



MEMORANDUM

Agenda Item #: 16
Meeting Date: 6/22/2021

TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS

THRU: LAURA GUGLIELMO, CITY MANAGER

FROM: BRIANNA RINDGE, COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: ADOPTION OF RESOLUTION R21-28 APPROVING A POLICY FOR REMOVAL OF UNAUTHORIZED ENCROACHMENTS AND RESOLUTION R21-29 ESTABLISHING ADMINISTRATIVE FINES FOR VIOLATIONS

DATE: JUNE 22, 2021

ACTION REQUIRED **CONSENT** **RECEIVE & FILE**

Recommendations

Staff recommends that the City Council:

- A. Approve Resolution No. R21-28 consolidating and updating existing Resolutions R05-32, R12-05, & R14-18;
- B. Approve the abatement prioritization described under “2) Abatement Prioritization” of this staff report;
- C. Approve Resolution No. R21-29 establishing administrative fines specifically for violations of PVEMC Chapter 12.04;
- D. Direct Planning Commission to consider recommending right-of-way vacation in Miscellaneous Application review; and
- E. Direct staff to commence the education campaign described under “5) Education Campaign” of this staff report.

Summary

Palos Verdes Estates Municipal Code (PVEMC) Chapter 12.04 makes it illegal to encroach upon public property or right-of-way without permission from the Public Works Director. On October 1, 2019, the Parklands Committee designated Chair Caroline Leach and Vice Chair Deborah Richie-Bray to an Encroachment Ad Hoc Committee. The goal of the ad hoc was two-fold: 1) to devise a plan on how to tackle the 200+ existing Parklands and right-of-way encroachments within the City; and 2) to update existing policies regarding encroachments, clarifying inconsistencies

and gray areas. The Committee met with Bob Wade (former Chair of the Parklands Committee and current Planning Commissioner), Ken Rukavina (Public Works & Community Development Director and City Engineer), and Brianna Rindge (Planning Manager) on October 17, November 6, and December 19, 2019. The Ad Hoc Committee presented ideas to the full Parklands Committee at both the November 14, 2019 and January 9, 2020 meetings, resulting in the below recommendations. At the January 9, 2020 meeting, the Parklands Committee recommended to City Council a revised policy to address how to address abatement of the 200+ existing Parklands and right-of-way encroachments within the City. City Council considered this matter at its February 11, 2020 meeting and continued the item with direction to explore a single shot clock for abatement by all violators, discuss prioritization of abatement, explore increasing fines and the feasibility in a fee schedule that includes continually escalating fines, to provide more detail on appeal abilities, and elaboration on which committee would be assigned review of restoration plans.

At the April 28, 2020 City Council hearing on the matter, the City Council elected not to move forward with any of the recommendations, including the proposed resolutions, abatement prioritization, and education campaign, before staff provided a fiscal analysis on the cost recovery of hiring a part-time Code Enforcement Officer on contract. Additionally, the Council directed staff to study bifurcating the fine structure for Parklands versus right-of-way encroachments and to prioritize safety-related and Parklands encroachments over right-of-way encroachments.

The City did not have a Finance Director at the time, and upon his hiring in August, 2020, no longer had a Public Works Director. The Public Works Director oversees Parklands operations. However, the City maintains a part-time Code Enforcement Officer on staff who is able to enforce the new resolutions, operate within the directed abatement priority list, and commence the education campaign. Staff anticipates the Public Works Director position will be filled by mid-July 2021.

Staff recommends that City Council move forward with the proposed resolutions, abatement priority, and education campaign to begin enforcement. The issues raised on April 28, 2020 as well as those discussed on February 11, 2020 are addressed within five sections consisting of the different action items proposed: 1) Policy Consolidation; 2) Abatement Prioritization; 3) Administrative Fines; 4) City Right-of-Way Vacation; and 5) Education Campaign.

Analysis

1) Policy Consolidation

Three policies currently exist regarding addressing encroachments represented by Resolution Nos. R05-32, R12-05, and R14-18. The Committee finds that portions of these policies are ineffective, problematic, and unclear and recommends a consolidation and update to remedy the identified problems. **Attachment A** (“Parklands & Encroachment Policy”) combines and redlines the three existing policies, attempting to meet these goals by:

1. Shortening the penalty-free abatement period from 5 years to 1 year and adding abatement period of 90 days for encroachments that only involve vegetation
2. Clarifying Committee and Commission scope;

To summarize the Committee's recommendation on this issue, with the exception of other code provisions such as the Street Tree Ordinance or Conditional Use Permits:

- Requests to approve any encroachment into Parklands shall be reviewed by the Parklands Committee.
 - Requests to approve any encroachment into right-of-way between private property and edge of street pavement shall be reviewed by the Planning Commission.
 - Requests to approve any other type of encroachment within right-of-way shall be reviewed by the Parklands Committee.
 - Planning Commission retains its right to condition approved projects to remove encroachments of any nature, whether located within City right-of-way or Parklands, but any request to deviate from Street Tree requirements shall always be reviewed by the Parklands Committee.
3. Clarifying applicability;
 4. Aligning definitions directly with those existing in PVEMC; and
 5. Eliminating outdated and no longer applicable language.

