

**RESOLUTION R05-32**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
PALOS VERDES ESTATES, CALIFORNIA ADOPTING A POLICY FOR THE  
REMOVAL OF UNAUTHORIZED ENCROACHMENTS IN THE CITY'S PARKLANDS**

WHEREAS, the City was developed with open space as a core element that significantly defines the character of the community; and

WHEREAS, the City owns 849 acres of parklands that comprise much of the open space and are deed-restricted to remain open for the public's use; and

WHEREAS, a number of residents have constructed and/or maintain encroachments within the parklands without the City's authorization, restricting the public's use of these areas and exposing the City to undue liability;

WHEREAS, the transfer of ownership of private property adjacent to encroachments is a logical time to require the removal of said unauthorized encroachments;

NOW THEREFORE, the City Council of the City of Palos Verdes Estates DOES RESOLVE AS FOLLOWS:

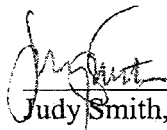
Section 1. The City Council hereby adopts a Policy for the Removal of Unauthorized Encroachments in the City's Parklands attached hereto as Exhibit 1.

Section 2. The City Clerk shall certify to the passage and adoption of Resolution R05-32 and enter it into the book of original resolutions.

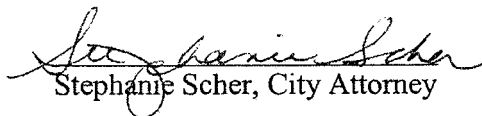
PASSED, APPROVED AND ADOPTED on this 8th day of November, 2005.

  
DWIGHT ABBOTT, MAYOR

ATTEST:

  
\_\_\_\_\_  
Judy Smith, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Stephanie Scher, City Attorney

## EXHIBIT 1

### POLICY FOR THE REMOVAL OF UNAUTHORIZED ENCROACHMENTS IN THE CITY'S PARKLANDS Updated 11/8/05

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

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

#### 1) Definition of Encroachment

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

*"Encroachment" means privately owned facilities or structures in the public right of way or on other public property, constructed and maintained by the property owner."*

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

#### 2) Removal Requirements Per City Code

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

Section 17.04.090 of the City's Municipal Code states that the approval of any development entitlement application per Title 17 or 18 of the Code may be conditioned by the Planning Commission or Council. Such conditions may address any aspect of the project or the property. At the time of developing project plans, surveys are typically conducted and encroachments are identified. As a routine, the Planning Commission imposes a condition on all its approvals, requiring the removal of non-standard encroachments.

*Require removal of unauthorized encroachments when they fall into disrepair.*

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

*Require removal of unauthorized encroachments when they are modified.*

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

**3) Removal Requirements Upon Adjacent Private Property Transfer of Ownership**

Within 60 days of the close of escrow for the transfer of ownership of a previously noticed private property located adjacent to an unauthorized encroachment(s), the encroachment(s) shall be removed by the adjacent property owner and the area shall be restored to a condition similar to other parklands in the area.

**4) Removal Requirements Five Years After Notification by the City**

If a property has not be transferred within five years after notification by the City of the need to remove the illegal encroachment(s), the encroachment(s) shall be removed by the adjacent property owner and the area shall be restored to a condition similar to other parklands in the area.

**5) Notification**

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

Prior to sending the formal notice of an encroachment which must be removed upon sale or within the specified time period, the City will undertake the necessary action to determine the exact location of the boundary between City and private property, including obtaining a survey, if required in the sole discretion of the City. The notice shall give the property owner a period of one month from the date of the notice to appeal the determination that the encroachment is on City property to the Director of Public Works. The decision of the Director of Public Works shall be final.

**6) Enforcement**

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