

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF MANHATTAN BEACH  
ADDING CHAPTER 9.44 (CONSTRUCTION RULES) TO  
TITLE 9 (BUILDING REGULATIONS) OF THE MUNICIPAL  
CODE**

THE MANHATTAN BEACH CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Title 9 (Building Regulations) is hereby amended to add a new Chapter 9.44 (Construction Rules) as follows:

**“Chapter 9.44  
CONSTRUCTION RULES**

- 9.44.010 Definitions**
- 9.44.020 General Requirements for Construction Activities**
- 9.44.030 Construction Hours**
- 9.44.040 Construction Management and Parking Plan (Residential Areas III and IV only)**
- 9.44.050 Deliveries and Lane Closures**

Unless the context otherwise clearly indicates, the words and phrases used in this chapter are defined in this Section.

A. “Construction”: any site preparation, assembly, erection, substantial repair, alteration, or similar action, or related services or activities, for or of private property, structures, utilities, or public rights-of-way.

B. “Construction Activity” includes, but is not limited to, the following:

1. The operation of any tool, machine or equipment, including but not limited to, vehicles and helicopters being used by contractors or subcontractors and their employees to perform work requiring a City permit.
2. Performing any construction, demolition, excavating, grading, maintenance or repair work on buildings, structures or property, except as provided in Section 9.44.020(C).
3. Any remodeling, improvements, or additions to residential homes requiring a City permit, such as, but not limited to, roof replacement, window replacement, and/or patio construction, except as provided in Section 9.44.030(C)(1).
4. Any painting using motorized equipment.
5. Arrival or departure of vehicles bringing construction equipment, materials or supplies to the site of construction activity or the staging of such vehicles on public streets.

6. Arrival or departure of any food service vehicles providing food to persons working at a site of construction activity.

C. "Neighborhood Notification Postcards": the notification provided to property owners and tenants within Residential Area Districts III and IV of the City and within a 300-foot radius of proposed construction, notifying them of the proposed construction activity.

D. "Residential Construction Officer": the City's designated liaison between individuals affected by proposed construction and applicants. The Residential Construction Officer's responsibilities include reviewing pre-inspection requirements for sites of construction activity, investigating and addressing affected individuals' questions and complaints, and ensuring on-going compliance with this Code during the construction process.

E. "Right-of-Way Permit": the permit required for any encroachment in the public right of way, whether temporary or permanent, in accordance with Section 7.36.030.

#### **9.44.020 General Requirements for Construction Activities**

A. All construction sites shall be posted with "Construction Rules" developed by the City.

B. No construction activity shall impede or block access to private property or driveways except as authorized by permit.

C. No construction activity shall impede or block the normal and reasonable movement of traffic except as authorized by a Right-of-Way permit.

D. Construction vehicles are subject to all posted parking restrictions and other applicable State and municipal codes.

E. Street and public parking spaces shall not be reserved for construction vehicles or workers at any time.

F. No audio devices shall be audible beyond the construction site property line.

G. Construction vehicles shall not dump or wash debris, litter, or toxins into storm drains, streets or other public or private places.

H. Existing sidewalks shall not be obstructed at any time, except as authorized by a Right-of-Way Permit. Public areas and rights-of-way shall be kept clear of debris, in the same matter as the clean-up of excavation work in accordance with Section 7.16.150.

I. A construction fence with green mesh is required around the site of construction activity.

J. Contractors shall use water to prevent dust migration to surrounding properties as needed, and in accordance with all requirements of the South Coast Air Quality Management District.

K. Sandbags are required on the perimeter of any construction job to prevent water runoff.

L. Containers for waste and recyclables are required at every site of construction activity.

M. The City shall not issue a Certificate of Occupancy until any porta-potty unit(s) has been removed from the site.

N. Temporary power poles, if required by the Director, must be installed at the site of construction activity before any demolition and construction begins.

O. All CAL/OSHA requirements and guidelines shall be followed on the construction site.

P. Shoring construction is to be performed according to City shoring guidelines, including the protection of adjoining property in accordance with Manhattan Beach Municipal Code Section 7.16.130.