The Committee also considered innovative options for penalties not related to fines in addition to those already enacted by policy. After careful consideration, the proposed policy provides that a violating property owner shall not receive final sign-off on any permitted work if an encroachment still exists, even if the permit is unrelated to the encroachment. There is precedence for such a policy as the Neighborhood Compatibility process allows the Planning Commission to require encroachment removal prior to final sign-off. Should a violator wish to keep the encroachment, they could request so through the appropriate application.

Resolutions recommended by the Parklands Committee include shortening the penalty-free abatement period from 5 years down to 1 year, or 90 days for vegetative-only encroachments. As detailed within Section 5, all property owners will receive advertisement of the changes proposed by the resolutions and the City's intent to prioritize such enforcement. The Code Enforcement Officer maintains a database of all reported encroachments. This employee will verify the potential of the encroachment's existence and appropriately mail out a Notice of Violation (NOV) to property owners based on the abatement prioritization. That NOV will state the one year or 90-day deadline along with a suggested timeline of the different steps required for full abatement, from demolition to Palos Verdes Homes Association (PVHA) involvement to restoration plan approval and passed inspection, or a shot clock based on the date of the NOV. A complying property owner will communicate with the Code Enforcement Officer throughout the timeline to complete each required step.

City Council suggested a different method: send a notice to all property owners, whether in the Officer's database or not, and then thereafter the Code Enforcement Officer may immediately fine any property owner having an encroachment once a year or 90 days passes. This suggested method has several negative implications:

- (1) This would not be consistent with current practice. All other code enforcement violations are verified by the Code Enforcement Officer and then receive at least two NOVs followed by the first citation, and property owners have voiced knowledge that this is always the order of events; deviation from this by eliminating the Officer's verification and the two NOVs describing the known encroachment and instead going straight to citation may receive backlash or set precedence for enforcement of all other code violations.
- (2) Additional work would arise when each property owner contacts the Code Enforcement Officer asking if they have any encroachments, rather than the property owner only working with known encroachments. This would entail a site review similar to what is conducted in building plan check, which is only performed for applicants who pay for the service.
- (3) The City may receive pushback from property owners who do not have an encroachment especially as it is the responsibility of the property owner to obtain and pay for a property survey to prove lack of encroachment.
- (4) New encroachments will likely arise after the full notice; if the Code Enforcement Officer issues a fine one year from the notice, it would not meet the provisions of the adopted resolution that the property owner is afforded one year to abate.
- (5) New residents will move into PVE within the year, may have encroachments unknowingly, and suddenly be hit with a citation with no knowledge of the widespread notice that was sent a year prior, unless the City filed the notice against the property with the County Recorder.
- (6) Currently, the Code Enforcement Officer either (1) posts each NOV to the door of the violating property and takes a photo or (2) mails it via certified mail for legal records. The City would need to send the notice to every single property owner via certified mail to start the clock, which requires both staff and fiscal resources.
- (7) This method may be an option for abatement of current encroachments but does not resolve future new encroachments.

By the method proposed within the resolution, the City is afforded a complete record of the date the encroachment was reported to exist, description and photos of the encroachment, and the Code Enforcement Officer's actions regarding the property. This would also allow for systematic management of abatement of the encroachments based on staff resources. Citywide advertisement is still proposed to occur (see section 5 below), but such advertisement will not be an official NOV. City Council is asked to consider the pros and cons of the separate methods.

The Parklands Committee implements Parklands Policy developed to provide guidance to residents regarding the use of open and undeveloped space in the City parklands. Similar to a Change to Parklands application, it is recommended that the Parklands Committee maintain review of all Parklands restoration plans in order to ensure that the Parklands are restored within the policies set by the Committee and City Council. For restoration of right-of-way (between a property line and the street), staff recommends that the Public Works Department maintain review as a standard encroachment permit review.

