barriers with letters not less than three  
26 inches (3") high, which state the name of the permittee. Permittee shall  
27 also place and maintain lights at ends of the excavation and at a distance  
28 of not more than fifty feet (50') along the line thereof. For improvements

1 and temporary occupancy, permittee shall place and maintain such lights  
2 as necessary to warn the public. Permittee shall maintain the lights until  
3 the excavation has been entirely refilled or until the improvements or  
4 temporary occupancy has been completed. Any lighting required by this  
5 Section shall be operated between sunset and sunrise of the next day. If  
6 permittee fails to place and maintain such barricades and lights the City  
7 may place and maintain such barricades and lights and permittee shall  
8 promptly reimburse the City in the manner provided in Chapter 14.12.  
9

10 14.08.290 Relocation of existing interferences.

11 Permittee shall move and relocate all interferences, including trees,  
12 poles, street lighting systems, parking meters, sewers, storm drain  
13 appurtenances and culverts located within the area of work which will  
14 interfere with the facilities, at the permittee's expense. Permittee shall  
15 obtain consent of the owner of the interference for the removal or relocation  
16 and shall furnish to the City Engineer satisfactory evidence of all necessary  
17 arrangements for removal or relocation of the interference prior to the  
18 issuance of the permit.  
19

20 14.08.300 Basement appurtenances.

21 No person shall construct or place a freight elevator or windows for  
22 basement lighting in the sidewalk area back of the established curblines of  
23 the street; provided, however, that existing freight elevators and window  
24 lights may be repaired or replaced if, in the opinion of the City Engineer,  
25 such freight elevators and window lights do not constitute a hazard to the  
26 public.

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1 14.08.310 Plans.

2 A. Plans shall be prepared for right-of-way improvements  
3 whenever, in the opinion of the City Engineer, such plans are necessary for  
4 the proper construction and supervision of the work.

5 B. When such plans are necessary, they may be prepared, at  
6 the option of the City Engineer, by a qualified licensed engineer employed  
7 by the applicant. Plans submitted by the licensed engineer must first be  
8 approved by the City Engineer before a permit is issued and work is  
9 started. The City Engineer may specify the type and quality of material on  
10 which the plans are drawn, the size of the sheets, the scale of the  
11 drawings, the size and wording of the title, the information to be shown on  
12 the plans, and all other details, including specifications, in connection  
13 therewith. All plans for the work shall become the property of the City and  
14 shall be filed in the office of the City Engineer. When the qualified licensed  
15 engineer submits the required plans, he/she shall pay to the City a  
16 processing fee in an amount prescribed by the City Council by resolution.

17  
18 14.08.320 Work stoppage authorized.

19 Whenever the City Engineer finds that any improvement or  
20 excavation is being constructed contrary to or in violation of this Code or if  
21 it comes to the attention of the City Engineer that any work under a permit  
22 is dangerous, unsafe or a menace to life, health or property, the City  
23 Engineer shall order the work to be immediately stopped or shall order the  
24 alteration of any dangerous or unsafe condition. Such order shall be in  
25 writing and shall specify the manner in which the work is dangerous,  
26 unsafe or a menace to life, health or property. After receipt of the order the  
27 permittee shall not continue with any improvement or excavation until the  
28 work has been made to comply with this Chapter and with the instructions

1 given by the City Engineer.

2  
3 ARTICLE IV. – EXCAVATIONS ADJACENT TO RIGHTS-OF-WAY

4 14.08.330 Public works permit—Additional terms and conditions.

5 Whenever a permit is required under Subsection 14.08.020.A.3 to  
6 excavate, occupy, or use any space below any public sidewalk, public  
7 street, or other right-of-way adjacent to private property for the purpose of  
8 facilitating the construction of a structure to be erected on such private  
9 property, a permit issued under this Chapter shall be subject to the  
10 following additional terms and conditions:

11 A. Permittee shall comply with any and all other requirements  
12 set forth in this Chapter.

13 B. Permittee shall retain a professional civil engineer registered  
14 in the State of California and legally qualified to locate property lines and  
15 reference structures to such property line to prepare a plan and profile  
16 drawing on twenty-four inch by thirty-six inch (24" x 36") sheet showing all  
17 installations, substructures, utilities, water works, drainage facilities and  
18 appurtenances between the property line and the centerline of the street or  
19 to such further line as may be identified by the City Engineer. The street  
20 profiles shall be shown using elevations in reference to the official City  
21 datum plane. The location of any substructure or underground utility  
22 between the curb and the property line shall be verified by spot excavation  
23 prior to completion of plans. Any other substructure which may be affected  
24 by the proposed excavation or construction shall also be verified by spot  
25 excavation.

