

The City of Thousand Oaks, CA Municipal Code

CHAPTER 2. ENCROACHMENTS

Article 1. Title and Application

Sec. 7-2.101. Title.

This chapter shall be known and may be cited as the “Encroachment Regulations” of the City.

(§ 11000, T.O.O.C., as added by Ord. 50)

Sec. 7-2.102. Application.

(a) The provisions of this chapter shall not apply to any officer or employee of the City in the discharge of his official duties.

(b) Work performed by any person under contract with, or at the request of, the City shall be exempt from the fee and bond requirements of this chapter.

(§ 11451, T.O.O.C., as added by Ord. 50)

Article 2. Definitions

Sec. 7-2.201. Scope.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined in this article.

Sec. 7-2.202. Applicant.

“Applicant” shall mean any person who proposes to encroach upon a right-of-way and has applied for a permit for the proposed encroachment pursuant to the provisions of this chapter.

(§ 11009, T.O.O.C., as added by Ord. 50)

Sec. 7-2.203. City Engineer.

“City Engineer” shall mean the City Engineer of the City who shall be charged with the responsibilities of City Road Commissioner and City Surveyor.

(§ 11006, T.O.O.C., as added by Ord. 50)

Sec. 7-2.204. Encroach and encroachment.

“Encroach” and “encroachment” shall mean going upon, over, under, within, or using or doing work upon any right-of-way so as to prevent, obstruct, or interfere with the normal use of the right-of-way. “Encroach” and “encroachment” shall include the performance on a right-of-way of any of the following acts:

- (a) Excavating or placing embankments or stockpiling any material within a right-of-way;
- (b) Placing or leaving any rubbish, brush, earth, or other material of any nature whatever on a right-of-way;
- (c) Constructing, placing, or maintaining any pathway, sidewalk, curb, gutter, driveway, surfacing, culvert, drainage facility, pipe, conduit, or cable on, over, under, or within a right-of-way;
- (d) Erecting or maintaining any post, sign, banner, pole, fence, guard rail, wall, loading platform, or any other structure on, over, under, or within a right-of-way;
- (e) Planting or removing any tree, shrub, grass, or growing thing within a right-of-way;
- (f) Taking, placing, moving, or using on a right-of-way any vehicle, or combination of vehicles, or other object of a dimension, weight, or other characteristic prohibited by the Vehicle Code of the State;
- (g) Lighting or building a fire for the purpose of the disposal of weeds, brush, or debris on a right-of-way;
- (h) Using a right-of-way for commercial motion or still picture photography;
- (i) Locating, drilling, or plugging test holes for seismological exploration or any other similar purpose within a right-of-way; and

(j) Conducting land surveying operations or making traffic counts in such a way that it is necessary to excavate within a right-of-way or in any way interfere with the normal flow of traffic on a public highway.

(§ 11004, T.O.O.C., as added by Ord. 50)

Sec. 7-2.205. Encroachment work.

“Encroachment work” shall mean the work of constructing, placing, or installing an encroachment in a right-of-way.

(§ 11005, T.O.O.C., as added by Ord. 50)

Sec. 7-2.206. Permittee.

“Permittee” shall mean any person who proposes to encroach upon a right-of-way and has been issued a permit for the proposed encroachment by the City Engineer pursuant to the provisions of this chapter.

(§ 11008, T.O.O.C., as added by Ord. 50)

Sec. 7-2.207. Public highway.

“Public highway” shall mean the part of a right-of-way which is improved for use as a City road, street, way, lane, or alley, including shoulders.

(§ 11003, T.O.O.C., as added by Ord. 50)

Sec. 7-2.208. Right-of-way.

“Right-of-way” shall mean any land, or interest therein, which, by deed, conveyance, agreement, dedication, usage, or other process of law, has been reserved for or dedicated to the City for the use of the general public for public road purposes.

(§ 11002, T.O.O.C., as added by Ord. 50)

Article 3. Permits

Sec. 7-2.301. Required: Exceptions.

(a) Required. It shall be unlawful for any person to encroach, or to make or cause to be made any encroachment, or to do any encroachment work upon, over, under, or within any right-of-way in the City without first obtaining a permit from the City Engineer.

(b) Exceptions. An owner, lessee, or person in control of property under active agricultural use and immediately abutting the right-of-way may, without obtaining a permit, use the untraveled portion of the right-of-way abutting such property for the growing and maintenance of agricultural crops and the burning of weeds so long as such use does not interfere with vehicular or pedestrian traffic or drainage of the right-of-way. Encroachments for which permits are not required shall be subject to removal under the procedure and penalties set forth in Sections 1481 through 1485 of Chapter 6 of Division 2 of the Streets and Highways Code of the State.

(§ 11050, T.O.O.C., as added by Ord. 50)

Sec. 7-2.302. Applications: Form: Filing.

(a) Form. The City Engineer shall prescribe and provide a form of application for the permits required by the provisions of this article. The application form shall contain spaces for the following:

- (1) The applicant's name and address;
- (2) The contractor's name, license number, and place of business; and
- (3) Sufficient detail as, in the judgment of the City Engineer, is necessary to show the purpose, location, and dimensions of the proposed encroachment.

Applications for tract directional signs shall also require the submission of a location map indicating the exact installation site for each such sign.

(b) Filing. The application form shall be completed, signed by the applicant, and filed with the City Engineer, together with all fees, cash deposits, bonds, certificates of insurance policies, and any other documents which are required by the provisions of this chapter to be submitted with the application form.

(§ 11051, T.O.O.C., as added by Ord. 50, as amended by § I, Ord. 358-NS, eff. April 12, 1973)

Sec. 7-2.303. Applications: Accompanying exhibits.

When required by the City Engineer, the applicant shall attach to, or enclose with, the application a map, plot, sketch, diagram, or similar exhibit which plainly shows any and all information necessary to locate, delineate, illustrate, or identify the proposed encroachment.

(§ 11052, T.O.O.C., as added by Ord. 50)

Sec. 7-2.304. Schedule of fees.

The schedule of fees to be paid to the Public Works Department shall be in accordance with the fee schedule adopted by Council resolution.

(§ 11053, T.O.O.C., as added by Ord. 50, as amended by §§ 1 and 2, Ord. 128-NS, eff. January 22, 1970, § II, Ord. 358-NS, eff. April 12, 1973, and § I, Ord. 778-NS, eff. June 11, 1981)

Sec. 7-2.305. Fees: Deposits: Refunds.

(a) Deposits. Before a permit is issued, the applicant shall deposit with the City Engineer cash or a check in a sufficient sum to cover the fees established by the Council. Public utilities and political subdivisions may, at the option of the City Engineer, make payment for such fees as billed by the City instead of by advance deposit.

(b) Refunds. Fees shall not be refunded unless no permit is issued or unless the permit issued is rejected by the permittee because of special conditions imposed therein.

(§ 11054, T.O.O.C., as added by Ord. 50)

Sec. 7-2.306. Issuance.

Upon receiving an application in the proper form, together with all other items required to be submitted, the City Engineer shall issue a written permit subject to the conditions set forth in this chapter and required by law, authorizing the encroachment described in the application, unless grounds exist for refusing to issue the permit.

(§ 11056, T.O.O.C., as added by Ord. 50, as amended by § III, Ord. 358-NS, eff. April 12, 1973, and § 5, Ord. 1621-NS, eff. September 30, 2016)

Sec. 7-2.307. Acceptance.

By accepting the permit, the permittee agrees to be bound by all the terms and conditions set forth in the permit and in this chapter.

(§ 11069, T.O.O.C., as added by Ord. 50)

Sec. 7-2.308. Additional requirements.

The City Engineer may provide in any permit issued pursuant to the provisions of this chapter any requirements which he finds will substantially aid in the protection of the highway or of the traveling public. The City Engineer may establish special provisions for the work to be done under the permit, including the equipment to be used, the type of backfill, paving, traffic signs or devices, hours of work, flagmen, lights, or inspections. He may also require whatever advance notice he deems proper for requests for inspections. The City Engineer may add such requirements and conditions by rubber stamp or attachments to the permit, or both, and they shall become an integral part of the permit.

(§ 11059, T.O.O.C., as added by Ord. 50)

Sec. 7-2.309. Grounds for denial.

The City Engineer may refuse to issue a permit on the following grounds:

(a) That the applicant is not a responsible person. In determining whether or not the applicant is a responsible person, the City Engineer may consider the reports of other persons as to the applicant's reputation for faithfully completing construction projects; and

(b) That the encroachment will not be in the public interest or will be detrimental to the public health, safety, or welfare.

(§ 11057, T.O.O.C., as added by Ord. 50)

Sec. 7-2.310. Revocation.