Q. Construction project applicants shall comply with the project's Low Impact Development ("LID") Standards of the MS4 Permit and follow all Best Management Practices ("BMP") that apply to this project, including as set forth in this Code and any applicable permits.

R. No smoking, including electronic devices, is permitted on any site of construction activity or in any public areas at any time.

S. An on-site meeting between each subcontractor and the City's Residential Construction Officer is required prior to the subcontractor starting work.

T. All construction, renovation and remodel projects within the City with a valuation over \$100,000 shall submit a Waste Management Plan to the WMP Compliance Officer prior to beginning any construction or demolition activities in conformance with Section 5.26.030.

U. In the event of a claim from a neighboring property owner that construction has physically damaged the neighboring property, and the owner of the property where the construction occurred or owner's agent (collectively "owner") has refused to repair the damage, upon request of the neighbor or the City, the owner has a mandatory duty to enter a mediation program either administered by the City, or implemented by a third-party mediator subject to the City's approval, to resolve the claim.

V. The Community Development Director may waive any requirement that is not applicable to the specific construction activity.

#### **9.44.030 Construction Hours**

A. Construction Hours. Construction activity is allowed between 7:30 a.m. and 6:00 p.m. on weekdays, and between 9:00 a.m. to 6:00 p.m. on Saturdays.

1. No construction activity is allowed on Sundays or on City-recognized holidays, including the following:

- a. New Year's Day;
- b. Martin Luther King Day;
- c. Memorial Day;
- d. Independence Day;
- e. Labor Day;
- f. Veterans Day;
- g. Thanksgiving;
- h. Friday after Thanksgiving, and
- i. Christmas Day.

2. The presence of workers or delivery trucks at the site of construction, even if no actual work or unloading is being done, constitutes construction activity for purposes of permitted construction hours.

3. The presence of equipment, tools or supplies, vehicles being started, idled or unloaded and loud talking at the site of construction activity constitutes construction activity for purposes of permitted construction hours.

4. The Planning Commission or City Council shall retain the right to impose more restrictive hours of construction upon any project by adding appropriate conditions to the approval of any use permits that are required for the project.

B. Modification of Construction Hours by the City Council or Community Development Director ("Director").

1. Director Authorization. Upon request, the Director may modify the hours for interior construction activity on commercial property under limited circumstances. The Director shall consider the noise disturbance criteria listed in Section 5.48.140 in determining whether to modify the hours. The Director may impose conditions to mitigate or eliminate any potential adverse impacts arising from the activities and shall require prior notice to persons and businesses in the vicinity. The Director shall notify the Council of the decision at the next City Council meeting. The Director may forward a request to the City Council for its consideration.

2. Council Authorization. Upon request, the City Council may modify the hours for construction activity under limited circumstances. The Council shall consider the noise disturbance criteria listed in Section 5.48.140 in determining whether to modify the hours. The Council may impose conditions to mitigate or eliminate any potential adverse impacts arising from the activities and shall require prior notice to persons and businesses in the vicinity.

C. Exceptions.

1. Notwithstanding the above, home improvements or repairs not requiring a City permit, such as carpeting, cabinet work, or any painting that does not utilize motorized equipment, and routine maintenance or replacement of such items as, but not limited to, water heaters, dishwasher units, and garbage disposals, do not constitute construction activity as defined in this chapter, provided such work does not generate noise exceeding the noise standards set forth in Chapter 5.48.

2. An owner-builder who resides on their property shall be exempt from the prohibition on construction activity on Sundays and City-recognized holidays; provided, however, that all such activities shall occur between the hours of 9:00 a.m. and 6:00 p.m. on such days.

3. In the case of an emergency, the Building Official may issue a permit for construction activity for periods during which construction activity is generally prohibited by the construction hours of this Section. Such permit shall be issued for only the period of the emergency. Issuance of any such permit shall require the notification of all neighbors, as specified by the Building Official. The person requesting the emergency permit shall describe in writing how the public interest will be served and outline the way in which it will be served.

