

## Chapter 7.04 ENCROACHMENTS

### Sections:

#### Article I. General Provisions

- [7.04.010](#) Definitions.
- [7.04.020](#) Applicability.
- [7.04.030](#) Streets—Right of lawful use.
- [7.04.040](#) Prohibited encroachments.
- [7.04.050](#) Liability for damages—Insurance required.
- [7.04.060](#) Completion of work by city.
- [7.04.070](#) Signs on public property.
- [7.04.080](#) Public service banners.
- [7.04.090](#) Maintenance of records.
- [7.04.100](#) Mailbox placement.
- [7.04.110](#) Markings on streets and curbs.
- [7.04.120](#) Monuments.
- [7.04.130](#) Hedges, fences, shrubbery and lawns.
- [7.04.140](#) Trees.
- [7.04.150](#) Storage on street or sidewalk prohibited.

#### Article II. Permit Requirements

- [7.04.160](#) Permit—Required.
- [7.04.170](#) Permit—Application—Generally.
- [7.04.180](#) Permit—Application—Required documents.
- [7.04.190](#) Action on application.
- [7.04.200](#) Permit issuance—Fees and charges.
- [7.04.210](#) Bond—Required.
- [7.04.220](#) Bond—Condition.
- [7.04.230](#) Bond—Payable to city—Term.
- [7.04.240](#) Bond—Exclusions.
- [7.04.250](#) Permit—Term.
- [7.04.260](#) Permit—Display required.
- [7.04.270](#) Changes in permit.
- [7.04.280](#) Permit—Nontransferable.
- [7.04.290](#) Other permit issuance—Not compliance with this chapter.

#### Article III. Performance of Work

- [7.04.300](#) Standards and specifications.
- [7.04.310](#) Safety laws—Compliance required.
- [7.04.320](#) Inspections.
- [7.04.330](#) Commencement of work—Notification required.

- [7.04.340](#) Restoration of street.
- [7.04.350](#) Drainage requirements.
- [7.04.360](#) Completion of work—Notification required.
- [7.04.370](#) Guaranty period.
- [7.04.380](#) Relocation or removal of encroachments.

#### Article IV. Sidewalks, Driveways, Curbs

- [7.04.390](#) Permit—Required.
- [7.04.400](#) Removal of driveway.
- [7.04.405](#) Closure of hazardous driveways.
- [7.04.410](#) Denial of building permit while sidewalk incomplete.
- [7.04.420](#) Repair of sidewalks.

#### Article V. Wireless Telecommunication Facilities

- [7.04.430](#) Permit—Required.
- [7.04.440](#) Development standards.
- [7.04.450](#) Public notification.

#### Article VI. Enforcement

- [7.04.460](#) Permit—Revocation.
- [7.04.470](#) Appeals.
- [7.04.480](#) Enforcement officer designated.
- [7.04.490](#) Nuisance summary abatement.
- [7.04.500](#) Lien procedure.

### Article I. General Provisions

#### 7.04.010 Definitions.

Unless the context otherwise requires, the definitions contained in this section shall govern the construction of this chapter:

“Antenna” shall have the meaning given that term in Section [8.92.030](#).

“City Engineer” means the City Engineer or his designee.

“Encroach” or “encroachment” means and includes going upon, over, under, or using any street in such a manner as to prevent, obstruct, or interfere with its normal use, including but not limited to the performance thereon of any of the following acts:

1. Excavating, filling or disturbing the street;
2. Erecting or maintaining any post, pole, fence, guard rail, wall, loading platform, or other structure on, over, or under the street;
3. Planting any tree, shrub, or other growing thing within the street;

4. Placing or leaving on the street any rubbish, brush, earth, or other material of any nature whatever;
5. Constructing, placing, or maintaining on, over, under, or within the street any pathway, sidewalk, driveway, or other surfacing, any culvert or other surface drainage, or subsurface drainage facility, any pipe, conduit, wire, or cable;
6. Lighting or building a fire;
7. Constructing, placing, planting, or maintaining any structure, embankment, excavation, tree, or other object adjacent to the street which causes or will cause an encroachment; or
8. Placing or causing to be placed any material, machinery, or apparatus on the street for building, paving, or other purposes for over twenty-four (24) hours.

“Permittee” means any person that proposes to do work or encroach upon a street as herein defined and has been issued a permit for said encroachment by the City Engineer.

“Person” means any individual, firm, partnership, association, or corporation, including any public agency or utility, or any agent or representative thereof and includes successors in interest.

“Personal wireless service” means commercial mobile telecommunications services provided by a telephone or telegraph corporation under a certificate of public convenience and necessity issued by the California Public Utilities Commission.

“Personal wireless service facility” means a facility that transmits and/or receives telephonic or other wireless signals, including antennas, equipment, related facilities and appurtenances thereof used to provide or facilitate the provision of personal wireless service.

“Personal wireless service facility permit” means a permit issued pursuant to this chapter authorizing a permittee to construct, install, and maintain a personal wireless service facility within the full width of the right-of-way of any street, as defined in the California Vehicle Code.

“Street” means the full width of the right-of-way of any street, as defined in the California Vehicle Code, used by the general public, whether or not such street has been accepted as and declared to be part of the city system of streets including streets forming a part of the state highway system.