26 C. Permittee shall comply with all standard procedures  
27 established by the City Engineer in connection with uses on rights-of-way  
28 adjacent to private property where a private structure will be constructed

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with specific reference to the following uses:

1. Removal of a portion of the right-of-way adjacent to private property during a portion of the construction period; or
2. Constructing steel, concrete, or steel and concrete structures in rights-of-way for the purpose of providing lateral support for the right-of-way during the construction period and allowing these structures to remain in the right-of-way after completion of the building.

14.08.340 Public works permit—Bond required.

In addition to the requirements set forth under Section 14.08.050, for excavations adjacent to the right-of-way, Permittee shall furnish a bond in an amount of one hundred and twenty-five percent (125%) of the total estimated cost of restoring the right-of-way to its original condition in the event of a failure of the lateral supports in the excavation site, as determined by the City Engineer. The bond may be a cash deposit, security equivalent to cash, or surety bond, provided in accordance with regulations issued by the City pursuant to Section 2.84.040.

Section 11. Section 21.33.045 of the Long Beach Municipal Code is amended to read as follows:

21.33.045 Harbor Department review in IP district.

Projects proposed on property located in the IP district shall be subject to review by the Harbor Department pursuant to Section 18.04.040 of the Municipal Code.

Section 12. Section 21.45.400 of the Long Beach Municipal Code is amended to read as follows:

21.45.400 Green Building Standards for public and private development.



1           A.     A green building, also known as a sustainable building, is a  
2 structure that is designed, built, renovated, operated or reused in an  
3 ecological and resource-efficient manner. Green buildings are designed to  
4 meet certain objectives such as protecting occupant health; improving  
5 employee productivity; using energy, water and other resources more  
6 efficiently; and reducing the overall impact to the environment. The City of  
7 Long Beach recognizes the benefit of green buildings and establishes a  
8 green building program.

9           B.     The Leadership in Energy and Environmental Design (LEED)  
10 Green Building Rating System created by the U.S. Green Building Council  
11 (USGBC) is hereby established as the rating system the City shall use in  
12 administering the green building program. Alternative green building  
13 systems may be substituted, at the discretion of the Director of  
14 Development Services, if the system can be demonstrated to achieve a  
15 comparable standard of achievement as LEED.

16           C.     No building permit shall be issued for the types of projects  
17 specified in this Section unless the project meets the level of LEED  
18 performance specified in this Section. The Director of Development  
19 Services shall have the authority to issue a clearance for all projects  
20 subject to the provisions of this Section for LEED compliance. Issuance of  
21 clearance shall be based on procedures established by the Director of  
22 Development Services.

23           1.     The following types of projects shall meet the intent of  
24 LEED at the certified level:

25                   a.     A new residential or mixed use building of fifty  
26 (50) dwelling units and fifty thousand (50,000) gross square feet or more;

27                   b.     A new mixed use, or nonresidential building of  
28 fifty thousand (50,000) square feet or more of gross floor area;

1 c. The alteration of an existing residential or mixed  
2 use building that results in the addition of fifty (50) dwelling units and fifty  
3 thousand (50,000) gross square feet or more;

4 d. The alteration of an existing mixed use, or  
5 nonresidential building that results in the expansion of fifty thousand  
6 (50,000) gross square feet or more; and

7 e. A new construction or substantial rehabilitation  
8 project for which the City provides any portion of funding.

9 2. The following type(s) of projects shall obtain LEED  
10 silver certification:

11 a. A new building on City land consisting of seven  
12 thousand five hundred (7,500) square feet or more of gross floor area.