If any of the provisions of the permit or this chapter are violated, the City Engineer may serve written notice upon the permittee in violation, giving the permittee twenty-four (24) hours in which to correct the violation. If the violation results in a danger to life or property, the notice shall state that all encroachment work shall stop until the violation is corrected. If, after twenty-four (24) hours from the issuance of the notice, the violation is not corrected or there is no evidence that diligence is being used to correct the violation, the City Engineer may revoke the encroachment permit, subject to the right of the permittee to appeal such revocation pursuant to the appeal provisions of this chapter.

Action taken pursuant to the provisions of this section shall not constitute a bar to criminal proceedings provided for in this chapter.

(§ 11061, T.O.O.C., as added by Ord. 50)

Sec. 7-2.311. Changes in authorized work.

No changes shall be made in the location, dimensions, character, or duration of the encroachment or use as granted by the permit except on authorization by the City Engineer.

(§ 11070, T.O.O.C., as added by Ord. 50)

Sec. 7-2.312. Display.

The permittee shall keep any permit issued pursuant to the provisions of this chapter, or a copy thereof, at the site of work, or in the cab of the vehicle when movement thereof on a public highway is involved, and the permit shall be shown to any authorized representative of the City Engineer or law enforcement officer upon demand.

(§ 11071, T.O.O.C., as added by Ord. 50)

Sec. 7-2.313. Nontransferable.

No permit issued pursuant to the provisions of this article shall be transferable or assignable to any other person.

(§ 11072, T.O.O.C., as added by Ord. 50)

Sec. 7-2.314. Blanket permits.

The City Engineer may issue an annual blanket permit authorizing the placing, replacing, or repairing of any facilities within a right-of-way where the opening or excavation does not exceed two (2') feet in width and sixty (60') feet in length, excavated at a right angle to the center line of the road, or an excavation not exceeding thirty (30) square feet in area. The City Engineer may issue an annual blanket permit authorizing the trimming of trees to a public utility regulated by the Public Utilities Commission of the State or to a person holding a franchise from the City.

(§ 11058, T.O.O.C., as added by Ord. 50, as amended by §§ 3 and 4, Ord. 128-NS, eff. January 22, 1970)

Sec. 7-2.315. Permits to move certain vehicles and objects.

Before a vehicle or combination of vehicles or object of a weight or dimension or characteristic prohibited by law without a permit is moved on any public highway, a permit to do so shall first be granted by the Division of Highways, Department of Public Works of the State, or by the City Engineer. In all cases where the Building Code requires the owner of any premises to which it is proposed to move any building or structure to obtain a relocation permit, the City Engineer shall not grant a permit to move such building or structure until the applicant furnishes to the City Engineer evidence that such owner has such relocation permit.

Before issuing a permit for the movement of a vehicle or object with a rolling height of over sixteen (16') feet, the City Engineer shall require evidence of approval of height clearance from the public utility companies having overhead lines crossing the proposed route.

(§ 11400, T.O.O.C., as added by Ord. 50)

Article 4. Security Instruments

Sec. 7-2.401. Cash deposits.

Unless exempted from such requirement by law or by the City Engineer, each applicant, before obtaining a permit, shall deposit with the City Engineer a cash deposit consisting of cash or a certified or cashier's check in a sum to be fixed by the City Engineer as sufficient to reimburse the City for restoring the right-of-way to its original condition. Such cash deposit may be used by the City for either traffic control or emergency work on an as needed basis as determined by the City Engineer. Where the size, nature, and location of the project warrants, the City Engineer may require an additional time completion deposit which shall be held by the City for the duration of the encroachment activity. The permittee shall forfeit to the City a portion of such deposit for each calendar day beyond the number of days specified on the encroachment permit. The daily amount to be forfeited shall be in accordance with the fee schedule adopted by Council resolution. The time completion deposit or any unused portion thereof shall be returned to the permittee within sixty (60) days upon the acceptance of the work by the City Engineer.

(§ 11100, T.O.O.C., as added by Ord. 50, as amended by § I, Ord. 778-NS, eff. June 11, 1981)

Sec. 7-2.402. Bonds.

In lieu of the cash deposit required by the provisions of Section 7-2.401 of this article, the applicant, with the approval of the City Engineer, may file a surety bond issued by a company authorized to do a general surety business in the State, in an amount fixed by the City Engineer as sufficient to reimburse the City, in accordance with the schedule of charges adopted by the

Council, for restoring the right-of-way to its original condition. Where the size and nature of the project warrant, the City Engineer may require an additional deposit of Five Hundred and no/100ths (\$500.00) Dollars cash for traffic control or emergency work.

(§ 11011, T.O.O.C., as added by Ord. 50)

Sec. 7-2.403. Instruments of deposit.

In lieu of the cash deposit required by the provisions of Section 7-2.401 of this article, the applicant, with the approval of the City Engineer, may file a certificate of deposit or savings and loan share assignment as a deposit in an amount fixed by the City Engineer as sufficient to reimburse the City, in accordance with the schedule of charges adopted by the Council, for restoring the right-of-way to its original condition. Certificates of deposit or savings and loan share assignments shall be in conformance with the requirements established by the City Engineer and approved by the Council.

(§ 11102, T.O.O.C., as added by Ord. 50)

Sec. 7-2.404. Annual bonds.

In lieu of the cash deposit, bond, certificate of deposit, or savings and loan share assignment required by the provisions of Sections 7-2.401 through 7-2.403 of this article, the applicant may, with the approval of the City Engineer, annually file with the City Engineer a surety bond issued by a company authorized to do a general surety business in the State, in a sum fixed by the City Engineer as sufficient to reimburse the City for restoring the right-of-way to its original condition, in accordance with the schedule of charges adopted by the Council.

(§ 11103, T.O.O.C., as added by Ord. 50)

Sec. 7-2.405. Insurance certificates.

In lieu of the cash deposit or bond required by the provisions of Sections 7-2.401 and 7-2.402 of this article, an applicant for a permit to move a vehicle may, upon approval by the City Engineer, file with the City Engineer an approved certificate of insurance issued by a company authorized to do a general insurance business in the State, in an amount fixed by the City Engineer as sufficient to reimburse the City, in accordance with the schedule of charges adopted by the Council, for restoring the right-of-way to its original condition in case of damage caused by moving any vehicle.

(§ 11104, T.O.O.C., as added by Ord. 50)

Sec. 7-2.406. Additional bonds and cash deposits.

The City Engineer may at any time require an additional bond or cash deposit if he finds that the amount of a bond or cash deposit previously made is insufficient to cover the cost of restoring the right-of-way in accordance with City standards and the schedule of charges adopted by the Council.

(§ 11105, T.O.O.C., as added by Ord. 50)

Sec. 7-2.407. Release of deposits.

Any deposit required by the City Engineer pursuant to the provisions of this chapter shall be payable to the City and shall be filed and deposited with the City Engineer. Ninety (90) days after the satisfactory completion of all authorized work and the fulfillment of all conditions of the permit, the City Engineer shall release the deposit upon the application of the permittee.

(§ 11106, T.O.O.C., as added by Ord. 50, as amended by § 1, Ord. No. 1537-NS, eff. June 25, 2010)

Sec. 7-2.408. Expiration date of deposits.

No bond, insurance, certificate, certificate of deposit, savings and loan share assignment, or other form of indemnification shall be acceptable which bears an expiration date not determined by the City.

(§ 11107, T.O.O.C., as added by Ord. 50)

Sec. 7-2.409. Bonds: Exemptions.

Public utilities operating under the jurisdiction of the Public Utilities Commission of the State, utilities holding a franchise from the City, and governmental agencies may be relieved by the City Engineer of the obligation of furnishing a restoration bond if the City Engineer is satisfied that proper restoration will be made.

(§ 11108, T.O.O.C., as added by Ord. 50)

Article 5. Liability Protection

Sec. 7-2.501. Liability for roadway damages.

The permittee shall indemnify the City for any and all damages caused to its roadways as a result of acts or omissions of the permittee in the performance of encroachment work.

(§ 11150, T.O.O.C., as added by Ord. 50)

Sec. 7-2.502. Nonliability of City for damages.

The permittee shall hold the City harmless from any claims or judgments for damages or other relief against the City as a result of acts or omissions of the permittee in the performance of encroachment work, whether the condition giving rise to the claim or judgment was created in whole or in part by the permittee.

(§ 11151, T.O.O.C., as added by Ord. 50)

Sec. 7-2.503. Liability insurance.

The permittee shall maintain adequate public liability insurance, including motor vehicle insurance, to protect him from any claims for damages for personal injury, including death, and for damage to property which may arise from the encroachment work or other operations under the permit, whether such encroachment work or other operations are by himself or by any agent or by anyone directly or indirectly employed by him or his agents. Certificates of insurance shall be filed with the City Engineer and shall be subject to his approval for adequacy of protection.