2) *Abatement Prioritization*

After careful review of a map of reported encroachments (**Attachment C**) and photos and aerial imagery of some of the different intensities of encroachments found today around the City, the Committee recommended priorities for abatement of the 200+ encroachments. The City Council considered these recommendations on April 28, 2020. Consistent with City Council recommendations, the Code Enforcement Officer will prioritize Parklands encroachment abatement over right-of-way encroachment abatement, within the following parameters:

1. Fire road (if these exist) with a shortened timeframe of 60 days for full abatement
2. Strips that exhibit safety implications and/or are utilized to access schools and other public resources
3. Egregious encroachments
4. Concentrated areas to build momentum, in this order:
 - I. Torrance boundary
 - II. Palomino strip
 - III. Via De La Guerra area
 - IV. Via Olivera / Via Zumaya area
 - V. Via Arriba / Via Montemar / Mexico Place area
5. One-off encroachments

The ultimate goal is full abatement citywide to provide maximum public enjoyment of Parklands as intended by the City's original planners and General Plan. The City continues to pursue further action of encroachments that have already been denied by Planning Commission or the Parklands Committee, but the remaining 200+ is a complex task, and we must start somewhere. The Committee had recommended retaining a Code Enforcement Officer contracted on special project basis to handle the process from managing verification of whether the reported encroachment is legitimate through to full abatement. Funding for this additional service was not included in the FY 21-22 Proposed Budget. Staff recommends that we start with updating the fees and penalties and directing the current part-time Code Enforcement Officer to begin the process of issuing notices of violations in accordance with the City Council's priorities. In this initial process, staff will capture appropriate metrics to better determine the longer term staffing needs and potential additional revenue to complete a cost-benefit analysis prior to recommending additional staffing resources.

3) *Administrative Fines*

Administrative fines as currently set forth by PVEMC 1.16.010 – General Penalty Designated – consist of \$100 after the courtesy notice deadline lapses, followed by \$200 and \$500, for the same violation continued within one year. Such low fines do not motivate compliance. Short-term rental, social host, and cannabis violations yield fines of \$2,500, \$5,000, and \$7,500 sequentially. The Committee understands that encroachments may also pose health and safety risks to the public and violate the Deed Restrictions, thus recommends that the fines be greater than those incurred by violations of building code. Just like the abatement period is separated by vegetative-only and structural, the Committee recommends an elevated set of fines for the more egregious violations

(structural) compared to the vegetative-only encroachments. **Attachment B** is proposed Resolution No. R21-28 establishing the fines as follows.

| If Compliance Period is Unmet | Vegetative Encroachment Only | All Other Encroachments |
|--------------------------------------|-------------------------------------|--------------------------------|
| 1st Offense: | \$1,000 | \$2,500 |
| 2nd Offense: | \$2,500 | \$5,000 |
| 3rd Offense: | \$5,000 | \$7,500 |

The Parklands Committee asked that fines for other cities be included in the staff report to City Council as higher fines were advocated by many members of both the Committee and the public. Staff performed research and found that encroachments are not as elevated of an issue in other cities as they are in the City of Palos Verdes Estates due to the absence of deed-restricted Parklands in other cities. The City of Rancho Palos Verdes often seeks legal proceedings but maintains a \$2,500, \$5,000, \$7,500 fine structure for violation of conditions of approval, and removal of encroachments is a standard condition of all approvals by the Planning Commission. The only instances where it is not standard is if the applicant specifically requests special exception for an encroachment.

City Council asked staff to further explore the feasibility of even higher fines, specifically for bifurcated Parklands encroachments that consist of more than vegetation. The administrative fine amount a City may impose for a municipal code violation is tied to whether the violation is otherwise deemed a misdemeanor or infraction. Violations of the City’s municipal code are deemed misdemeanors unless specifically designated as an infraction. There are very few violations of PVEMC that are designated infractions: animal control, dog regulations, and sales tax violations. Under State law, a City may impose administrative fines in the maximum amount of \$100, \$200, and \$500 for those violations deemed infractions. State law does not impose a cap on the administrative fines amount that can be imposed on violations of the municipal code classified as misdemeanors. It should be noted that fines in excess of \$1,000 have not been expressly approved in any binding court decision; however, there are three areas where cities generally impose very high fines in an effort to achieve compliance with the municipal code: cannabis violations, short-term rental violations, and tree preservation violations. Maintaining an encroachment is a misdemeanor violation according to PVEMC section 1.16.010, so higher fines than those proposed by the policy appear to be permissible under State law.

Council directed staff to further explore the feasibility of continually escalating fines. Most cities provide for three fine levels with all subsequent violations remaining at the top tier. There is nothing that prohibits the City from continually increasing fines, however there are considerations. Foremost, PVEMC provides for the ability to count each day the encroachment remains as a separate violation; after the first administrative citation has been issued, the City could theoretically issue daily citations until abatement is achieved as fines rapidly accrue. The sooner the Code Enforcement Officer can make record of an encroachment, the higher the resulting fine. Additionally, escalating penalties would be difficult and cumbersome to track thereby becoming a burden on staff, and exponentially escalating fines might be viewed by a reviewing court as a violation of the excessive fines clause of the Eighth Amendment.

