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ORDINANCE NO. 2042

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
MANHATTAN BEACH, CALIFORNIA, ADDING A NEW SECTION  
9.72.015 TO CHAPTER 9.72 OF THE MANHATTAN BEACH  
MUNICIPAL CODE DEVELOPMENT OF STREET RIGHT OF WAY FOR  
PUBLIC USES

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES  
ORDAIN AS FOLLOWS:

SECTION 1. The City Council of the City of Manhattan Beach hereby finds as follows:

- A. It is in the interests of public safety and welfare to protect and regulate the public right of way;
- B. The differing sections of Manhattan Beach require regulations tailored to the needs and practices of each section;
- C. This ordinance is exempt from the provisions of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15061 in that it will have no impact on the environment;
- D. This ordinance is necessary to protect property rights and to assure continued adequate ingress and egress by and through the public right of way.

SECTION 2. A new section 9.72.015 is hereby added to Chapter 9.72 of the Manhattan Beach Municipal Code to read as follows:

**"9.72.015 Development of Street Right of Way for Public Uses**

Where street right of way exists adjacent to private property, and such right of way has not been improved for use as a public street driving surface, parking area, sidewalk or drainage as approved by the City Engineer, such right of way will be developed according to the following standards:

A. Tree Section

- 1. The Tree Section shall be defined as the area bounded by Rosecrans Avenue on the North, Sepulveda Blvd. on the East; Manhattan Beach Blvd. on the South; and a West boundary beginning with Manhattan Beach Blvd. and going north on Valley to Blanche to Bell to Rosecrans.
- 2. For streets with a forty foot right of way the area constructed beyond the public street driving surface will be constructed according the City's Standard Diagram for forty foot wide streets in this area.
- 3. For streets with a fifty foot right of way the area constructed beyond the public street driving surface will be constructed according the City's Standard Diagram for fifty foot streets in this area.
- 4. For corner lots in the Tree Section, a minimum of two public parking spaces will be provided. These parking spaces will be constructed according the City's standard plan for parking spaces.

B. Other Provisions for Construction in the Tree Section and other non-standard Street Right of Way:

- 1. Street right of way improvements shall be required to be constructed as a condition of a building permit issued for construction on any property abutting a public right of

way which would result in the alteration or addition of more than fifty (50%) percent of the value of the existing structure, as determined by Section 303 (A) of the Uniform Building Code.

2. Permitted Improvements must conform to the provisions of the Diagram for non-standard streets.
3. Irrigation systems are prohibited in the street right of way used for driving or vehicle parking.
4. Landscaping the street right of way is subject to provisions of Encroachment permit regulations found in Section 7.36 of MBMC. Planting of new trees will not be allowed where minimum parking requirements are not met.
5. Existing trees located in the street right of way will be preserved where possible.
6. An obstruction-free corner radius per the City's standard plan may be required to assure adequate vehicle access to the street.

C. Duty to Repair.

1. It shall be the duty of every person owning real property within the City to keep in repair street right of way area abutting their real property (not including public street driving surface). If the failure of an abutting owner to maintain the street right of way area results in damage or injury to a member of the public, said abutting owner shall be liable to such member of the public.

SECTION 3. All other provisions of Manhattan Beach Municipal Code shall remain unchanged and continue in full force and effect.

SECTION 4. Any provisions of the Manhattan Beach Municipal Code, or appendices thereto, or any other ordinances of the City, to the extent that they are inconsistent with this ordinance, and no further, are hereby repealed.

SECTION 5. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 6. This ordinance shall go into effect and be in full force and operation from and after thirty days after its final passage and adoption.

SECTION 7. The City Clerk shall cause this Ordinance or a summary thereof to be published and, if appropriate posted, as provided by law. Any summary shall be published and a certified copy of the full text of this Ordinance posted in the Office of the City Clerk at least five (5) days prior to the City Council meeting at which this Ordinance is to be adopted. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall cause a summary to be published with the names of those City Council members voting for and against this Ordinance and shall post in the Office of the City Clerk a certified copy of the full text of this Ordinance along with the names of those City Council members voting for and against the Ordinance.

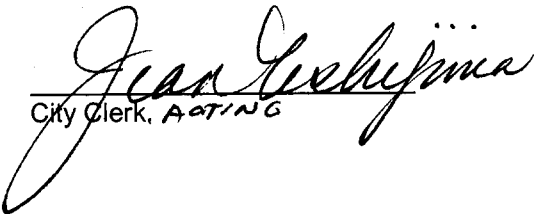
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PASSED, APPROVED and ADOPTED this 18<sup>th</sup> day of February, 2003.

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

  
Mayor, City of Manhattan Beach

ATTEST:

  
City Clerk, *ACTING*




1 STATE OF CALIFORNIA )  
2 COUNTY OF LOS ANGELES ) SS.  
3 CITY OF MANHATTAN BEACH )

4 I, JEAN USHIJIMA, Acting City Clerk of the City of Manhattan  
5 Beach, California, do hereby certify that the whole number of  
6 members of the City Council of said City is five; that the  
7 foregoing Ordinance, being Ordinance No. 2042 as duly passed and  
8 adopted by the said City Council, approved and signed by the  
9 Mayor, and attested by the City Clerk, of said City, all at a  
10 regular meeting of the said Council duly and regularly held on  
11 the 18<sup>th</sup> of February, 2003, and that the same was so passed and  
12 adopted by the following vote, to wit:

13 Ayes: Wilson, Dougher, Fahey, Aldinger & Mayor Napolitano.  
14 Noes: None.  
15 Absent: None.  
16 Abstain: None.

17 IN WITNESS WHEREOF, I have hereunto subscribed my name and  
18 affixed the official seal of said City this 19<sup>th</sup> day of  
19 February, 2003.

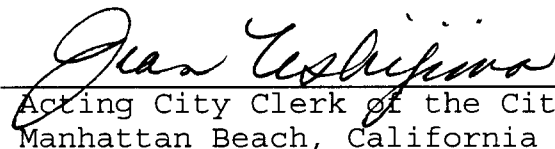
20   
21 Acting City Clerk of the City of  
22 Manhattan Beach, California

23 (SEAL)

24 CERTIFICATE OF PUBLICATION

25 STATE OF CALIFORNIA )  
26 COUNTY OF LOS ANGELES ) SS.  
27 CITY OF MANHATTAN BEACH )

28 I, JEAN USHIJIMA, Acting City Clerk of the City of Manhattan  
29 Beach, California, do hereby certify that Ordinance No. 2039 has  
30 been duly and regularly published according to law and the order  
31 of the City Council of said City and that same was so published  
32 in the Beach Reporter, a weekly newspaper of general circulation  
on the following date, to wit February 27, 2003 in witness  
whereof, I have hereunto subscribed my name this 19<sup>th</sup> day of  
February, 2003.

33   
Acting City Clerk of the City of  
Manhattan Beach, California