13 b. The alteration of an existing building on City  
14 land that results in the addition of seven thousand five hundred (7,500)  
15 square feet or more of new gross floor area;

16 D. A project may be registered with the USGBC to obtain the  
17 required LEED certification, or a project may be certified by a third party as  
18 meeting the intent of LEED at the level required by this Section.

19 E. Projects consisting of multiple buildings on one (1) or several  
20 lots shall be evaluated based on total gross floor area or number of  
21 dwelling units for the entire building footprint to determine applicability of  
22 this Section.

23 F. The Director of Development Services shall have the  
24 authority to determine if the provisions of this Section apply to a given  
25 project in cases of uncertainty.

26 G. Each project shall apply for compliance in whichever LEED  
27 rating system the Director of Development Services deems most suitable to  
28 the project type. The project shall use the version of the rating system in

1 effect at the time the project is submitted for a building permit unless the  
2 project developer has elected to register with the USGBC in which case the  
3 project may use the rating system version which was in effect at the time  
4 the project registered.

5 H. If a commitment to LEED gold or higher certification is made,  
6 the project may be eligible for flexibility in regard to certain development  
7 standards including, but not limited to, usable open space and off-street  
8 parking requirements, as determined by the Director of Development  
9 Services.

10 I. The following development standards shall apply to all  
11 projects requiring site plan review:

12 1. Canopy trees shall provide shade coverage, after five  
13 (5) years of growth, of forty percent (40%) of the total area dedicated to  
14 parking stalls and associated vehicular circulation, or paving materials with  
15 a solar reflectance index of at least twenty-nine (29) shall be used on a  
16 minimum of fifty percent (50%) of paving surfaces dedicated to parking  
17 stalls and associated vehicular circulation;

18 2. Bicycle parking shall be provided at a minimum of one  
19 (1) space for every five (5) residential units, one (1) space for each five  
20 thousand (5,000) square feet of commercial building area, one (1) space  
21 for each seven thousand five hundred (7,500) square feet of retail building  
22 area and one (1) space for each ten thousand (10,000) square feet of  
23 industrial building area. Fractions shall be rounded up to whole numbers;

24 3. Roofs shall be designed to be solar-ready subject to all  
25 applicable state and local construction codes and provide conduit from the  
26 electrical panel to the roof; and

27 4. A designated area for the collection of recyclables  
28 shall be provided adjacent to the area for the collection of waste.

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Section 13. The Long Beach Municipal Code is amended by adding Chapter 14.44 to read as follows:

CHAPTER 14.44

TEMPORARY FENCING AND GRAPHIC SCREENING

14.44.010 Purpose.

The provisions of this Chapter shall govern the erection of temporary fencing on public or private property during periods of construction impacting the public right-of-way. This Chapter establishes parameters for such fencing.

14.44.020 Definitions.

For the purpose of this Chapter, unless the context clearly requires a different meaning, the words, terms and phrases set forth in this Section are defined as follows:

"City" means the City of Long Beach, California, acting by and through the City Council.

"Development" means the division of a parcel of land into two (2) or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any mining, excavation, landfill or land disturbance; or any use or extension of the use of land. This definition includes, but is not limited to subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the California Government Code); any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of the land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction,

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demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511 of the California Public Resources Code.)

"Graphics" is defined as visual images communicating a cohesive theme or concept.

"Person" means an individual, a receiver, a trustee, a co-partnership, a joint venture, a firm, an unincorporated association, a syndicate, a club, a society, a trust, a private corporation, a limited liability company, a public corporation, a municipal corporation, a County, a State, a national government, a municipal, County, State or federal agency, board or commission, a water district, a utility district, a political subdivision, a school district, a drainage, irrigation, levee, replenishment, reclamation or conservation district, and a flood control district, whether acting for himself/herself/itself or in any representative capacity.

"Structure" means any of the following, including but not limited to, building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, electrical power transmission, and distribution line.

"Temporary fencing" is defined as any fencing or barrier installed for demolition, construction, or other purposes to protect a development site or shield a development site from view.

//

1 14.44.030 Permit required.

2 No person shall erect temporary fencing without first applying for  
3 and obtaining a permit from the City. The person requesting the permit  
4 shall submit all required items and pay all applicable permit fees. This  
5 includes:

6 A. Plan drawings clearly identifying the perimeter fencing  
7 dimensions, location, and impacts to the abutting rights-of-way.