“Street” also includes easements where the city is the grantee of the easement and property owned by the city. (Ord. 10-17 § 1 (part); Ord. 15-89 § 1; Ord. 13 § 1 (part), 1982)

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## Article V. Wireless Telecommunication Facilities

### 7.04.430 Permit—Required.

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- A. No person shall construct, install, modify, or maintain a personal wireless service facility within, upon, over, or under the limits of any street in the city without first obtaining a personal wireless service facility permit as required in Article II of this chapter, and Chapter [8.92](#) as it relates to Section 6409(a) of the Middle Class Tax Relief Act of 2012.
- B. In addition to the requirements of Section [7.04.190](#), a personal wireless service facility permit shall not be issued if the applicant seeks to:
1. Install a new utility, transit, or street light pole on a street where there presently are no overhead utility facilities, other than street lights, unless it can be demonstrated to the satisfaction of the City Engineer that utilization of an existing street light pole is not technically feasible for the applicant's coverage objective;
  2. Install a personal wireless service facility that fails to comply with applicable building, structural, electrical, or safety codes or other laws, including, but not limited to, the Americans with Disabilities Act; or
  3. Add a personal wireless service facility on a city-owned street light pole or other traffic control and safety pole for which the city has not given its permission. (Ord. 10-17 § 1 (part))

### 7.04.440 Development standards.

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Due to the potential visual impacts associated with right-of-way installations, the following is required for all personal wireless service facility installations within the street:

- A. Installations must use all design techniques to minimize visual impacts, as determined by the City Engineer.
- B. New or replacement poles supporting a personal wireless service facility shall match style, color and material of the original or adjacent poles.
- C. The maximum height of a pole supporting a personal wireless service facility shall be equal to the average height of all existing utility or street light poles within one hundred (100) feet; provided, however, that an antenna located within a shroud on top of the pole may extend the height of the pole by a maximum of five (5) feet, or up to twelve (12) feet on a joint pole as may be necessary to comply with the clearance requirements established by California Public Utilities Commission General Order 95 or other applicable law or regulation. The height of any street light or utility pole shall not be modified unless approved by the City Engineer.
- D. No exposed cables. All cables shall be concealed within a sleeve between the bottom of the antenna and the mounting bracket. For wooden poles, cables shall be concealed with the use of shrouds, risers or conduit.
- E. Minimum height clearance regulations shall be observed by all components of the installation.

F. No signs, other than those required by government or electrical utility notifications shall be located on the poles. All signage shall be designed with the lowest visibility, utilize a muted color and located as close to the antenna as possible. This does not pertain to identification badges, as may be required by the City Engineer. No facility may include any advertising material.

G. The facility, including the antennas, cabling and related equipment shall be constructed out of nonreflective materials, painted and/or textured to match the existing support structure, and shall not produce any noticeable artificial light.

H. The facility must be located so that it does not block the required illumination provided by the street light.

I. Above ground cabinets are discouraged. The City Engineer shall not approve an above ground cabinet to serve a personal wireless service facility unless the applicant demonstrates that placement underground or pole mounting of equipment is not technically feasible or that the undergrounding or pole mounting will have more significant impacts on the public than the above ground cabinet. Where technically feasible, equipment shall be placed underground, unless it would have more significant impacts on the public than pole-mounted equipment. Above ground cabinets shall be designed and located in an area with minimal visual impact, as determined by the City Engineer. Pole-mounted equipment is subject to the following:

1. Equipment shall be mounted in a manner to reduce its visibility and not obstruct the visibility of any road signs.
2. Equipment cabinets may not exceed seven (7) cubic feet in volume.
3. All equipment shall be limited to a maximum noise level of forty-five (45) dB measured at the nearest property line.

J. All disturbed landscape shall be replaced in-kind and areas of bare or disturbed soil shall be vegetated or landscaped to prevent erosion to the satisfaction of the City Engineer.

K. All new installations shall utilize brackets that allow antennas and associated facilities to be mounted at a standoff of no more than four (4) inches measured horizontally from the pole, unless it can be demonstrated to the satisfaction of the City Engineer that a greater distance is required for clearance purposes. (Ord. 10-17 § 1 (part))

#### **7.04.450 Public notification.**

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A. Notice Required. Prior to commencement of installation of a personal wireless service facility, the permittee shall notify the public of the proposed installation as specified in this section. The notice shall be mailed and posted at least ten (10) days prior to installation as specified below. The permittee shall provide evidence of compliance with this requirement.

B. Types of Notice Required.

1. Notice by Mail. The permittee shall send, via first class U.S. mail, a copy of the notice to the owner(s) and occupant of each parcel that: (a) fronts the street on which the proposed personal wireless service facility is located or fronts a street that intersects such street and (b) is within one

hundred fifty (150) linear feet of the proposed personal wireless service facility. For example, if the distance from a proposed personal wireless service facility to a nearby street corner is fifty (50) feet, the permittee is required to notify owners of parcels on that intersecting street whose properties are located within one hundred (100) feet or less.

2. Notice by Posting. The permittee shall post a copy of the notice at the location of the pole where the personal wireless service facility is to be installed and in three (3) other conspicuous locations that are within one hundred (100) feet in each direction from the pole.

3. Contents and Form of Notice. The notice shall contain such information, and be in such form, as the City Engineer reasonably requires in order to inform the general public as to the nature of the installation of a personal wireless service facility. At a minimum, the notice shall:

a. Provide a description and a photo simulation of the proposed personal wireless service facility;  
and

b. Explain how any interested person may obtain additional information and documents related to the permit. (Ord. 10-17 § 1 (part))