City Council also asked for clarification on appeal abilities. The City's determination that a condition constitutes an encroachment would not be immediately appealable. A notice of violation is not appealable under the PVEMC. Also, because it is essentially a warning without immediate legal consequences, due process does not require that it be appealable. An administrative citation, however, would be appealable within 15 days (see PVEMC section 1.50.080). A hearing officer's decision on an administrative appeal of an administrative citation is appealable to the Superior Court (see PVEMC section 1.50.090).

4) *City Right-of-Way Vacation*

There exist several instances of encroachment upon City right-of-way serving as a taking of City property, for example, a wall that extends beyond private property into right-of-way. Planning Commission has sometimes approved this type of nonstandard encroachment conditioned by a license agreement. However, in some instances, it could be of benefit for both the City and the adjacent property owner if the Planning Commission instead recommended that the City vacate right-of-way or easements that may be deemed unnecessary, e.g. right-of-way behind or alongside property that is not used for alleys for trails. The property owner is afforded the ability to maintain the structure, which would no longer be considered an encroachment, and would gain property, increasing their property value. The City would benefit from additional, but nominal, property tax revenue over time and no longer need to spend resources on abatement of the encroachment or carry liability risks. The Committee recommends that Planning Commission and City Council explore this option when reviewing Miscellaneous Applications for right-of-way encroachments in select cases where it may be appropriate.

5) *Education Campaign*

The Committee understands that this initiative may come as a surprise to property owners who may be completely unaware that their development is encroaching upon City Parklands or right-of-way and proposes notification of the initiative through various media. The City will advertise the initiative on the City's website and social media platforms and an article will be included in an email blast to those signed up for City emails and published in the newsletter. Staff also recommends that City Council dedicate resources to mailing a physical postcard notice to all property owners.

Environmental Considerations

Staff has determined that the adoption of this Ordinance will not have a significant environmental effect and therefore, adoption of the Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the State CEQA Guidelines (14 CCR § 15061(b)(3)).

Notification

A notice of public hearing was posted in accordance with the City's standard procedures.

Attachments

- A - Proposed Resolution No. R21-28: Parklands & Encroachment Policy – Redlined
- B - Proposed Resolution No. R21-29 establishing administrative fines
- C - [Map of reported encroachments](#)
- D - [October 1, 2019 Parklands Committee Meeting Staff Report](#)
- E - [November 14, 2019 Parklands Committee Meeting Staff Report](#)
- F - [January 9, 2020 Parklands Committee Meeting Staff Report](#)
- G - [February 11, 2020 City Council Meeting Discussion](#)
- H - [April 28, 2020 City Council Meeting Discussion](#)

RESOLUTION R21-28
PARKLANDS & ENCROACHMENT POLICY

THE CITY COUNCIL OF THE CITY OF PALOS VERDES ESTATES DOES HEREBY FIND, AND RESOLVE AS FOLLOWS:

SECTION 1: The City Council finds and declares as follows:

R05-32

I. POLICY FOR THE REMOVAL OF UNAUTHORIZED ENCROACHMENTS IN THE CITY'S PARKLANDS

The Policy for the Removal of Unauthorized Encroachments in the City's Parklands is established to summarize the existing policies established by the Municipal Code and policies previously adopted by City Council for the removal of encroachments, ~~and to add a requirement for the removal of encroachments when the adjacent private property changes ownership.~~ It is the goal of this policy to restore public access to and use of these areas in a timely fashion.

This Policy in no way limits the City's ability to require the removal of any unauthorized encroachment in the parklands for any reason.

It shall be the full fiscal responsibility of the adjacent property owner to remove any encroachment, including full restoration as approved by the Parklands Committee and signed-off by the Director or designeeUrban Forester.

1) Definition of Encroachment

Encroachments are defined in Section 12.04.010 of the Municipal Code as follows:

"Encroachment" means privately owned improvements, facilities or structures, including without limitation any post, sign, pole, fence, deck, building, tree (unless permitted pursuant to PVEMC 12.16.030), pipe, cable, drainage facility, septic system, or recreational facility, in the public right-of-way or on other public property, constructed and maintained by the current or past property owner. facilities or structures in the public right of way or on other public property, constructed and maintained by the property owner."

~~Examples of encroachments include, but are not limited to: fences, walls, hardscape (such as concrete or brick), fireplaces, sheds, gazebos, swings, and other play equipment, and tree houses.~~

2) Review

With the exception of other code provisions such as the Street Tree ordinance or Conditional Use Permits, a property owner may submit an application to request to maintain an adjacent encroachment into City right-of-way or Parklands (non-structural). The commission or committee to review each type of encroachment is appropriated as follows:

- Requests to approve any encroachment into Parklands shall be reviewed by the Parklands Committee.
- Requests to approve any encroachment into right-of-way between private property and edge of street pavement shall be reviewed by the Planning Commission.
- Requests to approve any other type of encroachment within right-of-way shall be reviewed by the Parklands Committee.