(§ 11152, T.O.O.C., as added by Ord. 50)

Sec. 7-2.504. Responsibility of subsequent owners.

All obligations, responsibilities, and other requirements of the permittee, as set forth in this chapter, shall be binding on subsequent owners of the encroachment.

(§ 11060, T.O.O.C., as added by Ord. 50)

Article 6. Construction

Sec. 7-2.601. Inspections: Charges.

If, in the judgment of the City Engineer, it appears desirable to maintain an inspector to

determine whether work is being done in compliance with the permit, the City Engineer shall assign an inspector, and the permittee shall pay the City in accordance with the schedule of charges adopted by the Council. The provisions of this section shall be applicable to all permittees, including districts and other political subdivisions.

(§ 11055, T.O.O.C., as added by Ord. 50)

Sec. 7-2.602. Commencement of work.

The permittee shall commence the encroachment work within sixty (60) days from the date of issuance of the permit unless a different period is stated in the permit. If the encroachment work is not commenced within sixty (60) days or within the time stated in the permit, the permit shall be void unless, prior to its expiration, the time for commencement has been extended in writing by the City Engineer.

(§ 11062, T.O.O.C., as added by Ord. 50)

Sec. 7-2.603. Commencement of work: Notices.

Before commencing any encroachment work authorized by any permit, the permittee shall notify the City Engineer of the time of commencing the work and provide the name, address, telephone number, and license number of the contractor, if any, who will perform the work.

(§ 11063, T.O.O.C., as added by Ord. 50)

Sec. 7-2.604. Completion of work: Notices.

The permittee shall complete the encroachment work authorized by a permit within the time specified in the permit. Upon completion of the work, the permittee shall give a written notice of completion to the City Engineer. The work shall be deemed to be incomplete until written notice of completion.

(§ 11064, T.O.O.C., as added by Ord. 50)

Sec. 7-2.605. Completion of work: Inspections.

Upon receipt of the notice of completion of the encroachment work, the City Engineer shall inspect the site of the encroachment work within three (3) working days and ascertain whether or not the permittee has complied with all the conditions and requirements imposed in the permit and by the provisions of this chapter. The permittee shall be advised in writing of the

results of the inspection. If the City Engineer determines that the permittee has not complied with all such conditions and requirements in performing the encroachment work, the City Engineer may order the permittee to correct the work immediately. If the permittee fails to correct the work within ten (10) days after being ordered to do so in writing, the City Engineer may correct the work. The permittee shall reimburse the City in accordance with the schedule of charges adopted by the Council.

(§ 11065, T.O.O.C., as added by Ord. 50)

Sec. 7-2.606. Completion of work: Filing of maps and atlas sheets.

Every person owning, using, controlling, or having an interest in any pipe, conduit, duct, or tunnel under the surface of any right-of-way for supplying or conveying gas, electricity, communication facilities, water, steam, ammonia, or oil, or for any other purpose shall file in the office of the City Engineer, within sixty (60) days after the complete installation, a corrected set of maps or atlas sheets drawn to a scale of not more than two hundred (200') feet to one (1") inch showing the complete installation of all such pipes, conduits, ducts, or tunnels. The same shall be required showing the location in detail of such pipes, conduits, ducts, or tunnels when such are abandoned. Maps and atlas sheets submitted periodically by public utilities shall be deemed compliance with the intent of this section.

(§ 11066, T.O.O.C., as added by Ord. 50)

Sec. 7-2.607. Completion of work: Restoration of rights-of-way.

Upon completion of the encroachment work authorized by a permit, the permittee shall restore the right-of-way by replacing, repairing, or rebuilding it to its original condition before the encroachment work was commenced. The permittee shall remove all obstructions, materials, and debris upon the right-of-way and shall do any other work necessary to restore the right-of-way to a safe and usable condition as directed by the City Engineer. Where excavations occur within areas already paved, the City Engineer may require temporary paving to be installed within twenty-four (24) hours after the excavated area is backfilled.

In the event the permittee fails to act promptly to restore the right-of-way as provided in this section, or should the nature of any damage to the right-of-way require restoration before the permittee can be notified or can respond to notification, the City Engineer may, at his option, make the necessary restoration. The permittee shall reimburse the City in accordance with the schedule of charges adopted by the Council.

(§ 11067, T.O.O.C., as added by Ord. 50)

Sec. 7-2.608. Completion of work: Delays.

If the encroachment work is not completed within the time specified in the permit, or if at any time the City Engineer finds that delay in commencing or prosecuting the encroachment work is caused by lack of diligence on the part of the permittee, the City Engineer may cancel the permit and restore the right-of-way to its original condition before the encroachment work was commenced. The permittee shall reimburse the City in accordance with the schedule of charges adopted by the Council.

(§ 11068, T.O.O.C., as added by Ord. 50)

Sec. 7-2.609. Emergency work: Notices.

The provisions of this chapter shall not prevent any person from performing emergency maintenance on any pipe or conduit lawfully on or under any public highway, or from making an emergency use as may be necessary for the preservation of life or property when an urgent necessity arises. The person making an emergency use or encroachment of a public highway shall apply for a written permit therefor on the first working day thereafter. Any person requiring an emergency use or encroachment shall notify the City Engineer's office immediately. Notification during the hours the City offices are closed shall be given to the Police Department.

(§ 11073, T.O.O.C., as added by Ord. 50)

Sec. 7-2.610. Standards.

All encroachment work shall conform to standards established by the City Engineer or, in the absence of established standards, to the specifications contained in the current edition of the standard specifications of the State issued by the Division of Highways, Department of Public Works of the State.

(§ 11200, T.O.O.C., as added by Ord. 50)

Sec. 7-2.611. Storage of materials.

All materials excavated from trenching or other encroachment operations in the right-of-way shall be piled compactly, kept trim, and maintained in such a manner as not to endanger either the workers or the general public and to cause as little inconvenience as possible to those using the right-of-way or adjacent property.

In areas too narrow to permit the proper storage of materials, the City Engineer may

require that the permittee remove the materials from the encroachment site.

(§ 11201, T.O.O.C., as added by Ord. 50)

Sec. 7-2.612. Monuments.

A monument set for the purpose of preserving survey points, lines, or elevation shall not be removed or disturbed without first obtaining permission from the City Engineer. The replacement of a removed or disturbed monument shall be done by a registered civil engineer or a licensed surveyor and shall be at the expense of the permittee.

(§ 11202, T.O.O.C., as added by Ord. 50)

Sec. 7-2.613. Open trenches.

In any trenching operation, the open trench shall not be in excess of one day's work ahead of the trench work proper unless specifically authorized by the City Engineer. When any excavation is commenced, the work of making and refilling shall be prosecuted diligently until completion.

(§ 11203, T.O.O.C., as added by Ord. 50)

Sec. 7-2.614. Interference with drainage.

If the encroachment work interferes with the established drainage, the permittee shall provide for proper drainage in a manner approved by the City Engineer.

(§ 11204, T.O.O.C., as added by Ord. 50)

Sec. 7-2.615. Small pipes.

Laterals, services, and other small diameter pipes shall be jacked, bored, or driven beneath paved surface unless other methods are approved by the City Engineer.

(§ 11205, T.O.O.C., as added by Ord. 50)

Sec. 7-2.616. Covering pipes and conduits.

The minimum cover over any pipe or conduit installed under any public highway shall be thirty (30") inches of material measured from the existing or proposed flow line of the nearest gutter to the top of the pipe or conduit. If a gutter flow line is not established, the cover shall be

thirty (30") inches of material measured from the surface of the nearest outermost edge of the traveled way to the top of the pipe or conduit. Where there are existing curbs and gutters or where curbs and gutters are under construction, utilities may maintain a minimum sixteen (16") inches of cover starting one (1') foot back of the curb line in the parkway or sidewalk area. The City Engineer may permit the installation of pipes or conduits at lesser depths where the required cover cannot be provided.

(§ 11206, T.O.O.C., as added by Ord. 50)

Sec. 7-2.617. Backfilling.

The backfilling and compaction of an excavation shall be in accordance with standards established by the City Engineer and adopted by resolution of the Council, both as to materials and methods. The backfilling shall commence within forty-eight (48) hours after the work in a trench is completed.

(§ 11207, T.O.O.C., as added by Ord. 50)

Sec. 7-2.618. Paving by City.

The City Engineer shall have the power to order the paving by City employees of any excavation up to one hundred (100') feet in length. The permittee shall reimburse the City in accordance with the schedule of charges adopted by the Council.

(§ 11208, T.O.O.C., as added by Ord. 50)

Sec. 7-2.619. Cleanup.

Except for materials properly stored, the permittee shall at all times keep the public highway clear of all materials, earth, and debris. Immediately after completion of the work, the permittee shall clean up and remove all materials, earth, and debris of any kind. If the permittee fails, within twenty-four (24) hours after having been notified to do so by the City Engineer, the work may be done by the City Engineer and the permittee charged in accordance with the schedule of charges adopted by the Council.

