

Department of Public Works

Bureau of Engineering
Bureau of Street Services
Report No. 1

September 16, 2019
CD Nos. All

ADOPTED BY THE BOARD
PUBLIC WORKS OF THE CITY
of Los Angeles California

SEP 16 2019


Executive Officer
Board of Public Works

ESTABLISHMENT OF REVOCABLE PERMIT (R-PERMIT) POLICY FOR SIDEWALK ENCROACHMENTS

RECOMMENDATION

Approve the R-permit Policy for Sidewalk Encroachments (Transmittal No. 1).

TRANSMITTALS

1. R-permit Policy for Sidewalk Encroachments.
2. Board of Public Works (Board) Motion (BPW-2019-0142) adopted forthwith on February 22, 2019.

BACKGROUND

On February 22, 2019, the Board approved a motion (Transmittal No. 2) directing the Bureau of Engineering (BOE) and Bureau of Street Services (BSS) to review and draft updated permitting criteria and guidelines for right-of-way encroachments while ensuring the safety, convenience, and access for everyone on the City of Los Angeles' (City) right-of-way. The motion further directed the BOE to consult with representatives from the Mayor's Office, City Council, the Los Angeles Police Department, BSS, and the City Attorney's Office to review any revisions to the permitting criteria and guidelines.

R-permits are required per the Los Angeles Municipal Code (LAMC) Section 62.118.2 for encroachments within the public rights of way which states:

Where the City Engineer finds that a building, structure or improvement maintained or proposed to be constructed within a public street will not interfere with the maintenance or use of the street, and is not intended for use by the public, the Bureau of Engineering may issue one or more permits for the maintenance or proposed construction of such building, structure or improvement, or for an excavation in connection with such maintenance or construction.

Joint Report No. 1

Page 2

R-permits are issued by the BOE. The fees set forth in the LAMC for R-permits at the time of this report are as follows:

- Tier 1: \$556..... when no field investigation is required
- Tier 2: \$1,854..... when a field investigation is required
- Tier 3: Actual Cost..... when the BOE is required to prepare a report of its investigation for consideration by the Board

Discussion

The establishment of a policy for encroachments in the sidewalk area of the public right-of-way will define the situations that are eligible for permits issued by the BOE. Such policy will also define the situations where Board approval shall be required. The policy is proposed to apply to above ground encroachments in the sidewalk area except for those specifically exempted in the policy.

There are many different types of encroachments that applicants may want to install, and the sidewalk area is used for many different purposes. The policy that is presented with this report attempts to allow encroachments desired by adjacent property owners without compromising public safety or the intended use of the sidewalk area, especially the primary use of pedestrian travel.

(RS RMK TA GH GS)

Report reviewed by:

Respectfully submitted,

BOE (ADM)

Report prepared by:



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Revocable Permit (R-permit) Policy for Sidewalk Encroachments

This policy applies to above ground encroachments in the sidewalk area except for those specifically exempted. Following is a list of typical encroachments that are subject to this policy:

- Railings, fences, bollards, and walls
- Signs & monuments (Advertisement is not allowed through an R-permit)
- Planters
- Private structures
- Stairways and ramps

This policy does not apply to the following which are specifically exempted because they either have existing policies or procedures in place or because they do not fall within the intended domain of this policy:

- Below ground encroachments
- Non-standard surface improvements
- Sidewalk Dining
- Adopt-a-Median projects
- Above Ground Facilities as defined by LAMC Section 62.08
- Horizontal projections from buildings that are over 8 feet above the surface
- Street Furniture (e.g. transit shelters, public toilets, public amenity kiosks, bus benches, and waste receptacles) managed by other Public Works Bureaus or the Los Angeles Department of Transportation.

Policy Requirements

1. Allowable Location of Encroachments

Encroachments may be allowed by the City Engineer in any portion of the sidewalk area fronting a property provided that an acceptable Pedestrian Access Route (PAR) is provided. Depending on the width of the border (property line to curb face) the encroachments may be allowed in the following areas based on the Department of City Planning guidelines such as the Complete Streets Design Guide:

- a. Frontage Zone - The Frontage Zone is defined as the area adjacent to the property line. It includes building entries, store signage, public seating, Sidewalk Dining, and landscaping.
- b. Amenity Zone – The Amenity Zone is defined as the area between the curb face and Pedestrian Zone. It includes trees, landscaping (parkway), signage, Street Furniture, street lights, and utility poles. Encroachments in the amenity zone shall not be allowed within a 24-inch clearance from the curb face. Obstruction of sight distance for vehicles shall also be taken into consideration in the Amenity Zone. Encroachments in the Amenity Zone may be allowed on a case-by-case basis based on the Bureau of Engineering (BOE) field investigation.