Any recommendation regarding a non-structural encroachment made by the Parklands Committee must also be approved by the City Council. The decision-making body may deny a request to maintain an encroachment upon which the adjacent property owner is required to remove the encroachment and restore the land per the Parklands Landscaping Policy prescribed herein.

23) Removal Requirements Per City Code

Require removal of unauthorized encroachments during a discretionary review by the City's Planning Commission

Section 17.04.090 of the City's Municipal Code states that the approval of any development entitlement application per Title 17 or 18 of the Code may be conditioned by the Planning Commission or Council. Such conditions may address any aspect of the project or the property. At the time of developing project plans, surveys are typically conducted and encroachments are identified. As a routine, the Planning Commission imposes a condition on all its approvals, requiring the removal of nonstandard encroachments both within City right-of-way and Parklands. However, any request to deviate from Street Tree requirements shall always be reviewed by the Parklands Committee.

Require removal of unauthorized encroachments when they fall into disrepair

Section 8.48.015.H of the City's Municipal Code states that it is a public nuisance to maintain fences, walls, landscaping, or walkways that are maintained in a defective, unsightly, or no longer viable condition. As the City becomes aware of encroachments which have fallen into disrepair, they are deemed a public nuisance and removal is required. The Public Works Director, or his or her designee, shall have the authority to judge when these encroachments are in a state of disrepair.

Require removal of unauthorized encroachments when they are modified

~~Section 12.04.010 of the City's Municipal Code does not allow the permanent private occupation of City property without a permit. When the City is made aware of any modification underway to an existing unauthorized encroachment, removal of the entire encroachment is required.~~

34) Removal Requirements Upon Adjacent Private Property Transfer of Ownership for Vegetative-Only Parklands Encroachments

~~Within 60 days of the close of escrow for the transfer of ownership of a previously noticed private property located adjacent to an unauthorized encroachment(s), the encroachment(s) shall be~~

~~removed by the adjacent property owner and the area shall be restored to a condition similar to other parklands in the area. Within ninety (90) days of City issuance of a notice of violation for a vegetative-only encroachment, the adjacent property owner must remove any encroaching vegetation, including full restoration as approved by the Parklands Committee and signed-off by the Urban Forester.~~

~~**45) Removal Requirements Five Years After Notification by the City for Structural Parklands Encroachments**~~

~~If a property has not be transferred within five years after notification by the City of the need to remove the illegal encroachment(s), the encroachment(s) shall be removed by the adjacent property owner and the area shall be restored to a condition similar to other parklands in the area. Within one (1) year of City issuance of a notice of violation for a structural encroachment, the adjacent property owner must remove any encroaching vegetation, including full restoration as approved by the Parklands Committee and signed-off by the Urban Forester.~~

56) Notification

As staff becomes aware of ~~significant~~ unauthorized encroachments in the City's parklands, a notice of the violation shall be sent to the adjacent property owner and permanent record of the notice shall be maintained ~~in the correlating "Address File". Real Property Records Reports shall include mention of any encroachment notices on file~~ within City records.

~~Prior to sending the formal notice of an encroachment which must be removed upon sale or within the specified time period, the City will undertake the necessary action to determine the exact location of the boundary between City and private property, including obtaining a survey, if required in the sole discretion of the City. The notice shall give the property owner a period of one month from the date of the notice to appeal the determination that the encroachment is on City property to the Director of Public Works. The decision of the Director of Public Works shall be final. Should the adjacent property owner object to the notice of violation or otherwise appeal, that individual shall obtain a survey at their own expense accompanied by a complete, stamped, and signed Survey Certification to prove lack of encroachment.~~

~~The City will record any known Parklands encroachments with the Los Angeles County Registrar-Recorder immediately upon discovery.~~

67) Enforcement

~~If an encroachment remains unabated by a violating property owner, no final sign-off may be provided by the City for any permit opened after the date of the adoption of this policy.~~

~~Staff will track monthly County Assessor's transfer reports and the Code Enforcement Officer will investigate relevant property transfers. If an illegal encroachment(s) is not removed per this policy, the City will seek an injunction through the Los Angeles County Superior Court. If necessary, the City will immediately remove the encroachment(s), bill the adjacent property owner, lien the property if necessary, and cite the adjacent property owner for an infraction(s).~~

R12-05

II. PARKLANDS LANDSCAPING POLICY

1. **GOALS.** The goal of the Parklands Landscaping Policy is to guide residents and the Parklands Committee regarding the landscaping of the City’s parklands by private individuals.

2. **OBJECTIVES.**

The City’s parklands were intended to remain open to the public and to remain as undeveloped as possible. Landscaping within the parklands should only be done to retain an undeveloped and natural look that simulates natural forestation and ground cover.

