



# COUNCIL BRIEF

## UPDATE: RESIDENTIAL ENCROACHMENT DISCUSSION

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Per City Code, no person shall encroach upon any public place except as authorized by law, either set forth within section 19-3 of Article 1, or specifically permitted. To encroach means to construct, erect or maintain on, in, over or under any public place, right-of-way, roadway, parking strip and/or sidewalk, including the air space above them, and unauthorized vegetation, sign, building extension, staging, scaffold, marquee, clock, retaining wall or any other building structure, or object, or to occupy a public right-of-way during construction activities for equipment or storage. Except as provided in section 19-5 or permitted by law, all encroachments are obstructions deemed to be public nuisances, and are prohibited.

Any encroachment is considered temporary in nature and conveys no right or interest in property and is revocable at will by the city. A permit is required for all residential and commercial encroachments of public space, other than those listed as exceptions within section 19-3 (a) that are deemed not to interfere with the purpose of the city. Encroachment permit applications are submitted and reviewed by the Planning Commission and our Public Works Department has the opportunity to comment during the technical review phase. At present, there is a moratorium on residential encroachments.

### Residential Encroachments: Obstructions of Public Space (including Utility Easements)

There are a number of locations where residents over the years have encroached into public space (including underground utility easements) with landscaping vegetation, fences, secondary structures, and the like for their personal enjoyment without permit.

#### Public Space

- Viewed as claiming public property for personal use without permit or right-of-entry permissions
- These encroachments may provide aesthetic benefit
- Maintenance activities that offer an enhanced level of service will require a maintenance agreement
- Lack of permitting creates a false expectation that the city is responsible for maintenance/repair/replacement of encroachments

#### Utility Easements

- Viewed as placing encroachments on private property within a designated easement boundary
- These encroachments may interfere with the operation of underground utilities or hinder maintenance access by city crews with equipment
- Lack of permitting creates a false expectation that the city is responsible for maintenance/repair/replacement of encroachments

Recommendation for city staff (Planning/Neighborhood Services) to work with stakeholders within our residential neighborhoods (resident, HOA/POA, and/or property manager) to identify unpermitted encroachment properties and provide a path toward corrective action through Planning Commission and eventual permit approval.

August 1, 2019