8 B. Public Works permit shall be obtained for the purpose of  
9 street use of right-of-way.

10 C. Color renderings of the proposed graphics on a scaled  
11 drawing clearly identifying the location of each image.

12 D. Breakdown of the image area per the categories outlined in  
13 Section 14.44.040.

14  
15 14.44.040 Graphic screening.

16 All temporary fencing erected on public or private property shall be  
17 screened with graphics representative of the City and/or the development  
18 being screened in accordance with all of the following conditions:

19 A. One hundred percent (100%) of the fenced area must contain  
20 graphics.

21 B. A minimum of forty percent (40%) of the fenced area must  
22 contain City images.

23 C. Up to thirty-five percent (35%) of fenced area can contain  
24 project specific images.

25 D. Up to twenty-five (25%) of fenced area can contain advertising  
26 for the site such as but not limited to contact information for a broker,  
27 leasing agent, and/or opening dates.

28 E. The total square footage of fenced area shall be calculated by

1 multiplying the height of the fence by the length of perimeter fencing that  
2 requires graphic screening.

3 EXCEPTION: The following are exempt from the requirement of this Section:

4 1. A project that has a duration of less than six (6) months  
5 per the submitted and approved construction schedule.

6 2. Graphic screening is not required on temporary fencing  
7 that is fronting or facing an alley or other areas not visible to the general  
8 public as determined by the City.

9

10 14.44.050 Maintenance.

11 All fencing and graphics shall be maintained in good condition.  
12 Damaged, torn, or faded fencing or graphic screening shall be replaced  
13 within five (5) days.

14

15 Section 14. The Long Beach Municipal Code is amended by adding  
16 Chapter 14.48 to read as follows:

17

#### CHAPTER 14.48

18

#### ENCROACHMENTS INTO THE PUBLIC RIGHT-OF-WAY

19

20 14.48.010 Purpose.

21 The provisions of this Chapter shall govern the encroachment of  
22 structures or a portion of a building into the public right-of-way. This  
23 Chapter establishes parameters for such encroachments not only at grade  
24 but also above and below grade.

25

26 14.48.020 Definitions.

27 For the purpose of this Chapter, unless the context clearly requires a  
28 different meaning, the words, terms and phrases set forth in this Section are

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defined as follows:

"Applicant" means any person who applies for a permit under this Chapter.

"City" means the City of Long Beach, California, acting by and through the City Council.

"Contractor" means a person who, for a fixed sum, price, fee percentage or compensation other than wages, undertakes or offers to undertake or purports to have the capacity to construct, alter, repair, add to, improve or install surface improvements to streets or any part thereof, or makes or commences to make any excavation in or under the surface of any right-of-way for the installation, repair, or removal of any pipe, conduit, duct or tunnel or any other construction purpose in the right-of-way.

"Development" means the division of a parcel of land into two (2) or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any mining, excavation, landfill or land disturbance; or any use or extension of the use of land. This definition includes, but is not limited to subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code); any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of the land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted



1 pursuant to the Z'berg-Nejedly Forest Practice Act of 1973 (commencing  
2 with Section 4511 of the California Public Resources Code.)

3  
4 "Improvements" means the repair, modification, alteration, removal, or  
5 addition of facilities including, but not limited to, grading, paving, curbs,  
6 gutters, sidewalks, driveways, landscaping, street lighting, traffic signals,  
7 stairs, fences, walls, and any other work in the right-of-way.

8  
9 "Installation and Maintenance Agreement" or "IMA" means the document  
10 required to formalize a binding agreement between an applicant and the  
11 City when work is being completed within the right-of-way that is not in  
12 compliance with or is outside of the City standards. The applicant is  
13 required to install and maintain the improvement for the duration of the  
14 agreement. This includes improvements such as artwork, decorative  
15 paving, or other objects. An improvement permit may not be issued until  
16 the IMA is executed.

17  
18 "Permit" means the document issued to an applicant by the City under this  
19 Chapter and includes any amendment or supplement to any such permit.

20  
21 "Permittee" means any person to whom a permit has been granted and  
22 issued under the terms of this Chapter.