Landscaping should not be done so that the area appears to be privately-owned or so that the landscaping creates a barrier to the public. Any landscaping that is allowed as a result of an approved application should be limited to “native” varieties as determined by the City. Any irrigation should be temporary in nature and placed on the ground, not buried.

~~Applications for placement within the parklands of man-made items, such as benches, statues, hardscape, or other, shall be reviewed on a case by case basis, and in general such applications should be denied.~~

3. **PERMIT PROCEDURE.** An “Application to Landscape City Parklands” shall be obtained from and filed with the City.

4. **PROCESS FOR CONSIDERATION AND APPROVAL.** Each application shall be reviewed by the Parklands Committee. The Committee shall consider the proposed ~~improvements~~ and the testimony, both verbal and written, of the applicant and of affected property owners. The recommendation of the Parklands Committee shall be placed on the Consent Agenda of the City Council for final action.

5. **FINDINGS FOR APPROVAL.**

The findings for approval are based on those required for approving a Variance within the Zoning section of the Municipal Code:

1. That there are special circumstances attached to the property referred to in the application, which do not apply generally to other properties in the same area;
2. That the granting of such application is necessary to do substantial justice, and to avoid practical difficulty or unnecessary hardship;
3. That the granting of the application will not result in material damage or prejudice to other property in the vicinity, nor be detrimental to the public safety or welfare.
4. That the landscaping, to the extent reasonably practicable, is not to be done so that the area appears to be privately-owned or so that the landscaping creates a barrier to the public.

6. **PERMIT FEES.** A fee shall be submitted with the application in the amount that shall be established by resolution of the City Council.
7. **COSTS FOR INSTALLATION AND MAINTENANCE.** All costs for installation and maintenance shall be paid by the applicant. A legal contract between the city and the property owner defining a maintenance schedule ~~and standards that runs with the property in perpetuity is required for the first three (3) years after final sign-off by the Urban Forester~~ Director or designee that the restoration plan has been fully implemented.

R14-18

III. PARKLANDS USE POLICY

Purpose

The City places high value on the City parklands as a free, open and accessible resource to residents and the public; the parklands provide open space, passive recreation, scenic views, a green belt, and natural beauty that define and represent the quality of life for Palos Verdes Estates residents that the City is committed to preserve in perpetuity.

This policy functions as a guide, outlining the City’s goals to maintain the Parklands for public use, manage Parklands in a manner to sustain the beauty created by the parklands, respect the reasonable privacy of adjacent residents, provide limited active uses and open space for the community and users (as described herein).

Background

The City’s parklands include many acres of undeveloped passive open space. The use of all parklands parcels are subject to deed restrictions. Thus, this policy must also conform to applicable deed restrictions placed upon the City’s parklands.

Within the parklands, pathways have developed over time and, while they can create recreational opportunities, they can also be a nuisance when misused. Examples of misuse are camping, smoking, commercial uses, unauthorized removal of vegetation, and other activities prohibited by the City’s Municipal Code. The misuse of the parklands can lead to environmental degradation of the parklands, along with adverse impacts to residents living near the parklands and other visitors to the parklands.

Definitions

For purposes of this policy, the definitions in the Palos Verdes Estates Municipal Code govern, unless context dictates otherwise.

“Parklands” for purposes of this policy shall have the same meaning as that set forth in Palos Verdes Estates Municipal Code Section 12.24.010(E).

“Pathway” means a foot-worn or developed path through the parklands.

Parklands Policy

1. Users

The parklands are intended for use by residents and the public, provided that such use (a) does not impair the natural beauty of the parklands and (b) does not unreasonably intrude upon the personal privacy interests and property rights of residents living near the parklands.

2. Maintenance

The City will use reasonable effort to keep Paths within Parklands open for public use. The maintenance standards for Parklands and paths within them shall be stated within the City’s maintenance contract(s) as approved by the City Council. From time to time, as necessary and pursuant to the terms of the contract(s), the City Council may modify the maintenance standards within the City’s maintenance contract(s). City staff is responsible for implementing and managing the maintenance contract(s).

Trash cans serving parklands are serviced by the City. Upon recognizing the need for additional trash cans to augment existing trash cans at a location, the City may add additional cans. If there is additional cost to service the new can(s), the City Manager shall review the request and make a determination if the new can(s) shall be placed.

3. Special Events

Special events that concern the City are those that may impact City streets and services, public safety, citizen welfare, or disrupt traffic and community activities. The City, therefore, imposes specific conditions upon the sponsors of such events including those in the Parklands.

4. Signage

The City may provide signage in and around the Parklands for purposes such as safety advisories, hazard notification, posting rules and regulations, and as otherwise required by law. Signage within the Parklands is generally limited to the following:

- a) Signs indicating the City’s regulations, such as the closure of Parklands due to but not limited to Fire Department “red flag warnings” for fire danger and unsafe conditions, prohibition of private vehicles, and “No Smoking.”
- b) Signs otherwise allowed by the Municipal Code or a permit issued by the City (PVEMC § 8.20.030).

