

7.36.060 Permit conditions.

- A. **Discretionary Conditions.** The Director of Community Development shall have the authority to condition or restrict the permit in any way which shall protect the public health and welfare. The Director of Community Development reserves the right to require phasing of construction projects or limit the hours of construction to reduce the adverse impacts on the public health, safety and welfare. The Director of Public Works has the authority to approve or reject a method of excavation or other construction methodology.
- B. **Mandatory Conditions.** In granting an encroachment permit under the provisions of this chapter, the following conditions, in addition to any other conditions deemed necessary or advisable, shall be imposed:
1. That the encroachment shall be removed or relocated with complete restoration of the area to its original condition in accordance with City standards or at the direction of the City Engineer by the permittee at no cost to the City upon thirty (30) days' written notice to the permittee from the City, and should any cost be incurred by the City in the removal of such encroachment, such cost shall be a lien upon the permittee's adjacent real property;
 2. That the encroachment and permit restrictions, conditions or limitations serving the adjoining property shall be recorded as a covenant, and shall be binding upon all heirs, successors, assigns, executors, or administrators in interest. The covenant shall be disclosed whenever title is transferred;
 3. That a certificate of insurance in amounts and form satisfactory to the City Risk Manager shall be filed with the City upon the granting of the encroachment and shall be maintained in good standing at all times so long as the encroachment exists, releasing the City from any and all liability whatsoever in the granting of such encroachment.
 4. That the applicant shall expressly agree to each of the conditions imposed, including any which may be in addition to the foregoing, as a prerequisite to the granting of the encroachment by the City.
 5. That encroachments involving commercial uses shall pay an established annual or monthly fee to be set by resolution of the City Council and to be based upon the market value of the property being occupied.
 6. That in cases where an encroachment is adjacent to a private property common area governed by a Homeowners Association (as in the case of an airspace condominium) the Homeowners Association shall be the applicant and subject to all permit requirements. The permit requirements shall be included as conditions of the project subdivision map and included in the covenants, conditions and restrictions (C, C and R's) recorded for the project.

(§ 1, Ord. 2039, eff. February 18, 2003; Ord. No. 20-0010, § 3, eff. July 21, 2020)

7.36.150 Encroachment standards.

A. General Standards:

1. Structures as defined by the City's Building Code or other encroachments are prohibited from encroaching within the public right-of-way unless in compliance with these standards or approved by the City Council.
2. Landscaping is permitted without an encroachment permit in accordance with an approved landscape plan pursuant to Section 7.32.080 E. of the Municipal Code. Artificial landscape materials, except artificial turf grass approved by the Director of Community Development, are prohibited.
3. Utility obstructions shall be avoided so as to maintain access to underground utilities. A minimum of thirty inches (30") of clearance is required on each side of all water and sewer mains, unless otherwise approved by the Director of Public Works.
4. Drainage from a private collection system that discharges a concentrated flow shall be directed to a vehicular street or alley pursuant to Public Works Department construction standards and shall be prohibited from flowing onto a public pedestrian walkway or sidewalk. A drainage plan shall be provided with an application for an encroachment permit.
5. All encroachments shall be in conformance with Title 5, Chapter 5.84 of the Municipal Code pertaining to storm water pollution control.
6. Obstructions to neighboring resident's scenic views shall be avoided.
7. Steps and stairs, other than risers between four and seven inches (4" to 7") in height and spaced a minimum of three feet (3') apart, are not permitted in the public right-of-way. Steps and stairs that lead to and/or function as primary access to a building/facility cannot be located within any encroachment area/public right-of-way.
Exception. One (1) set of steps comprised of three (3) consecutive risers is permitted provided a condition does not result that requires installation of a guardrail or handrail.
8. Existing improvements which do not conform to current standards must be removed or brought into conformance if the related structure on the adjoining property is significantly remodeled or reconstructed or if any new significant construction is proposed in the public right-of-way. Existing permitted improvements that have been made non-conforming by changes to these standards may otherwise remain provided any nonconforming element is not increased or expanded. The intent is to cause nonconforming encroachments to be brought into conformity concurrent with major alterations or entirely new structures constructed on adjoining private property.
9. Routine maintenance and repair may be performed on a nonconforming encroachment structure or improvement and replacement with a comparable improvement is permitted upon demonstration that the encroachment is deteriorated and creating an unsafe condition.