Revocable Permit (R-permit) Policy for Sidewalk Encroachments

2. Minimum Pedestrian Access Route (PAR)
A Pedestrian Access Route with a width of at least 5-feet shall be provided clear of obstructions.
3. Loading Zones and Property Access Points
Encroachments shall not obstruct the Pedestrian Access Route fronting a loading zone whether it be pedestrian, bus, disabled access, or cargo, including any entrance, exit, driveway or loading dock on the adjacent property.
4. Height of Encroachments
Fences, rails, or walls for front yards should not exceed 42-inches in height.
5. ADA Compliance
Sidewalks shall be repaired or reconstructed in the area of proposed encroachments to meet the following ADA requirements.
 - A. Vertical Displacement (uplift) shall not exceed ¼ inch.
 - B. Sidewalk Cross-slope shall not exceed 2 percent.
 - C. Horizontal Displacement shall not exceed ¼-inch gap.

However, if the only deficiency is the cross slope of up to 4 percent, the sidewalk repair may be deferred. The area of the sidewalk repair or reconstruction shall include all the frontage of the proposed encroachments plus a 10-foot minimum transition on each end satisfactory to the City Engineer. The 10-foot transition area may be reduced to the minimum practical length determined by the City Engineer in cases where it would cross to a neighboring property.
6. Permit Fees
Field visits will be required to ensure compliance with the terms of this Policy, therefore applications for sidewalk encroachments subject to this Policy will be charged the Tier 2 Revocable Permit Fee. Encroachments that require a Board Report under this Policy will be charged the Tier 3 Revocable Permit Fee.
7. Eligible Applicants
Eligible applicants shall be limited to the legal owners of the adjacent property.
8. Technical Review
BOE will conduct a technical review of the proposed encroachments to ensure that the designs are safe, that the materials are suitable for the Public Right of Way (PROW); and that the encroachments will not damage or restrict access to existing sidewalks, street trees or other infrastructure. BOE will consult with the Bureau of Street Services in cases where there may be a question regarding a potential impact to street trees or where plants are proposed that

Revocable Permit (R-permit) Policy for Sidewalk Encroachments

are not pre-approved by the City for use in the PROW. As a part of the technical review BOE will also review the cumulative impact to the general area to ensure that adequate space remains for the other sidewalk functions that exist at the site. In general, it is expected that private encroachments would not exceed approximately half of the sidewalk area.

9. Aesthetic Requirements

BOE will review to determine if the proposed encroachments are consistent with the general look of the neighborhood and any other relevant streetscape guidelines. If BOE has a concern regarding the aesthetic appearance of the proposed encroachments, BOE may consult with the Department of Cultural Affairs, Planning Department and/or others. If BOE continues to be uncertain regarding the aesthetics of the proposed encroachments after such consultations, a Tier 3 Revocable Permit will be required and the application will be brought before the Board of Public Works for consideration.

10. Public Safety Installations

Any encroachments for public safety concerns may require validation from the Los Angeles Police Department and/or the Los Angeles Fire Department regarding necessity. The City Engineer shall have the authority to determine when such validations are required as well as to determine the appropriate department(s) from which to seek validation.

11. Deviations from Policy Requirements

Proposed encroachments that do not comply with one or more of the requirements of this policy shall require approval by the Board of Public Works.

All standard Revocable Permit requirements shall also apply to permits issued under this policy. Current standard Revocable Permit requirements are as follows:

1. Online Application Process

The applicant shall apply for a permit and remit the appropriate fee online at the following address:

<https://engpermits.lacity.org/rpermits/index.cfm>

A project description, project sketch, and property title will be required among other things.