5. Changes to the Parklands

“Changes to the Parklands” as used herein encompasses intentional, human-caused modification and disturbance of landscaping (trees, shrubs, plants), natural habitat, soil, and existing Pathways

within the Parklands. This section does not apply to, nor is it intended to include, landscaping requests under the City’s “Parklands Landscaping Policy.”

The City, at all times, retains the unrestricted, immediate and direct ability to address Parklands uses, paths, and access under the provisions of the Municipal Code. Proposals for private part-initiated changes to the Parklands will first be submitted to the Parklands Committee. The submittal of an application to the Parklands Committee must be accompanied by the appropriate fee(s) as established by resolution by the City Council. Fee(s) may be instituted and collected for the City’s reasonable cost of staff time and resources for research, report preparation and administrative services, public noticing, expert consultant services, and implementation of the approved change to the Parklands.

Upon submission of the application and payment of the required fees, the Parklands Committee will hold a public meeting, consider the application, and formulate recommendations to the City Council. The Parklands Committee may independently also recommend changes/enhancements to the Parklands to the City Council including, for example, the relocation of Pathways. City staff and consultants shall provide information, as necessary, to facilitate and assist the Parklands Committee in reaching recommendations consistent with this policy.

The Parklands Committee shall be responsible to make findings in support or denial of changes to Parklands on a case-by-case basis taking into consideration specific facts and details. In reviewing and coming to a majority consensus on an application, the Parklands Committee shall consider the following factors: providing the public with access to and use of Parklands, preservation of the environment, protecting residential/property owner privacy, maintaining public safety, minimizing impacts to the neighborhood and sustaining neighborhood character. Findings shall specifically address privacy, safety, neighborhood character. Additional considerations that may be considered include usage of and historical significance of the subject Parklands, and community input.

Upon the Committee’s submission of its recommendation, the City Council will then consider the proposed change to the Parklands. The City Council’s final decision will include, but not be limited to, consideration of the Parklands Committee findings and recommendation(s), public input, expert consultant comments, fees collected or committed to cover the cost of implementing the proposed change to the Parklands, and the availability of the City’s fiscal and staffing resources to implement the proposed change to the Parklands.

Injuring or removing any existing tree, plant, soils or rocks from Parklands and/or creating any new paths within the Parklands without prior City authorization by cutting or removing existing vegetation or new grading of soil is prohibited (PVEMC §§ 12.24.150, 12.24.160) and will cause said Parklands or Pathway to be temporarily closed while damage is being remediated, the area is restored or an application is submitted to, and considered by, the Parklands Committee for “Change to the Parklands.” Perpetrators of vandalism in the Parklands are subject to criminal prosecution and restitution for damage to and repair of the Parklands.

7. Police Enforcement

Enforcement of applicable laws in and around the Parklands falls under the purview and authority of the Police Department. Consistent with its citywide responsibilities, the Police Department will patrol and enforce the law within the parkland while giving consideration to officer safety, manpower, and response times. In addition, directed patrols may be used to increase the Police Department's presence in these areas and may be periodically adjusted as needed. The City may seek restitution through the court for any damage attributed to violations of the law caused by any person within the Parklands.

8. Community Resources

Maintenance and preservation of City Parklands can be enhanced through the supplemental resources of volunteers and donations. The City welcomes community resources in support of the Parklands. Volunteers and volunteer organizations, with City approval and appropriate training, experience, and background for the specific activity may be authorized for community service on City parklands.

~~Other Applicable Policies~~

~~Additionally the City has adopted two policies that regulate City Parklands and Trails:~~

- ~~▪ Policy for the Removal of Unauthorized Encroachments in the City's Parklands (Resolution R05-32).~~
- ~~▪ Parklands Landscaping Policy (Resolution R12-05).~~

SECTION 2: Resolution No. R05-32, R12-05, and R14-18 are hereby rescinded.

SECTION 3: This Resolution is effective immediately upon adoption.

SECTION 4: The City Clerk shall certify to the passage and adoption of this resolution.

PASSED, APPROVED AND ADOPTED this 22nd day of June, 2021.