When a pole, guy-stub, or similar timber is removed and not replaced, the entire length thereof shall be removed from the ground and the hole backfilled and compacted.

(§ 11209, T.O.O.C., as added by Ord. 50)

Article 7. Relocation and Removal

Sec. 7-2.701. Requirements.

If any City construction or other maintenance work in a right-of-way requires the relocation or removal of an encroachment, the permittee shall relocate or remove the encroachment at his sole expense; provided, however, when an encroachment has been removed or relocated once at the expense of the permittee, any subsequent removal or relocation demanded by the City within three (3) years after the first removal or relocation shall be at the expense of the City. Such provision shall not apply if such highway becomes a freeway. The provisions of this section are not intended in any way to supersede or override any prior right which otherwise exists in favor of the permittee.

When removal or relocation is required, the City Engineer shall give the permittee a written demand specifying that the encroachment shall be relocated within the right-of-way to a satisfactory location provided by the City Engineer or removed from the right-of-way, and a reasonable time within which the encroachment shall be relocated or removed. If the permittee fails to comply with such instructions, the City may relocate or remove the encroachment at the expense of the permittee in accordance with the schedule of charges adopted by the Council.

In determining what is a reasonable time for the purposes of this section, the City Engineer shall take into consideration the nature of the encroachment, the urgency of the need for its removal, the cost of its removal, the difficulty of its removal, the value of the intact property of the owner, and other facts peculiar to the particular situation.

When an encroachment is removed and not replaced, the entire encroachment shall be removed from the right-of-way and the hole backfilled and compacted and returned to its preexisting condition unless the City Engineer permits otherwise.

(§§ 11251 and 11252, T.O.O.C., as added by Ord. 50)

Sec. 7-2.702. Removal of prior encroachments.

Any lawful or unlawful encroachment existing prior to August 3, 1965, shall, when removal is required, be removed pursuant to the procedure and penalties set forth in Sections 1481 through 1485 of Chapter 6 of Division 2 of the Streets and Highways Code of the State.

(§ 11253, T.O.O.C., as added by Ord. 50)

Article 8. Public Safety

Sec. 7-2.801. Interference with use of highways.

All encroachments shall be planned and executed in such a manner that they will not unreasonably interfere with the safe and convenient travel of the general public. Except as provided in Section 942.5 of Chapter 2 of Division 2 of the Streets and Highways Code of the State, at no time shall a public highway be closed or the use thereof denied to the general public.

(§ 11300, T.O.O.C., as added by Ord. 50)

Sec. 7-2.802. Safety devices.

In the conduct of the encroachment work, the permittee shall provide and maintain such safety devices, including, but not limited to, lights, barricades, signs, and watchmen, as are necessary to protect the public. Any omission on the part of the City Engineer to specify in the permit what safety devices shall be provided by the permittee shall not excuse the permittee from complying with all laws and regulations relating to the protection of persons under the circumstances. If the City Engineer finds that suitable safeguards are not being provided, he may provide, maintain, and relocate such safety devices as are deemed necessary, or he may cancel the permit and restore the right-of-way in accordance with existing City standards, charging the permittee in accordance with the schedule of charges adopted by the Council.

A permittee making any excavation or leaving any obstruction which could be a hazard to persons using a right-of-way shall provide and maintain warning lights far enough away from the excavation or obstruction to give adequate warning to such persons, and at not more than fifty (50') feet intervals along the excavation or obstruction, from one-half (1/2) hour before sunset of each day to one-half (1/2) hour after sunrise the next day, until the work is completed and the right-of-way is made safe for use.

All safety devices shall conform to the requirements of the sign manual issued by the Department of Public Works of the State so far as such manual is applicable.

(§ 11301, T.O.O.C., as added by Ord. 50)

Sec. 7-2.803. Visibility aids.

When the location or position of an encroachment impairs visibility to vehicular traffic, the City Engineer may require that the encroachment be painted or equipped with reflectors or other aids to visibility prescribed or authorized by the Public Utilities Commission of the State,

or the City Engineer may require the encroachment to be relocated at the sole expense of the permittee. No encroachment shall be maintained across any sidewalk area or shoulder of a public highway. No encroachment of any nature shall be permitted or maintained which impedes, obstructs, denies, or impairs the sight distance for safe pedestrian or vehicular traffic.

(§ 11302, T.O.O.C., as added by Ord. 50)

Article 9. Landscaping Provisions in Public Rights-of-Way*

* *The title of Article 9, formerly entitled "Plants and Fences," amended by Section I, Ordinance No. 549-NS, effective November 13, 1975.*

***Sec. 7-2.901. Purpose and intent.**

The intent and purpose of this article are as follows:

- (a) To implement the goals and policies of the Scenic Highways Element of the General Plan, which applies to a specific system of highways as designated in that element;
- (b) To establish provisions of law which serve to promote a uniform City beautification program in public rights-of-way with the installation of street trees, landscaped median islands and parkways, and other landscape architectural features;
- (c) To protect and enhance the visual character of the streets and highways in the City, with particular attention being given to landscaping and the materials used within the roadways themselves, and to provide implementation methods for achieving this objective;
- (d) To acknowledge that trees and other plant materials, by means of their shape, texture, color, and shadow effect, give people a sense of closer contact with nature within the urban environment;
- (e) To acknowledge that trees and other vegetation ameliorate the effects of air pollution through the absorption of air contaminants, reduce glare, and attenuate traffic noise, thus making the highway environment more pleasant for both residents and visitors of the City;
- (f) To recognize that landscape treatment in the public rights-of-way imparts important physical, functional, economic, and aesthetic benefits to the community and that the presence of trees and other vegetation, as well as distinctive ornamental streetscape design features, can enhance the visual identity of the City and thus improve the overall quality of the environment;
- (g) To promote and enhance scenic highway distinction and identity by developing

and maintaining highway landscape themes;

(h) To provide for median and parkway landscaping as new development occurs adjacent to scenic highways;

(i) To provide a policy, where development exists, that provisions be made for parkway and median improvements, including landscaping or other special treatment of public rights-of-way; and

(j) To recognize that, as street trees mature along with increased population and urbanization and increased potential for liability, there is a need to have policies which guide decisions regarding proposed removal and replacement of street trees.

(§ I, Ord. 549-NS, eff. November 13, 1975, as amended by § 1, Ord. 1372-NS, eff. February 8, 2001)

* *Section 7-2.901 entitled “Planting trees and other plants,” recodified from Section 11350, T.O.O.C., as added by Ordinance No. 50, amended by Section I, said Ordinance No. 549-NS.*

***Sec. 7-2.902. Definitions.**

For the purposes of this article, unless otherwise apparent from the context, certain words and phrases used in this article are defined as follows:

(a) “Land development manual” shall mean a document containing City standards and specifications for the improvement and maintenance of public streets.

(b) “Landscaping design criteria.” Landscaping design criteria within public rights-of-way and adjacent to public service easements shall be as defined in the Council adopted resolution containing precise guidelines and standards, and all landscaping shall be installed in accordance with City specifications. Plastic or artificial plants shall be prohibited, except as approved by the Public Works Director and Community Development Director, on or adjacent to public streets.

(c) “Parkway” shall mean and include that area of the public right-of-way between the back of the curb and the gutter line and the lot line of the adjacent property, other than a sidewalk.

(d) “Primary highway” shall mean the widest type of traffic thoroughfare that is shown on the Circulation Element of the General Plan.

(e) “Public service easement” shall mean an easement area usually adjacent to the street right-of-way containing utilities and City street trees.

(f) “Scenic Highways Element” shall mean an adopted element of the General Plan containing the policies, objectives, principles, standards, and plan proposals for the development, establishment, and protection of scenic highways pursuant to the provisions of Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code of the State.

(g) “Secondary highway” shall mean a lesser type of main traffic thoroughfare shown on the Circulation Element of the General Plan.

(h) “Street appurtenance” shall mean an appurtenance within or adjacent to the public right-of-way, consisting of, but not limited to, street signs and street lights.

(i) “Street median” shall mean a raised center strip of street right-of-way with varying widths containing landscaping and street appurtenances that serve to divide opposing traffic lanes and allow for left turn pockets.

(j) “Street tree” shall mean any tree planted or to be located within the public right-of-way, or public service easement as a requirement of development or an entitlement of the same or adjacent property.

(k) “Tree well” shall mean a designated tree planting location designed and installed in accordance with City specifications.

(l) “Turn pocket” shall mean a special traffic lane for turning purposes within the street right-of-way that is designed and installed in accordance with City specifications.