2. Revocable Permit Requirements (RPR) Letter and Expiration

BOE will prepare an RPR letter, which is a list of conditions that must be met prior to issuance of the revocable permit, along with a deadline to meet the listed conditions. The deadline is generally one year from the date of the RPR letter, but may be shorter or longer as determined to be appropriate by the City Engineer. Should the applicant fail to meet the condition by the specified deadline, the application will expire. A new revocable permit application and fee will be required in such cases where the application expires and/or where

Revocable Permit (R-permit) Policy for Sidewalk Encroachments

the applicant desires to change the scope of work to the extent that it requires an additional investigation and RPR letter. In cases where the scope change is minor compared to the original scope, the City Engineer may charge a Tier 1 Revocable Permit fee for subsequent applications.

3. Appeals

Appeals of a BOE determination may be made only by the permit applicant, and must be submitted in writing to the Board of Public Works Executive Officer within thirty days of the BOE determination. Appeals shall be heard by the Board.

4. Change of Permit Ownership

A change in ownership of the property shall require a new revocable permit. A Tier 1 Revocable Permit Fee shall be required if no changes are proposed to encroachments. A new Waiver of Damages and Proof of Liability Insurance will be required to be signed and notarized.

5. Non-Compliance

The Bureau of Street Services Investigation and Enforcement Division will be notified to investigate any complaints. Citations may be issued for non-compliance.

6. Liability Insurance

Proof of liability insurance shall be renewed annually with the Risk Management Group of the City Administrative Officer.

7. Maintenance

A covenant shall be recorded to memorialize responsibilities regarding maintenance of the encroachments.

8. Waivers of Damage

A Waiver of Damages shall be signed and notarized by the underlying property title holder and shall be recorded with the County Records Office at the property owner's expense.

9. Construction Permits

The R-permit is only an encroachment permit but not a construction permit. A Class A, Class B, or Class E permit will be required to construct improvements within the PROW.

10. Revocation Process

An R-permit may be revoked at any time at the City's sole discretion. If revoked, the permittee shall remove all encroachments at no cost to the City and restore the PROW to the satisfaction of the City Engineer.

MOTION

The public right-of-way is an integral part of our City's infrastructure and transportation network, and accessible sidewalks are essential for pedestrian use and mobility. All improvements, construction, and repairs in, over, or through the public right-of-way require a permit from the City Engineer.

The Revocable Permit (R-Permit) grants conditional encroachment of the public right-of-way by private parties not authorized to occupy the right-of-way. The R-Permit review process ensures that encroachments are checked for compliance with the City's specifications for design, use, material, and inspection. Requiring permits for building materials or revocable uses of the sidewalk ensures public convenience and necessity, public health, safety, welfare and minimize the disruption of normal pedestrian pathways while ensuring compliance with the American with Disabilities Act (ADA), and other relevant state and federal laws.

The Bureau of Street Services (BSS) Investigation and Enforcement Division has the power and authority to enforce the City's Municipal Code, including accessibility laws related to pedestrians' safety on City sidewalks. Only existing illegal encroachments are eligible for a 90-day grace period; effective immediately, any new illegal encroachments will be cited by the BSS, and any proposed installation in the right-of-way must obtain an R-Permit before installing and the Bureau of Engineering (BOE) is still able to accept applications for R-Permits while the guidelines are being revised.

I THEREFORE MOVE that the Board of Public Works direct the BOE and BSS to review and draft updated permitting criteria and guidelines to clarify the requirements for right-of-way encroachments and make the process clearer and more transparent while ensuring the safety, convenience, and access for everyone on the City's rights-of-way.

I FURTHER MOVE that the Board of Public Works direct the BOE to ~~establish a working group including representatives from~~ ^{* in consultation with *} the Mayor's Office, City Council, the LAPD, BSS, and City Attorney's Office, to review any revisions to the permitting criteria and guidelines.

I FURTHER MOVE that the Board of Public Works direct the BSS to, within 90 days of this Board adopting any revisions, (i) identify and notify owners of unpermitted installations to apply for a revocable permit, (ii) review new revocable permit applications for unpermitted installations, and (iii) inspect all remaining unpermitted locations and take the appropriate action, including removal or replacement with trees or other vegetation.

I FURTHER MOVE that the BOE and BSS report back on the first two instructed items in this motion in 30 days.

AS AMENDED*

ADOPTED BY THE BOARD
PUBLIC WORKS OF THE CITY
of Los Angeles California


FEB 22 2019


Executive Officer
Board of Public Works

PRESENTED BY:


Kevin James, President

SECONDED BY:


Cecilia Cabello, Vice President