**9.44.040 Construction Management and Parking Plan (Residential Areas III and IV only)**

A. The Contractor or owner shall prepare and submit a Construction Management and Parking Plan ("CMPP") pursuant to City requirements, and in conjunction with building plan check submittal or a rough grading permit application, whichever occurs first. The CMPP must describe the manner in which potential construction traffic and parking impacts will be mitigated in Residential Areas III and IV. No demolition or construction may commence until such time that the CMPP has been approved by the Community Development Department.

B. Any changes to the CMPP terms or conditions shall be requested in writing by the Applicant and approved by the City prior to implementation.

C. Neighborhood Notification Postcards shall be sent to an entire block and/or blocks impacted by construction in Residential Area Districts III and IV at least ten days before the construction commences; such blocks shall include all homes that abut the alley or street.

**9.44.050 Deliveries and Lane Closures**

A. Deliveries are allowed during construction hours only and shall be made on-site or where street parking is permitted close to the site of construction activity. All parking regulations and prohibitions shall be obeyed.

B. Deliveries that require over 20 minutes to unload shall not occur on the scheduled trash day for Residential Area Districts III and IV.

C. A Right-of-Way Permit is required for any lane or street closure on a public street or alley, except as specified below:

1. A Right-of-Way Permit is not required for construction deliveries of less than two hours on a local residential street or an alley (as defined in General Plan). The vehicle driver must be present to immediately move the vehicle to avoid blocking access to adjacent properties. Deliveries shall avoid peak traffic hours.

2. One travel lane must remain open at all times for deliveries on a local residential street or a dead-end alley.

E. A traffic control plan may be required for any Right-of-Way permit at the discretion of the City Traffic Engineer and may include hauling regulations or provisions.

F. Contractor shall provide 72-hour minimum notice to all impacted properties prior to any temporary street closure.

G. All hauling operations shall be limited to the specified operating hours and days. Early truck arrivals are not permitted.

H. There shall be no truck queuing or staging on residential streets.

I. No hauling shall be permitted on residential streets except directly to or from the site of construction activity on the approved hauling route.

J. Any dirt or debris caused by construction activities onto streets and sidewalks shall be cleaned immediately to the satisfaction of the Public Works Department.

K. Hauling operations shall not block access to any street, driveway or adjacent properties at any time except as authorized by a separate Right-of-Way Permit.

L. The Contractor shall notify the Residential Construction Officer at least 48 hours prior to the start of hauling operations permitted pursuant to the traffic control plan.

M. Any parking pads must immediately be replaced so that routine off-loading is not done in traffic lanes."

SECTION 2. Section 5.48.060 of this Code is hereby deleted in its entirety.

SECTION 3. Section 5.48.310 of this Code is hereby deleted in its entirety.

SECTION 4. Section 5.48.250 is hereby amended to read as follows:

“Construction activities are exempted from the provisions of this chapter except as provided in Chapter 9.44.”

SECTION 5. CEQA. The City Council hereby finds that it can be seen with certainty that there is no possibility that the adoption of this Ordinance, and the prohibitions established hereby, may have a significant effect on the environment, because the Ordinance will only impose greater limitations on activities in the City, and will thereby serve to eliminate potentially significant adverse environmental impacts. It is therefore not subject to the California Environmental Quality Act review pursuant to Title 14, Chapter 3, Section 15061(b)(3) of the California Code of Regulations. A Notice of Exemption will be prepared.

SECTION 6. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

SECTION 7. Savings Clause. Neither the adoption of this Ordinance nor the repeal or amendment by this Ordinance of any ordinance or part or portion of any ordinance previously in effect in the City, or within the territory comprising the City, shall in any manner affect the prosecution for the violation of any ordinance, which violation was committed prior to the effective date of this Ordinance, nor be construed as a waiver of any license, fee or penalty or the penal provisions applicable to any violation of such ordinances.

SECTION 8. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be published within 15 days after its passage, in accordance with Section 36933 of the Government Code.

SECTION 9. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the 31st day after its passage.

ADOPTED \_\_\_\_\_, 2016.

AYES:

NOES:

ABSENT:

ABSTAIN:

---

TONY D'ERRICO  
Mayor

ATTEST:

---

LIZA TAMURA  
City Clerk

APPROVED AS TO FORM:

---

QUINN M. BARROW  
City Attorney

DRAFT