(m) “Community association” shall mean an association officially representing homeowners residing within a specific area that serves to manage and maintain facilities on land in common ownership through the collection of fees.

(n) “Landmark trees” shall have that meaning as defined in Article 43 of Chapter 4 of Title 9 of this Code.

(o) “Historic trees” shall mean a tree that because of its historical or cultural significance, will be preserved and safeguarded as symbolic of the City’s heritage and to the beauty and image of the City of Thousand Oaks. All historic trees shall be designated pursuant to Article 43 of Chapter 4 of Title 9 of this Code.

(§ I, Ord. 549-NS, eff. November 13, 1975, as amended by §§ 4, 8, Ord. 1217-NS, eff. October 28, 1994, § 2, Ord. 1372-NS, eff. February 8, 2001, and Part 14, Ord. 1610-NS, eff. January 15, 2016)

* *Section 7-2.902 entitled “Trimming and removing trees,” recodified from Section 11351, T.O.O.C., as added by Ordinance No. 50, repealed by Section II, Ordinance No. 549-NS, effective November 13, 1975.*

Sec. 7-2.903. General requirements: Landscape plans.

(a) Where residential, commercial, or industrial development is proposed adjacent to primary or secondary highways, including scenic highways, it shall be the responsibility of the developer to prepare or have prepared a precise landscape plan for that portion of the right-of-way improvement adjacent to the proposed development. A registered landscape architect selected by either the City or the developer shall be retained to prepare the landscape plan and oversee the implementation phase of the project.

(b) The developer and the landscape architect shall meet with the Public Works Director and the Community Development Director during the preliminary design and planning stages of all median islands and parkways on primary and secondary highways.

(c) All median landscaping, trees within the public service easement, and parkway trees required to be planted by a developer shall be installed in accordance with the intent and content of the City's Forestry Master Plan and approved by the Public Works Director and the Community Development Director or their respective designees. Additionally, landscape plans for primary and secondary highways adjacent to a project shall be prepared, and the implementation overseen, by a California Licensed Landscape Architect.

(§ I, Ord. 549-NS, eff. November 13, 1975, as amended by § 5, Ord. 1217-NS, eff. September 27, 1994)

Sec. 7-2.904. Medians: Types of landscaping required.

Where medians are constructed within primary and secondary controlled access highways, the type of landscaping to be installed shall depend upon the width of the particular median strip and shall be determined in accordance with the following:

(a) For median strips of widths less than six (6') feet. Ground cover, trees, and/or shrubs, subject to approval by the Public Works Director and the Community Development Director. For areas within one hundred (100') feet of an intersection, ground cover, trees, and shrubs shall be planted which will, upon maturity, not impede or restrict the vehicular sight distance. Where planting is not feasible, the median shall be paved curb to curb, in which case a decorative pavement pattern or textured surface material, approved by the Public Works Director and the Community Development Director, shall be utilized;

(b) For median strips of widths six (6') feet to ten (10') feet. Ground cover, trees, and/or shrubs, subject to approval by the Public Works Director and the Community Development Director. For areas within one hundred (100') feet of an intersection, ground cover, trees, and shrubs shall be planted which will, upon maturity, not impede or restrict the vehicular sight distance. Where planting is not feasible in turn pockets and approaches thereto, a

decorative pavement pattern or textured surface material, approved by the Public Works Director and the Community Development Director, shall be utilized; and

(c) For median strips of widths greater than ten (10') feet. Lawn, ground cover, trees and shrubs, subject to approval by the Public Works Director and the Community Development Director. Lawns must be irrigated with non-potable water. For areas within one hundred (100') feet of an intersection, ground cover, trees, and shrubs shall be planted which will, upon maturity, not impede or restrict the vehicular sight distance. Where planting is not feasible in turn pockets and approaches thereto, a decorative pavement pattern or textured surface material, approved by the Public Works Director and the Community Development Director, shall be utilized.

(d) Every attempt shall be made to incorporate drought-tolerant species in median areas.

(§ I, Ord. 549-NS, eff. November 13, 1975, as amended by § 6, Ord. 1217-NS, eff. September 27, 1994, and § 2, Ord. 1630-NS, eff. May 26, 2017)

Sec. 7-2.905. Trees in parkways, public service easements, and the like.

The following provisions shall apply with respect to trees in required parkways and public service easements:

(a) A lot or parcel of land in any zone adjoining a primary, secondary, collector, or residential street in connection with which a parkway is to be installed shall have ornamental trees planted in the parkway, right-of-way or public service easement.

(b) No building permit shall be issued for any construction on a lot or parcel of land required to have trees planted in the parkway until the required trees have been planted or a bond or security deposit is on file in the Public Works Department to assure that the trees will be planted prior to the occupancy of any structure. A condition to this effect shall be attached to all development and other permits hereafter approved by the City.

(c) Public service easements or peripheral right-of-way property on streets with monolithic sidewalks in residential, commercial, and industrial developments shall be planted with ornamental street trees prior to the issuance of any occupancy permit for any unit of the affected development. The type of tree to be planted shall be one identified within the planting pallets of the City's Forestry Master Plan and approved by the Public Works Director and the Community Development Director or their respective designees for the particular street in question. As a condition of a tentative tract map for large lot subdivisions (one acre minimum lot size), the Planning Commission may, under special or unique circumstances, modify or waive this requirement.

(d) For single-family residential subdivisions, a developer or owner shall submit to the City Engineer two (2) prints of the tentative subdivision map or the plot plan showing all streets and lots. The City Engineer shall indicate thereon the required trees and return one print to the subdivider or developer.

(e) To carry out the purposes of this section, the City shall prepare standard specifications for street tree planting which shall include, but not be limited to, the amount of bond required, the species of tree, planting methods and location, and maintenance. The specifications shall be effective upon adoption by the Council.

(f) That all planting shall conform to the City's Forestry Master Plan and any other City specifications.

(§ I, Ord. 549-NS, eff. November 13, 1975, as amended by §§ 7 and 9, Ord. 1217-NS, eff. September 27, 1994)

Sec. 7-2.906. Trimming, removal, and replacement of street trees.

(a) Any tree which is either dead, dying, or diseased within one year subsequent to the final acceptance of a development shall be replaced by the developer at the developer's sole cost and expense. Development entitlements approved by the City shall be conditioned to impose this requirement and to require the posting of a bond or cash deposit to guarantee performance.

(b) After one year subsequent to acceptance of the final improvements, the removal and replacement of street trees shall be authorized by the City.

(c) Except for City agents or employees as set forth in Section 7-2.907, no person shall cut, remove, trim, or in any manner alter the condition of a street tree without obtaining approval from the City.

(d) City approval for cutting, trimming or removal of a street tree may be granted if the City finds and determines that any of the following circumstances exist:

(1) The tree poses a significant threat to people, lawfully established structures, or other trees because of such factors as its continued growth, a structural defect, or its potential to spread disease or pests; as determined and certified by a certified arborist or City's Landscape Supervisor;

(2) The location of the tree interferes with public utility facilities; as certified by the Public Works Superintendent in consultation and concurrence with a certified arborist or City's Landscape Supervisor;

(3) The tree interferes with the public safety traffic line of sight or vehicle movement; as certified by the City's Traffic Engineer in consultation with a certified arborist or

City's Landscape Supervisor;

(4) The removal, trimming, or cutting is part of a Council approved program for the replacement of street trees;

(5) The tree is causing extensive or substantial damages to public or private property, and pruning and other remedial means have proven unsuccessful or will not, in the opinion of the City's tree consultant or Landscape Supervisor, prove to be effective. Wastewater lateral damage through root infiltration alone shall not be sufficient reason for tree removal;

(6) Alteration or removal is necessary to construct improvements within the public right-of-way as certified by a Registered Civil Engineer of the State of California in consultation and concurrence with a certified arborist or Landscape Supervisor;

(7) Such other reason as, in the judgment of the City, is justified or required in the interests of the preservation of the public health, safety and welfare.

(e) If a street tree is removed, it shall be replaced by a City approved street tree as identified in the Forestry Master Plan and approved by the City's Landscape Supervisor.

(f) Whether the cost of removal and replacement of the tree shall be borne by the developer, the City, or the adjoining property owner, shall be determined by the Public Works Director or his/her designee according to the facts and circumstances of each case, and on the basis of the causes and reasons for the removal and replacement.

(g) The tree trimming or removal procedures utilized shall conform to the City's Forestry Master Plan.

(h) In addition to the penalties provided by this Code, any person who cuts, damages, moves or removes any street tree or portion thereof without City approval, in violation of this section, is responsible for payment of proper restitution and may be required to replace the street tree so removed or damaged. Any damage to the tree shall be valued pursuant to the "Standards of Valuation of Amenity Trees" of the International Society of Arboriculture.