B. Walk Street Standards:

1. Fences and railings, including required safety handrails and guardrails, are permitted provided an open design is utilized. The maximum allowable height is forty-two inches (42") above the adjacent public walkway. To ensure pedestrian to vehicle visibility at corners, a thirty-six inch (36") maximum height (measured from adjacent curb level) is required within a distance of five feet (5') from the street corner.
2. Retaining walls (not including walkway risers), free-standing walls and closed design fences are permitted provided the maximum allowable height is thirty-two inches (32") above the adjacent public walkway. Conditions requiring guardrails that exceed the height permitted in subsection (B)(1) above shall not be permitted.

Exception. Retaining walls and related required safety railing that exceed the thirty-two inch (32") limit may be constructed at the side boundaries of an encroachment area if necessary to retain a neighbor's existing grade, provided all other encroachment improvements comply with applicable encroachment standards. If subsequently such over-height walls and/or safety rails are no longer necessary due to modification of the adjoining encroachment area, the property owner shall lower the over-height wall/safety rail to conform with applicable standards. This requirement shall be included as a permit condition in the encroachment permit agreement.

3. Landscaping is permitted subject to approval of a landscape plan pursuant to Section 7.32.080(E) and shall be submitted with an encroachment permit. Landscaping shall cover a minimum of one-third of the encroachment area and shall not project over or onto the public walkway. To promote visual openness and conserve scenic vistas, the height of landscape plantings shall not exceed forty-two inches (42") as measured from the adjacent public walkway.

Landscape plantings shall be maintained in substantial conformance with the approved plan. If it is determined that a resident view is impaired, the Director of Community Development shall direct the owner of the property adjacent to the encroachment landscaping to trim the over-height landscaping to forty-two inches (42") maximum. Should the property owner fail to act, the Director of Community Development may cause the landscaping to be trimmed, with the expense borne by the property owner. The owner of the property who receives such notice to trim may appeal the decision of the Director of Community Development pursuant to Section 7.36.070 of this chapter.

4. Usable surfaces (as defined herein). The intent of this standard is to ensure that the elevation of encroaching outdoor living areas located nearest the public walkway be consistent with the public walkway. Usable surfaces are permitted as follows:
 - a. Within the front half of the encroachment area (adjacent to the public walkway), limited to a maximum height of twelve inches (12") as measured above or below the adjacent public walkway.
 - b. Within the rear half of the encroachment area (adjacent to private property), limited to a maximum height of either: thirty-six inches (36") as measured above or below the adjacent public walkway, or twelve inches (12") as measured above or below the natural grade, as defined herein.
5. The total combined height of fences, railings, retaining walls (including walkway risers) shall not exceed a height of forty-two inches (42") as measured from lowest adjacent finished grade.
6. Drainage from a private collection system that discharges a concentrated flow shall be directed to a public vehicular alley or street via a non-erosive device pursuant to Public Works Department construction standards except as permitted by the Director of Public Works.

C. **El Porto Strand Standards:** In addition to the encroachments permitted in subsection B above, the following encroachments are permitted within the Strand right of way north of Rosecrans Avenue due to unusual slope and underground utility location and to provide an adequate buffer between the Strand walkway and adjoining private properties.

1. Usable surfaces are permitted within the rear half of the encroachment area at a maximum height of seventy-two inches (72") measured from the adjacent public walkway, provided they are accompanied by terraced landscape planters with evenly spaced retaining walls with a maximum height of thirty inches (30") each.
2. Fences and walls are permitted to be a maximum height of forty-two inches (42") above the adjacent public walkway except that planter walls required in subsection (C)(1) above may have a maximum height of seventy-two inches (72").

3. Corner properties bordering a parking lot entrance or exit are allowed to have walls and fences on the vehicular street side to a maximum height of six feet (6') above adjacent curb level except that a maximum height of three feet (3') shall be permitted adjacent to driveway/roadway intersections.
4. Drainage from a private collection system that discharges a concentrated flow shall be directed to a public vehicular alley or street via a non-erosive device pursuant to Public Works Department construction standards.
5. Landscaping is permitted subject to approval of a landscape plan pursuant to Section 7.32.080(E) and shall be submitted with an encroachment permit.