MICHAEL KEMPS, Mayor

ATTEST

CAROL COWLEY, Interim City Clerk

APPROVED AS TO FORM:

JOHN COTTI, City Attorney

RESOLUTION R21-29

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALOS VERDES ESTATES AMENDING EXHIBIT A TO RESOLUTION NO. R21- BY SETTING FORTH THE ADMINISTRATIVE FINES FOR VIOLATIONS OF CHAPTER 12.04 OF THE PALOS VERDES ESTATES MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF PALOS VERDES ESTATES DOES HEREBY FIND, ORDAIN, AND RESOLVE AS FOLLOWS:

SECTION 1: The City Council finds and declares as follows:

1. At its regular meeting on October 10, 2016 the City Council introduced Ordinance No. 16-718 ("Administrative Citation Ordinance") which adds Chapter 1.50, entitled "*Administrative Citations and Penalties*" and consisting of §§1.50.010 to 1.50.110, to Title 1 of the Palos Verdes Estates Municipal Code ("PVEMC") and allows City enforcement officers to issue administrative citations for PVEMC violations. The Administrative Citation Ordinance allows fine amounts to be adopted by City Council resolution, pursuant to Government Code § 53069.4(a)(1).
2. On October 10, 2016, the City Council adopted the fine amounts attached as Exhibit "A" to Resolution No. R16-33 as the City's fine schedule for purposes of imposing fines pursuant to Chapter 1.50 of Title 1 of the PVEMC.
3. On March 28, 2017, the City Council adopted Resolution No. R17-14 which amended the fine schedule to include administrative fines for violations of Chapter 9.18 of the PVEMC for social host liability for parties at which underage drinking occurs.
4. On January 10, 2018, the City Council adopted Resolution No. R18-05 which amended the fine schedule to include administrative fines for violations of Title 18 of the PVEMC as it pertains to regulation of personal cultivation of marijuana.
5. On July 23, 2019 the City Council adopted Resolution No. R19-21 which amended the fine schedule to include administrative fines for violations related to short-term or vacation rentals.
6. On November 17, 1978, the City Council adopted Ordinance No. O78-344 regulating encroachments.

SECTION 2: The fine amounts attached as Exhibit "A" to Resolution No. R19-24 are hereby amended to include the specific fine amounts for violations of Chapter 12.04 of the Palos Verdes Estates Municipal Code.

SECTION 3: This Resolution is effective immediately upon adoption.

SECTION 4: The City Clerk shall certify to the passage and adoption of this resolution.

PASSED, APPROVED AND ADOPTED this 22nd day of June, 2021.

MICHAEL KEMPS, Mayor

ATTEST

KYLINN CHANEY, City Clerk

APPROVED AS TO FORM:

JOHN COTTI, City Attorney

RESOLUTION R21-29

EXHIBIT A

FINE SCHEDULE FOR ADMINISTRATIVE CITATION ORDINANCE

- A. Except as otherwise provided herein, violations of the Palos Verdes Estates Municipal Code are subject to an administrative fine in the following amounts:
 - 1. A fine not exceeding one hundred dollars (\$100.00) for the first violation.
 - 2. A fine not exceeding two hundred dollars (\$200.00) for a second violation of the same provision within one year.
 - 3. A fine not exceeding five hundred dollars (\$500.00) for each additional violation of the same provision within one year of the first violation.

- B. Pursuant to Government Code section 53069.4, violations of any of the provisions of Title 15 of the Palos Verdes Estates Municipal Code are subject to an administrative fine in the following amounts:
 - 1. A fine not exceeding one hundred dollars (\$100.00) for the first violation.
 - 2. A fine not exceeding five hundred dollars (\$500.00) for a second violation of the same provision within one year.
 - 3. A fine not exceeding one thousand dollars (\$1,000.00) for each additional violation of the same provision within one year of the first violation.

- C. Notwithstanding the foregoing, violations of Chapter 12.04 of the Palos Verdes Estates Municipal Code that are only vegetative in nature are subject to an administrative fine in the following amounts:
 - 1. A fine not exceeding one thousand dollars (\$1,000.00) for the first violation.
 - 2. A fine not exceeding two thousand five hundred dollars (\$2,500.00) for a second violation of the same provision within one year.
 - 3. A fine not exceeding five thousand dollars (\$5,000.00) for each additional violation of the same provision within one year of the first violation.

- D. Notwithstanding the foregoing, violations of Chapter 9.18 (relating too Social Host Liability for Parties at Which Underage Drinking Occurs), Chapter 12.04 (relating to encroachments including

ATTACHMENT B

a structure), Chapter 18.73 (relating to Cannabis), and Sections 18.04.021.C, 18.04.021.D, 18.08.011.C, 18.08.011.D 18.12.030.Q, and 18.12.030.R (relating to Short-Term or Vacation Rentals) of the Palos Verdes Estates Municipal Code are subject to an administrative fine in the following amounts:

1. A fine not exceeding two thousand five hundred dollars (\$2,500.00) for the first violation.
2. A fine not exceeding five thousand dollars (\$5,000.00) for a second violation of the same provision within one year.
3. A fine not exceeding seven thousand five hundred dollars (\$7,500.00) for each additional violation of the same provision within one year of the first violation.