(§ I, Ord. 549-NS, eff. November 13, 1975, as amended by § 10, Ord. 1217-NS, eff. September 27, 1994, and §3, Ord. 1372-NS, eff. February 8, 2001)

Sec. 7-2.907. Repairs of street improvements within public rights-of-way where damages have been caused by street trees.

Damages caused to street improvements by street trees shall be handled in the following manner:

(a) The City, at City expense, shall make the initial repairs of street improvements

damaged by tree roots. After the City has once made such repairs with respect to a given tree, and the owner desires to retain the tree in place, it will thereafter be the property owner's responsibility to pay for any future repairs necessitated by maintaining the tree or trees which caused the damage. Non-fronting residential curbs and sidewalks shall be the responsibility of the appropriate local community association, where one exists, or of the individual property owner, where no such association exists, after the City has made its initial repairs on the sidewalk or street improvements. If the property owner or community association fails to make such improvements, the City will make the repairs at the owner's expense, as provided by law.

(b) The City, at City expense, shall remove trees within the public rights-of-way when such trees are causing damages to sidewalks or other street improvements; provided, however, this provision shall not apply to oak trees and other historic trees which are provided for by resolution or specific sections of this Code and, in addition, shall not apply when the property owner on whose property the tree fronts agrees to be responsible for any and all future repairs that may be necessitated due to the maintenance of the tree.

(c) Any tree which is removed shall be replaced with an appropriate City-approved street tree at City expense.

(d) The City shall replace the curbs and gutters and make the necessary repairs to the street improvements at the City's expense.

(§ I, Ord. 549-NS, eff. November 13, 1975)

Sec. 7-2.908. Scenic highways.

Scenic highways, as defined and adopted in the Scenic Highways Element of the General Plan, shall have landscaped medians and parkways that are planned for the full length of the right-of-way to achieve a continuous and/or compatible landscape design theme. Where highways are wholly or partially landscaped, attempts shall be made to continue the dominant landscape theme along any future extensions of the route.

(a) Where new development occurs adjacent to "existing highways," as defined in the Scenic Highways Element, right-of-way landscaping and improvements shall be installed in accordance with the provisions of this article relating to medians, landscaping, and trees in parkways. In addition, particular attention shall be given to the location and design of future highway-adjacent structures, including walls and fences, for their enhancement of scenic or aesthetic qualities of the route.

(b) Where "future routes" and "extension of existing routes," as defined in the Scenic Highways Element are constructed, at minimum, there shall be compliance with the requirements specified in this article relating to medians, landscaping, and trees in parkways.

The development of future routes shall also be subject to the following requirements:

- (1) A general alignment and grade shall be established to fit the scenic character of the area to be traversed. Such alignment and grade shall also include an emphasis upon fitting the roadway to the natural topography.
 - (2) The dedication of scenic easements adjacent to street rights-of-way may be required by the Planning Commission.
 - (3) Highway-adjacent structures, including subdivision walls, shall be designed and located in such a manner as to enhance the scenic or aesthetic qualities of the route.
- (c) Scenic highways shall also be further distinguished by the use of unique street appurtenances, including distinctive street lighting, street signs, and scenic highway identification signs. Variations in the textural finish or roadway surfaces at selected pedestrian crosswalks and street intersections shall be within the Thousand Oaks Core Area whenever possible.

(§ I, Ord. 549-NS, eff. November 13, 1975)

Sec. 7-2.909. Installation and maintenance programs, costs, and operation for medians and parkways on secondary and primary highways, including scenic highways.

- (a) Development permits, special use permits, and tentative tract maps approved for the development or expansion of projects on property adjacent to primary and secondary highways shall be conditioned to require the improvement of median islands and parkways in accordance with the provisions of this article, unless this requirement is waived by the Council.
- (b) Landscape maintenance districts may be established by the Council for specific areas to share the costs for the installation and maintenance of landscaped median islands and parkways.
- (c) Capital improvement programs may be adopted by the Council to provide for the construction of landscaped median and/or parkway improvements on primary or secondary highways, giving priority to scenic highways as funds become available. Scenic highways to be considered for priority capital improvement funding shall include Moorpark Road and Thousand Oaks Boulevard.

(§ I, Ord. 549-NS, eff. November 13, 1975)

Sec. 7-2.910. Planting lawns and ground cover.

It shall be permissible to plant and maintain a lawn or similar ground cover not

prohibited by law within the right-of-way of a public highway without a permit; provided, however, the lawn or similar ground cover shall not extend into the traveled way of the public highway nor into the drainage ditches, gutters, or other improved facilities.

The public may not be denied the use of the planted area for pedestrian or other lawful use. The City may use the planted area for any purpose and may issue a permit to any applicant to perform encroachment work pursuant to the provisions of this chapter. If the lawn or similar ground cover is damaged in the course of an authorized encroachment, the permittee who caused the damage shall be responsible for the replacement thereof, unless the permit specifically states otherwise.

(§ 11352, T.O.O.C., as added by Ord. 50, as renumbered by § II, Ord. 549-NS, eff. November 13, 1975)

Sec. 7-2.911. Planting and erecting hedges, shrubs, and fences.

No hedge, shrub, or other planting and no fence or other structure shall be planted, erected, or maintained in a right-of-way without a permit upon any sidewalk or shoulder or in such manner which impedes, obstructs, denies, or impairs the sight distance for safe pedestrian or vehicular traffic.

(§ 11353, T.O.O.C., as added by Ord. 50, as renumbered by § II, Ord. 549-NS, eff. November 13, 1975)

Sec. 7-2.912. Maintenance of hedges, shrubs, and fences.

The permittee shall maintain hedges, shrubs, or other plantings, and fences or similar structures in a neat and orderly condition. If the encroachment is not so maintained, the City Engineer may direct the permittee to remove the encroachment and restore the right-of-way to its former condition at the expense of the permittee.

(§ 11354, T.O.O.C., as added by Ord. 50, as renumbered by § II, Ord. 549-NS, eff. November 13, 1975)

Article 10. Vehicles

Sec. 7-2.1001. Moving certain vehicles and objects.

- (a) Compliance with general laws. When authorized by a permit issued by the

Division of Highways of the State or the City Engineer to move

a vehicle or combination of vehicles or load of a dimension or weight or other characteristic generally prohibited by law, the permittee shall comply with the general laws regulating travel over a public highway, including posted signs or notices which limit speeds, directions of travel, weight which may be placed upon a structure, the width or height which may be moved on, over, or across a public highway, or which otherwise restrict or control travel on a public highway, unless exempt by a special permit.

(b) Inspections. When it is deemed necessary that the City provide inspection services, such services shall be paid for by the permittee in accordance with the schedule of charges adopted by the Council.

(§§ 11401 and 11402, T.O.O.C., as added by Ord. 50)

Article 11. Appeals

Sec. 7-2.1101. Appeals: Hearings.

(a) Appeals: Form. Any person aggrieved by the refusal or revocation of a permit may appeal to the Council within thirty (30) days after the date of such action. The appeal shall be in the form of a written notice filed with the City Clerk and signed by the applicant. The notice shall have attached a copy of the application as filed with the City Engineer, shall recite such other items as have been filed, and shall state clearly and concisely the grounds upon which the applicant relies in his appeal.

(b) Hearings: Notices. The City Clerk shall set the matter for a hearing within fifteen (15) days after the notice is filed and shall notify the applicant and the City Engineer of the setting.

(c) Hearings: Council action. At the hearing the applicant shall establish to the satisfaction of the Council that he is entitled to the issuance of a permit pursuant to the provisions of this chapter or to the reinstatement of a permit previously revoked. The City Engineer may present his grounds for the denial or revocation of the permit. The decision of a majority of the Council shall be final.

(§ 11500, T.O.O.C., as added by Ord. 50)

Article 12. Violations

Sec. 7-2.1201. Violations.

Any person who fails or refuses to comply with any provision of this chapter or of the permit granted to him, or who commits any act in violation of the provisions of this chapter or of the permit granted to him, shall be deemed guilty of a violation of this Code pursuant to Section 1-2.01 of Chapter 2 of Title 1 of this Code.

(§ 11450, T.O.O.C., as added by Ord. 50, as amended by § XXVIII, Ord. 770-NS, eff. February 26, 1981)

Article 13. Newsracks*

** Article 13, consisting of Sections 7-2.1301 through 7-2.1308, codified from Ordinance No. 727-NS, effective September 13, 1979 (Sections 7-2.1301 and 7-2.1304 amended by Ordinance No. 1266-NS, effective September 17, 1996; Section 7-2.1306 amended by Ordinance No. 770-NS, effective February 26, 1981), repealed by Section 1, Ordinance No. 1312-NS, effective February 12, 1998, and Sections 7-2.1301 through 7-2.1312 added by Section 2, Ordinance No. 1312-NS, effective February 12, 1998)*

Sec. 7-2.1301. Purpose.