D. Vehicular Street Standards:

1. Street improvements, including (but not necessarily limited to) sidewalks, curbs, gutters, parking pads and paving may be required by the Public Works Department for the purpose of maintaining or improving conditions related to drainage, visibility, access, maneuverability or public parking, and, if required, shall be constructed in compliance with City standards.
2. Fences and walls are permitted as follows:
 - a. **Location.** Compliance is required with Public Works Department standards established in MBMC 9.72.015. A minimum set back of either two feet (2') or four feet (4') is required behind existing or required street improvements, depending on the existing and/or planned public street improvements.
 - b. **Height.** Fences and walls may not exceed a maximum height of forty-two inches (42"), measured from the existing public right-of-way grade at the fence or wall location. Open-design fences or guard rails required by the Building Official to exceed the forty-two inch (42") maximum height are allowed on top of retaining walls if necessary to retain a neighbor's grade at a side property line. Fences and walls located near the intersection of streets or driveways may be subject to lower height requirements to ensure traffic visibility.
3. Ground cover such as pavement (including brick or other decorative surfaces) and landscaping is permitted on the existing right-of-way grade. Decks or similar structures are prohibited.
4. Street Corner Visibility. To ensure visibility at street corners a thirty-six inch (36") maximum height is applicable to all fences, walls or landscape plantings within a distance of fifteen feet (15') from the street corner as per MBMC 3.40.010 (Traffic Sight Obstructions). A height less than thirty-six inches (36") may be applicable due to unusual slope conditions.
5. Significant alteration of the existing right-of-way grade is prohibited, unless determined to be necessary to accommodate a required public street improvement.
6. Loose gravel and similar material as determined by the Public Works Department is not permitted.
7. Drainage from a private collection system that discharges a concentrated flow shall be directed to a public vehicular street right-of-way location via a non-erosive device pursuant to Public Works Department standards subject to review and approval of the City Engineer.
8. Landscaping is permitted subject to approval of a landscape plan pursuant to Chapter 7.32.080 E and may be submitted with permits as set forth in Chapter 7.16 and Chapter 7.32 of this Code.

(§ 1, Ord. 2039, eff. February 18, 2003, as amended by § 3, Ord. 2146, eff. August 4, 2011; Ord. No. 20-0010, §§ 6, 7, eff. July 21, 2020)

7.36.170 Long-term commercial use encroachment permits.

A. Commercial use of the public right-of-way requires City Council approval.

Exceptions. The Director of Community Development may approve the following:

- a. Sidewalk dining permits applicable to vehicular streets in conformance with Section 7.36.110 of this chapter.
- b. Building projections such as eaves, awnings, signs or elements that benefit the public and comply with applicable codes.
- c. Roof access or other elements for existing buildings that are required by applicable codes, when alternative on-site locations are not feasible.

Note: Any work performed in the public right-of-way requires a separate permit pursuant to the requirements as set forth in Chapter 7.16 of this Code.

- #### B. Commercial use of a walk street is prohibited.
- Existing long-term uses conducted on a walk street under the authority of an Encroachment Permit approved prior to January 21, 2003 may continue to operate provided the use is not expanded or intensified. Expansion of intensification includes but is not necessarily limited to: increase of floor area or expansion of hours of operation, or addition of alcohol beverage service.

(§ 1, Ord. 2039, eff. February 18, 2003; Ord. No. 20-0010, § 9, eff. July 21, 2020)

10.60.080 Outdoor facilities.

The purpose of this section is to permit and regulate commercial outdoor displays of merchandise on private property and materials in order to encourage visual interest along commercial streets and support the business community while minimizing adverse aesthetic impacts to the public and nearby residential uses.

- A. **What is Permitted.** Outdoor facilities activities may include:
1. Outdoor display of merchandise (except bulk inventory), materials (including chairs and benches for customer waiting) and equipment including items for customer pick-up, on the site of and operated by a legally established business.
 2. Outdoor food and beverage service and outdoor dining on the site of and operated by a legally established business and accessory to an eating and drinking establishment or food and beverage sales business with incidental seating area, as defined in Section 10.08.050. Outdoor food and beverage service and dining on public property is not regulated by this section and requires an encroachment permit pursuant to Chapter 7.36 of this Code.
- B. **Where Permitted.** Outdoor facilities authorized by this section are permitted for all legally established commercial and industrial uses. Notwithstanding the aforementioned, outdoor facilities are prohibited in all residential districts.
- C. **Performance Standards.** Outdoor facilities are subject to the following:
1. Outdoor display of merchandise or materials shall not occupy public property, and may not occupy more than fifty percent (50%) of the total "tenant frontage" of a building as defined in Section 10.72.030 of this title.
 2. Yards, screening, or planting areas may be required to prevent adverse impacts on surrounding properties. The height of merchandise, materials, and equipment stored or displayed shall not exceed the height of the screening fence or wall, if required.
 3. There shall be no outdoor preparation of food or beverages associated with outdoor dining where food is consumed at tables.
- D. **Exceptions.** Notwithstanding the provisions of subsections A, B, and C of this section, outdoor storage and display shall be permitted in conjunction with the following use classifications in districts where they are permitted or conditionally permitted:
1. Nurseries, provided outdoor display is limited to plants and related materials only.
 2. Vehicle/equipment sales and rentals, provided outdoor display shall be limited to vehicles, boats, or equipment offered for sale or rent only.
- E. **Application.** The owner of a business shall submit a written request with application fee, for an outdoor facilities permit (which may consist of a letter) to the Community Development Director. The request shall include a full description of the display activity, including but not necessarily limited to: types of items to be displayed, location on the site, and hours during which items are to be placed outdoors. The Community Development director shall review the application for compliance with performance standards contained in this section and may impose conditions to avoid adverse impacts such as but not limited to public safety impediments, visual clutter, and disorderly displays.
- F. **Grounds for Denial—Revocation.** If adverse impacts cannot be prevented, the Community Development Director shall deny the outdoor facilities permit application. If a business fails to comply with the terms and conditions of an approved outdoor facility permit the Community Development Director may revoke the permit.
- G. **Duration and Renewal.** Upon approval, an outdoor facilities permit shall be valid for a period of one (1) year or until March 1st. Outdoor facilities permits may be renewed annually, upon finding by the