23  
24 "Person" means an individual, a receiver, a trustee, a co-partnership, a  
25 joint venture, a firm, an unincorporated association, a syndicate, a club, a  
26 society, a trust, a private corporation, a limited liability company, a public  
27 corporation, a municipal corporation, a County, a State, a national  
28 government, a municipal, County, State or federal agency, board or

1 commission, a water district, a utility district, a political subdivision, a school  
2 district, a drainage, irrigation, levee, replenishment, reclamation or  
3 conservation district, and a flood control district, whether acting for  
4 himself/herself/itself or in any representative capacity.

5  
6 "Right-of-way" means any easement or land owned by the City and used or  
7 designated for use as a street, parkway, alley, utility corridor, walkway,  
8 promenade, or bike path, and the surfaces thereof, and the airspace above  
9 such surfaces and the subsurface area below such surfaces and includes  
10 any right-of-way to be dedicated in the future.

11  
12 "Structure" means any of the following, including but not limited to, building,  
13 road, pipe, flume, conduit, siphon, aqueduct, telephone line, electrical  
14 power transmission, and distribution line.

15  
16 14.48.030 Encroachments below grade.

17 A portion of a building or structure erected below grade that is  
18 necessary for structural support of the building or structure shall not project  
19 beyond the lot line, except that the footings, shoring devices, or other  
20 similar supports as determined by the City shall not project more than  
21 twelve (12) inches beyond the lot line. Encroachments below grade may be  
22 subject to fees as outlined in Chapter 14.08.

23  
24 14.48.040 Encroachments above grade.

25 A. Encroachments into the public right-of-way above grade and  
26 below eight feet (8') in height are prohibited. This includes, but is not  
27 limited to, any doors, windows, gates and other moveable objects that can  
28 open, project or encroach into the public right-of-way. All existing

1 encroachments into a street or alley must be remedied as part of a new  
2 development.

3 EXCEPTIONS: The following existing openings, projections or  
4 encroachments into a public right-of-way that cannot feasibly be modified  
5 as part of a new development may be permitted provided a warning device  
6 or other similar protection measure approved by the City is installed to  
7 minimize impact to the public. All improvements within the public right-of-  
8 way shall comply with City standards.

- 9 1. Existing fenestrations.  
10 2. Existing steps, ramps, or architectural features that are  
11 in a sidewalk.

12 B. Encroachments into the public right-of-way above eight feet  
13 (8') in height above a sidewalk are allowed for awnings, canopies, signs,  
14 architectural features, balconies, and windows. These improvements can  
15 encroach over the property line one (1) inch for each additional one inch  
16 (1") of clearance above eight feet (8'). The maximum encroachment shall  
17 be four feet (4') at a minimum clearance height of twelve feet (12').

18 C. Encroachments into the public right-of-way above seventeen  
19 feet (17' )in height above a sidewalk or alley are allowed for pedestrian  
20 walkways and bridges. The maximum encroachment shall be four feet (4')  
21 unless they span the entire length of the public right-of-way to connect  
22 adjacent private parcels.

23 D. Encroachments into the public right-of-way above seventeen  
24 feet (17') in height are allowed for lighting and other uses approved by the  
25 City.

26  
27 14.48.050 Permits required.

28 All encroachments into the public right-of-way shall applying for and

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obtaining a permit from the City. The person requesting the permit shall submit all required items and pay all applicable permit fees. This include plan drawings clearly identifying the encroachment and applicable dimensions with reference to the property line and public infrastructure within abutting public right-of-way.

Section 15. The Long Beach Municipal Code is amended by repealing Chapters 8.59 and 14.32.

Section 16. The City Clerk shall certify to the passage of this ordinance by the City Council and shall 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 (31<sup>st</sup>) day after it is approved by the Mayor, but in no event prior to January 1, 2020.

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I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of \_\_\_\_\_, 20\_\_, by the following vote:

Ayes: Councilmembers: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Noes: Councilmembers: \_\_\_\_\_

\_\_\_\_\_

Absent: Councilmembers: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
City Clerk

Approved: \_\_\_\_\_  
(Date)

\_\_\_\_\_  
Mayor

OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
411 West Ocean Boulevard, 9th Floor  
Lana Beach, CA 90802