(a) The purpose of this article is to establish a comprehensive set of regulations applicable to newsracks on the public rights-of-way and other public property. In order to advance, improve and promote aesthetic concerns as well as the public health, safety and welfare of the City of Thousand Oaks, it is necessary to control the number, size, construction, placement and appearance of such newsracks. This article is intended to accomplish these ends, without restricting the free dispersal of information guaranteed by the Constitutions of the United States and the State of California, through regulation of the placement, appearance, and servicing, of newsracks on the public rights-of-way so as to:

(1) Provide sufficient clearance and visibility for safety and convenience of the pedestrian and driving public;

(2) Avoid the unreasonable interference with the flow of pedestrian or vehicular traffic, including ingress or egress from any residence or any place of business or from the street to the sidewalks by persons crossing or exiting/entering parked or standing vehicles;

(3) Provide reasonable access for the use and maintenance of utility poles, posts, traffic signs or signals, hydrants and mail boxes, and access to locations used for benches and

public transportation purposes;

(4) Eliminate poorly maintained newsracks and the lack of uniformity in the color and style of newsracks which have resulted in a visual blight on the public rights-of-way, or which may unreasonably detract from the aesthetics of store window displays, adjacent landscaping, and other improvements;

(5) Maintain and protect the values of surrounding properties;

(6) Reduce the unnecessary exposure of the City to personal injury and property damage claims; and

(7) Provide for and maintain the freedom of speech for newspapers or news periodicals using newsracks for distribution purposes.

(b) The City Council finds that the competing interests of the public safety and welfare and for the open distribution of newspapers require reasonable accommodations, which can only be satisfactorily achieved through this article, which regulates the place and manner of using newsracks on public property.

(§ 2, Ord. 1312-NS, eff. March 16, 1998)

Sec. 7-2.1302. Definitions.

For the purposes of this article, unless otherwise apparent from the context, certain words and phrases used in this article are defined as follows:

(a) “Blinder rack” shall mean any opaque material placed in front of printed matter or photographs on public display.

(b) “Distributor” shall mean the person responsible for placing, operating and maintaining a newsrack in a public right-of-way.

(c) “Equivalent” shall mean any newsrack which is of the same size, dimensions and style of the specified newsrack as approved by the Public Works Director.

(d) “Newsrack” shall mean any type of unmanned device placed upon any public right-of-way or public land for the vending of, or the free distribution of, newspapers or news periodicals, advertising fliers, or other written or printed publications.

(e) “Public right-of-way” and “public land” shall mean any building, park, property, street, highway, sidewalk, surface easement, plaza, walkway, parkway or alley which is owned or held (whether in fee, easement, leasehold or other interest) by the City of Thousand Oaks.

(f) “Public Works Director” shall refer to the City’s Public Works Director or the

designee of the Public Works Director.

(§ 2, Ord. 1312-NS, eff. March 16, 1998)

Sec. 7-2.1303. Permits.

(a) Prohibitions. No person, whether as a principal, agent, or employee, either for itself or any other person, or as an officer of any corporation, or otherwise, shall place, affix, erect, construct or maintain a newsrack upon any public right-of-way or public land unless and until an administrative encroachment permit has been obtained from the Public Works Department.

(b) Application. A written application for a newsrack encroachment permit shall be filed with the Public Works Department on the City's form and shall include at least the following information:

(1) The name, address and telephone number of the applicant, or the distributor;

(2) The name, address and telephone number of a representative of the applicant or other responsible person whom the City may notify or contact at any time concerning the applicant's newsrack or newsracks;

(3) Proof that the type or brand of newsrack is consistent with requirements of this article, including a photograph of the newsrack and mount;

(4) A picture or map showing and identifying the number of newsracks, the exact proposed location of each (herein "site"), and the order of all newsracks at that location;

(5) The name of the newspaper, publication or periodical to be contained in each newsrack.

(c) Fee. Each application for a newsrack encroachment permit shall be accompanied by a processing fee, which shall not exceed the processing, inspection and enforcement costs, in an amount set by resolution of the City Council.

(d) Conditions for permit.

(1) In issuing the permit or rejecting any site, the Public Works Department shall be guided solely by the standards and criteria set forth in this article. In any case where the Public Works Department disapproves of a particular location, such disapproval shall be without prejudice to the applicant who may designate a different location or locations.

(2) Permits shall be issued for the installation of a newsrack or newsracks only after City inspection of a proposed site, or sites, and the installation, use or maintenance thereof shall

be conditioned upon compliance with the provisions of this article.

(3) Permits should be issued within ten (10) business days after a completed application has been filed and upon a finding that the application complies with the provisions of this article.

(4) If an application or a proposed site is denied, the applicant shall be notified in writing of the specific reason for such denial and the right of a hearing in accordance with Section 7-2.1310.

(5) Insurance and Indemnification as set forth in this article.

(e) A single permit may include up to ten (10) proposed sites for newsracks to be installed within the City.

(f) Each permit shall expire on or about the first day of April of each year, and shall be renewed pursuant to a simplified review process as established by the Public Works Department.

(g) Insurance and indemnification. As part of the permit application, each applicant shall indemnify, defend and hold the City, its officers, employees and agents free and harmless from any claim, damage, liability, demand or judgment in favor of any person or entity, arising out of the location, operation and use of any newsrack located upon, in or over a public right-of-way or other public property. The applicant shall provide the City with a certificate of insurance or other documentation, as required by the City Attorney, evidencing that a liability insurance policy in minimum amounts set by the City Attorney has been issued, naming the City as an additional insured, and containing a provision that the policy cannot be canceled except upon thirty (30) days written notice to the City of the fact of such cancellation. If such insurance is canceled at any time during the time the newsrack is installed or maintained on public property, said newsrack shall be removed at permittee's cost in accordance with the provisions of this article.

(h) Identification tag. The name, address, and telephone number of a responsible person who may be contacted at any time concerning the newsrack shall be displayed on the newsrack in such a manner as to be readily visible and readable to a prospective customer thereof.

(i) Permit Sticker. Upon permit approval, the Public Works Department shall issue to the applicant a sticker or stickers evidencing the permit, which shall be affixed to each newsrack on the permit in the manner specified by the Public Works Department within ten (10) business days thereof.

(§ 2, Ord. 1312-NS, eff. March 16, 1998)

Sec. 7-2.1304. Newsrack requirements.

Any newsrack which is located, in whole or in part, upon, in or over any public right-of-way, shall comply with each of the following standards:

(a) Newsracks shall be the standard K-Jack Style Model 100, National Newsvend Style M-10 or equivalent model on a permanently fixed single pedestal (or multi-pedestal for groupings of newsracks) mount bolted to the paved area.

(b) No newsrack with mount or stand shall exceed forty-eight (48") inches in height, thirty (30") inches in width, or twenty-four (24") inches in thickness.

(c) All opaque surfaces of a newsrack and the mounts shall be painted the same color.

(d) The newsrack shall not be used for advertising or publicity purposes, except:

(1) The name of the printed material dispensed therefrom may be displayed on the bottom one-third (1/3) of the hood, and

(2) Advertising newsrack cards contained in card pans may be attached to, and inserted and located on, the front of the newsrack. The newsrack cards shall not exceed fifteen (15") inches in height and twenty-two (22") inches in length. No other card, sign, or advertising device may be attached.

(e) Each newsrack shall be maintained in a clean, painted, neat and attractive condition and in good repair at all times. Specifically, but without limiting the generality of the foregoing, each newsrack shall be serviced and maintained so that:

(1) It is reasonably free of dirt and grease;

(2) It is reasonably free of chipped, faded, peeling and cracked paint in the visible painted areas thereof;

(3) It is reasonably free of rust and corrosion in the visible unpainted metal areas thereon;

(4) The clear plastic or glass parts thereof, if any, through which the publications therein are viewed are unbroken and free of cracks, dents, blemishes and discolorations;

(5) The paper or cardboard inserts are free of tears, peeling or fading;

(6) The structural parts thereof are not broken or misshapen; and

(7) Any and all graffiti, unauthorized stickers or decals are immediately removed.

(§ 2, Ord. 1312-NS, eff. March 16, 1998)

Sec. 7-2.1305. Sites: location, placement, and number restrictions.