Community Development Director that the business has complied with all imposed terms and conditions, and that no adverse impacts or nuisance conditions have resulted.

- H. **Appeals.** Decisions of the Community Development Director may be appealed to the Planning Commission in accordance with Chapter 10.100 of this Code.

(Ord. No. 1832, Amended, 01/17/91; Ord. No. 1838, Renumbered, 07/05/91; Ord. No. 1891, Amended, 01/06/94; § 3, Ord. 2007, eff. November 18, 1999)

10.72.050 Permitted signs.

The following schedule prescribes sign regulations for all types of land uses, as defined in Chapter 10.08 of this title. The columns establish basic requirements for sign quantities, sizes, and locations; letters in parentheses in the right-hand column refer to "additional regulations" following the schedule.

sf = square feet lf = lineal feet

Maximum sign area is sum of area of all sign faces unless otherwise specified

Land Use	Sign Type	Maximum Number	Maximum Area	Height	Permitted Projection	Additional Reg's
Residential	Project Monument	1 double faced sign per project frontage	20 s.f. per face	6 ft. max.	None	(C)
	Project Wall	1 per project frontage in lieu of Monu. sign permitted above	20 s.f. per sign	Top of wall max.	12 inches	(B)
Commercial in Area Districts I & II	Wall, Awning, Monument & combinations thereof (W/A/M)	No limit	2 s.f. per 1 l.f. of property frontage	Top of wall max.	12 inches	(B)
	Pole	1 per site in lieu of all Menu. signs on the site	0.5 s.f. in lieu of 1 s.f. of W/A/M sign area permitted above	30 ft. max.	12 inches	(B)(C)(D)
	Pedestrian	1 double faced per Pedest. entrance	4 s.f. per face	8 ft. min. 14 ft. max.	3 feet	(B)
	Temporary	As per Temporary Sign Permit	As per Temporary Sign Permit	As per Temporary Sign Permit	None	(A)
Commercial in Area Districts III & IV	Wall, Awning, Monument, & combinations thereof (W/A/M)	No limit	1 s.f. per 1 l.f. of property frontage	Top of wall max.	12 inches	(B)
	Pole	1 per site in lieu of all Monu. signs on the site	0.5 s.f. in lieu of 1 s.f. of W/A/M sign area	15 ft. max.	12 inches	(B)(C)(D)

			permitted above			
	Pedestrian	1 double-faced per Pedest. entrance	4 s.f. per face	8 ft. min. clear, 14 ft. max.	3 feet	(B)
	Temporary	As per Temporary Sign Permit	As per Temporary Sign Permit	As per Temporary Sign Permit	None	(A)
Industrial	Same Regulations as Commercial Uses					
Public & Semipublic (Churches, schools,...)	Monument	1 double faced sign per site frontage	20 s.f. per face	6 ft.	None	(E)
	Wall	1 per primary building	20 s.f. each	Top of wall	12 inches	

Permitted signs—Additional Regulations

- A. **Temporary Signs.** The purpose of this section is to provide opportunity for businesses to advertise temporary special events including grand openings, sales, and seasonal promotions, while minimizing the potential for adverse visual and aesthetic impacts by regulating the duration, amount, and type of signs allowed. Temporary signs are allowed in addition to permanent signs, upon the issuance of a temporary sign permit, and subject to the following requirements:
1. **Application.** An application for a temporary sign shall be made to the Community Development a minimum of ten (10) days prior to installation. An application includes a temporary sign fee, performance bond to guarantee removal at the termination of the permit, and a time schedule for the duration of all proposed temporary signs.
 2. **Permitted Signs.** Temporary signs shall include banners, posters, pennants, small party balloons, ribbons, or lettering and graphics painted on windows.
 3. **Allowable Area.** During a single calendar year, each tenant space may apply for one (1) or more temporary signs for a total cumulative sign area not to exceed one (1) square foot per lineal feet of leased "tenant frontage" of a building as defined in Section 10.72.030 of this chapter. For buildings with less than a twenty foot (20') tenant frontage, a maximum of twenty (20) square feet of sign area shall be permitted. In any case, the maximum cumulative area shall be eighty (80) square feet. The maximum area of a single temporary sign shall not exceed forty-eight (48) square feet.

For tenants occupying corner-leased spaces, a maximum of two (2) tenant frontages may be used to determine the maximum allowed sign area. The total amount of sign area displayed on each tenant frontage shall be proportionate to the lineal feet of each frontage.
 4. **Duration of Density.** The duration of display in a calendar year shall not exceed an accumulation of nine (90) days.
 5. **Placement.** Temporary signs shall be prohibited on building roofs and shall not cause unnecessary repetition, redundancy or proliferation of signage.
 6. **Maintenance.** All temporary signs must be maintained in good condition and repair. Any which are torn, faded, sagging or in disrepair shall be replaced at the request of the Community Development Director.
 7. **Prohibited Signs.** Prohibited signs shall include those listed in Section 10.72.070 of this chapter.

8. **Temporary Sign Program.** The intent of a temporary sign program is to provide flexibility for large retail oriented commercial sites which, due to their unusual size, building configuration or orientation, lack of street exposure, or by nature of business, cannot successfully advertise special events or promotions by adhering to the strict application of the signs standards stated above.

A site consisting of a minimum of two (2) acres, and improved with a building(s) predominantly occupied by retail sales uses, is eligible for a temporary sign program to establish site specific temporary sign standards specifically for allowable area and duration of display. An application for a temporary sign program shall be reviewed and approved by the Community Development Director and may be incorporated into a master sign program pursuant to Section 10.72.060 of this chapter. The following performance standards shall apply:

- a. Placement of signs shall be oriented toward a commercial street and away from residential homes.
- b. The temporary sign program shall specify sign design guidelines and sign area allocations to be applied to the entire site.
- c. The duration of sign display authorized in a temporary sign program shall not exceed a total of one hundred twenty (120) days per calendar year.
- d. Prohibited signs or devices shall be consistent with those provided in subsection E of Section 10.72.070, including but not limited to signs placed on public property and large inflatable tethered objects.

9. **Appeals.** Decisions of the Community Development Director may be appealed to the Planning Commission in accordance with Chapter 10.100.

- B. Encroachment permits are required for structures projecting into the public right-of-way.
- C. Signs and structures adjacent to street property lines must observe the visibility requirements of Sections 10.64.150 and 3.40.010.
- D. A pole sign, where permitted, shall be located a minimum distance from each interior site property line of twenty feet (20').
- E. Changeable copy is permitted to be incorporated within one (1) primary monument sign of a public or semipublic site.

(§ 2, Ord. 1951, eff. July 4, 1996, as amended by § 5, Ord. 2007, eff. November 18, 1999)

10.72.070 Prohibited signs.

- A. Off-site or off-premises signs;
- B. Outdoor advertising display signs (billboards);
- C. Signs on public property, unless otherwise permitted by this chapter;
- D. Portable, A-frame, or sidewalk signs, excluding business identification signs affixed flat on the body of a vehicle which provides services to said business other than identification or advertising;
- E. Three-dimensional objects or statuettes including air or gas-filled objects greater than eighteen inches (18") in diameter each, and located, attached or tethered to the group site, merchandise, structure or roof and used to attract attention or as a sign as defined herein;
- F. Abandoned signs;
- G. Roof signs;
- H. Projecting signs other than those permitted in Section 10.72.050;
- I. Revolving, flashing, fluttering, spinning or reflective signs;
- J. Signs other than those permitted by this chapter;
- K. Signs determined to be unsafe, a danger to the public, or a traffic hazard, by the Community Development or Public Works Departments.

(§ 2, Ord. 1951, eff. July 4, 1996, as amended by § 6, Ord. 2007, eff. November 18, 1999)