(a) No proposed site and no newsrack shall be placed, installed, used or maintained in the following locations:

- (1) Within five (5') feet of any marked crosswalk;
- (2) Within fifteen (15') feet of the curb return of any unmarked crosswalk;
- (3) Within five (5') feet of any fire hydrant, fire call box, police call box or other emergency facility;
- (4) Within five (5') feet of any driveway;
- (5) Within five (5') feet ahead of and fifteen (15') feet to the rear of any sign or pavement marking for a designated bus stop measured parallel to the flow of traffic;
- (6) Within five (5') feet of any bus bench;
- (7) At any location where the newsrack causes, creates, or constitutes a line of sight problem or a traffic hazard;
- (8) At any location where the newsrack unreasonably obstructs or interferes with the pedestrian access to abutting property;
- (9) Where the newsrack will endanger persons using the sidewalk or property;
- (10) Where the newsrack will unreasonably interfere with or obstruct the safe flow of pedestrian or vehicular traffic on the public right-of-way;
- (11) At any location which creates less than a four (4') foot wide path of travel as required by Title 24 of the California Code of Regulations and the Americans with Disabilities Act;
- (12) Facing another newsrack when separated or divided only by the width of a sidewalk or pedestrian walk;
- (13) On any access ramp or curb cut for disabled persons.

(b) All newsracks on sidewalks or walk ways adjacent to or paralleling a street shall be placed away from the street on the back (side furthest from the street) of the sidewalk parallel to a curb, or along the wall of a building, with the front of the newsrack facing the sidewalk and roadway. Newsracks shall be located in such a manner as is necessary to maintain a clear pedestrian path of travel of at least four (4') feet wide. Newsracks placed parallel to the wall of a

building shall be placed with the back not more than six (6") inches from the wall.

(c) At any site where more than one newsrack is to be located and maintained, a grouping can be established for mounting all newsracks on a permanently fixed single, double or triple pedestal multi-unit mount of a type approved by the City and bolted to the pavement.

(d) If eight (8) or more newsracks are placed at a single site, they shall be grouped in groups of six (6) and each group shall be separated from the next group by at least forty-eight (48") inches.

(§ 2, Ord. 1312-NS, eff. March 16, 1998)

Sec. 7-2.1306. Displays of matter harmful to minors prohibited.

Material which is harmful to minors, as defined in Part 1, Title 9, Chapter 7.6 of the Penal Code (commencing at Section 313), shall not be displayed in a public place, other than a public place from which minors are excluded, unless blinder racks are placed in front of the material in such a manner that the lower two-thirds (2/3) of the materials is not exposed to view.

(§ 2, Ord. 1312-NS, eff. March 16, 1998)

Sec. 7-2.1307. Abandonment.

(a) In the event any newsrack installed pursuant to this article does not contain the publication specified in the application within a period of thirty (30) days after the release of the current issue, or if no publication is in the newsrack for a period of more than thirty (30) consecutive days, the Public Works Department may deem the newsrack abandoned and may remove the newsrack from the public right-of-way in accordance with the procedures set out in Sections 7-2.1308 through 7-2.1310.

(b) In the event a permittee of a newsrack, owned by the permittee, desires to voluntarily abandon a newsrack location, such permittee shall notify the Public Works Director in writing of the date of the proposed removal thirty (30) days prior to the newsrack's removal and the permittee shall completely remove the newsrack and mount on the date set forth in such notice. In addition the permittee shall restore the sidewalk to good and safe condition leaving no hole or projection in the sidewalk and using the same type and quality of construction material as that which exists at the surface of the abutting sidewalk.

(§ 2, Ord. 1312-NS, eff. March 16, 1998)

Sec. 7-2.1308. Notice to Correct.

(a) Upon determination by the Public Works Department that a newsrack has been installed, used or maintained in violation of this article, a Notice to Correct shall be issued which shall specify the manner in which this article is violated and request compliance. Such notice shall state the nature of the violation, the intention to impound the newsrack if the violation shall not be corrected or if a hearing is not requested, and the procedure for requesting such a hearing. The Department may notify the permittee, or person, if known, either in person, or by mail, or if the owner of the newsrack is not known, by affixing a notice to the newsrack, that unless the violation is corrected or a hearing is requested within ten (10) days after the date of the notice, the newsrack will be removed and impounded.

(b) Notwithstanding subsection (a) of this section, in the case of any violation of this article which creates an immediate danger to the public health, safety or welfare, which violation cannot be corrected by moving or otherwise repositioning an unanchored newsrack, the newsrack may be summarily removed and impounded by the City.

(§ 2, Ord. 1312-NS, eff. March 16, 1998)

Sec. 7-2.1309. Impoundment.

(a) Whenever a newsrack is impounded pursuant to Sections 7-2.1307 and 7-2.1308, the Public Works Department shall immediately notify the person in whose name the newsrack is registered, if known. Such notice shall state the date the newsrack was removed and impounded, the reasons thereof, and the procedure for claiming the newsrack. If the newsrack was summarily impounded, such notice shall also state the procedure for requesting a hearing before the Public Works Department.

(b) The permittee or other person who provides satisfactory proof of ownership of the impounded newsrack may, at any time within thirty (30) days of the notice of impound obtain the return of the newsrack and its contents upon paying of removal costs, storage and other costs.

(c) The costs of removal and storage of any newsrack shall be borne by the owner thereof and may be collected by the City in the same manner as it collects any other civil debt or obligation. No newsrack which has been removed and stored by the City shall be released to the owner unless the costs of removal, storage and any necessary repair to the premises on which the newsrack was placed have been paid. If a newsrack which has been removed and stored remains unclaimed for a period of thirty (30) days after notice of impoundment is sent, it shall be deemed to be unclaimed personal property and disposed of in accordance with the law.

(d) If, after a hearing, the impounded newsrack is found not to have been in violation of this article, the newsrack shall be returned to the permittee or other claimant without payment of any impound fee or, if an impound fee has previously been paid, the impound fee is refunded.

(§ 2, Ord. 1312-NS, eff. March 16, 1998)

Sec. 7-2.1310. Hearings.

(a) Any person maintaining a newsrack found in violation of this article may request a hearing before the Public Works Director, or his or her designee, within ten (10) consecutive calendar days after the giving of such notice of violation. The request shall be in writing, shall state the basis thereof, and shall be filed with the Public Works Department.

(b) The hearing shall be held within ten (10) working days of the filing of the request. At the hearing any person may present evidence or argument as to whether the newsrack has been installed or maintained in violation of this article. Within five (5) working days after the close of the hearing, the Public Works Department shall render a decision in writing and shall give such written decision to the person who requested the hearing.

(c) Any person who requested a hearing may, within ten (10) days after the decision was given, appeal such decision to the City Council. The appeal shall be in writing, shall state the basis upon which the appeal is made, and shall be filed with the City Clerk. The City Council shall attempt to hear the appeal within thirty (30) days of the filing of the request. At the hearing any person may present evidence or argument as to whether the newsrack has been installed or maintained in violation of this chapter. Prior to the end of the next regular meeting of the City Council after the close of the hearing, the council shall render a decision. Within thirty (30) days after the decision is rendered, the City Clerk shall give notice thereof to the person who made the appeal. The decision of the City Council shall be final.

(§ 2, Ord. 1312-NS, eff. March 16, 1998)

Sec. 7-2.1311. Violations.

Any person, as defined in T.O.M.C. Section 1-3.13, who violates a provision of this article shall be subject to the provisions of Chapter 2 of Title 1 of this Code.

(§ 2, Ord. 1312-NS, eff. March 16, 1998)

Sec. 7-2.1312. Initial filing, processing and abatement of nonconforming existing newsracks.

(a) Effective date. The effective date of this article shall be March 16, 1998.

(b) Initial filing and processing. Any person owning or entitled to possession, management or control of any newsrack located within the City as of the effective date of this

article shall:

(1) Within sixty (60) days of the effective date of this article, remove the newsrack, or file for a permit or permits required by this article for all sites.

(2) Notwithstanding Section 7-2.1301(d)(3), for the initial processing of these new permits on existing racks, City shall have up to sixty (60) days to issue permits upon the receipt of a completed permit application. The initial permits issued shall expire April 1, 1999.

(c) Compliance/abatement. Any person owning or entitled to possession, management or control of any newsrack located within the City as of the effective date of this article shall:

(1) Relocation of newsracks. Within one hundred eighty (180) days of the effective date of this article, move the newsracks, pursuant to Section 7-2.1305(b), to the City approved location consistent with this article, with the row of newsracks in the same order as previously existed, or pursuant to a schedule approved by the Public Works Department. At no time or in any manner may a newspaper change the priority or order of a newsrack within a row of newsracks; and

(2) Size and style. Within one hundred eighty (180) days of the effective date of this article, conform to all other requirements of this article, (such as Section 7-2.1304, including, but not limited to, the size and style of the newsrack.)

(d) If any newsrack is not approved by the City under this article within the time limits specified in this section, the City may attach a Notice to Correct to the newsrack informing the owner or person entitled to possession of the requirement, and if the newsrack is not approved within ten (10) days of affixing the Notice to Correct or if a hearing is not requested, the newsrack may be removed and stored pursuant to Section 7-2.1309.

(§ 3, Ord. 1312-NS, eff. March 16, 1998)