



City of Manhattan Beach

1400 Highland Avenue
Manhattan Beach, CA 90266

Legislation Text

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TO:

Honorable Mayor and Members of the City Council

THROUGH:

Mark Danaj, City Manager

FROM:

Richard Thompson, Director of Community Development

Sal Kaddorah, Building Official

SUBJECT:

Status report on Construction Rules, Surety Bonds, and Construction Parking Permits (Community Development Director Thompson).

RECEIVE REPORT

RECOMMENDATION:

Staff recommends that the City Council receive this report.

FISCAL IMPLICATIONS:

None.

BACKGROUND:

On July 2, 2013, and August 6, 2013, Staff provided presentations to the City Council on the rules and procedures to alleviate construction impacts in residential neighborhoods. Staff was then directed by Council to implement additional construction rules and meet with the Board of Building Appeals to discuss adding additional construction rules. Staff conducted meetings with the Board of Building Appeals on September 11, 2013, November 14, 2013, and January 30, 2014.

On March 4, 2014 Staff provided a follow up presentation to the City Council, and introduced the additional rules and procedures to alleviate construction impacts in residential neighborhoods. City Council requested an update report showing statistical numbers in 6 months.

Additionally, Council directed Staff to explore the implementation of a "surety bond" requirement for all projects as a protective measure for properties adjacent to active construction sites.

DISCUSSION:

Over the course of the last two years, staff has presented measures to Council regarding mitigate construction concerns expressed by residents. As a result of numerous meetings, concerns were addressed and new guidelines have been implemented.

CONSTRUCTION VIOLATIONS:

At Council's request Staff was directed to gather statistical data for 6 months on construction

violations. For the period between April 1, 2014 and September 30, 2014, the Residential Construction Officer and Code Enforcement Officer conducted 5,940 Construction site inspections. A total of 208 violations were handled with the violation breakdown as follows:

Parking: 43
Sandbags: 21
Trash: 18
Work without permits: 16
Fence/Green screen: 16
Noise: 13
Impact on neighbors: 11
Dumpster in the right of way: 10
Civil matters: 9
Early/Late start: 8
Debris in the right of way: 8
P.O.D.'s: 4

Examination of these numbers reveals that Parking issues result in the majority of complaints particularly in the areas near the beach. Sandbag issues yielded the second greatest number of complaints, followed by trash issues, and working without permits.

Over the past 6 months, the Residential Construction Officer and Code Enforcement Officer also issued 8 stop work orders, conducted 57 on-site meetings and 44 office meetings.

PARKING:

Police, Parking Control and Building and Safety staff held several meetings to discuss the impacts of construction parking and ways to mitigate impact. As a result of those meetings, Staff modified the Construction Parking Permit Program to alleviate traffic congestion and parking in the alleys. In lieu of issuing temporary construction parking permits, the modified parking program designates a Construction Parking Zone for a specific job site. These zone designations are evaluated on a case-by-case basis and are considered at the discretion of the Residential Construction Officer with final approval by the City Traffic Engineer.

For job sites requiring the use of the Right-of-Way (i.e. concrete trucks, cranes, large lumber or steel deliveries, or other temporary uses) a Temporary Right-of-Way permit is required. Before issuance of a Right-of-Way permit contractors must come to the Community Development Department to update their building permit. There are numerous conditions for the Right-of-Way permit required of the applicant/owner including:

- Liability insurance;
- Cleanup and liquidated damages deposits;
- 72 hour advance written notification to all property residents;
- 48 hour advance notification to the Public Works Inspector;
- The morning of the street closure Dispatch must be notified; and
- The temporary Right-of-Way permit must be available at the job site, for verification by City field staff.

The Parking Program ensures that all construction vehicles Park legally and adhere to all traffic laws, parking signs and markings are subject to citation and/or towing. The results of the modified Parking

Program appear to be very effective, as the number of parking complaints and all other related violations has dropped dramatically since mid-August, which was the time when the last temporary construction parking permits had expired.

SURETY BONDS:

At Council's request Staff researched and evaluated the implementation and implications of establishing a surety bond requirement as a protective measure for properties adjacent to active construction sites.

The 2013 California Building Code, Section 3307.1 states, and the City of Manhattan Beach has procedures in place that implement the following:

"Protection required. Adjoining public and private property shall be protected from damage during construction, remodeling and demolition work. Protection shall be provided for footings, foundations, party walls, chimneys, skylights and roofs. Provisions shall be made to control water runoff and erosion during construction or demolition activities. The person making or causing an excavation to be made shall provide written notice to the owners of adjoining buildings advising them that the excavation is to be made and that the adjoining buildings should be protected. Said notification shall be delivered no less than 10 days prior to the scheduled starting date of the excavation."

According to information obtained from the City Attorney's office, only one City they work with requires a surety bond as a protective measure for certain construction sites. In Beverly Hills, the Building Official is authorized to require a surety bond prior to issuance of a permit.

"...where the nature of the work, if commenced and allowed to remain in an uncompleted state, would create a hazard to human life or endanger adjoining or other property, any street or street improvement, or any other public property. The bond shall be in an amount sufficient to cover the cost of eliminating any dangerous condition or geological hazard if the project is not properly performed or is not completed in a timely manner."

We understand that Beverly Hills would typically use the surety bond to stabilize a construction site in the event of abandonment or inactivity for the sole purpose of eliminating a "dangerous condition or geological hazards".

Staff also researched cities in the area and learned that no other South Bay city requires a surety bond for all projects. Only one other South Bay city, Hermosa Beach, has crafted additional construction guidelines for the Building Official.

In addition to the provisions provided for in the Building Code, Hermosa Beach provides the following Building Code Amendments pertaining to construction guidelines:

1. Gives the Building Official the authority to stop construction work at any time based on their opinion of pending or actual caused damage.
2. In the event it is determined damage has occurred to a property as a direct result of the construction, the Building Official determines when construction can begin again. It is the Building Official's responsibility to establish and manage to the definition of what corrections may be necessary to ensure the damaged property is fixed and will not suffer further damage.

3. If there is a dispute between the owner claiming damage and the party alleged to have caused the damage, the later will post a bond with the City. The amount posted will be determined by the Building Official based on what he/she believes the full cost of repairs to be.

The following is a summary of some of the challenges the City could encounter by requiring a surety bond for all projects:

1. The City may not accurately estimate the dollar amount for a surety bond to offset the actual repairs of the damaged property.
2. The City may not be able to accurately assess the extent of the actual damages to the property and there may be unknown significant related damages beyond the amount originally collected by the surety bond.
3. Staff would engage in a complex process to manage, track and document: mutual agreements, incoming bond money, disputes, repairs, project timelines, payouts and the refund process.
4. The City may become engaged in private disputes between property owners when the parties do not resolve the repair issues within the allocated time frame of the bond.

Staff believes we currently have regulations in place that achieve the same results without some of the difficulties identified above. The following are the tools Staff currently uses to protect and ensure the safety of properties adjacent to construction sites:

1. The Building Official requires measures to protect properties adjacent to a construction site at any time before or during construction, as stated in the California Building Code.
2. The Building Official requires written notices be sent to the owners of the adjoining buildings advising them about the shoring or excavation to be made and that the adjoining buildings must be protected. Said notifications are delivered not less than 10 days prior to the secluded date of shoring or excavation, as stated in the California Building Code.
3. A CAL-OSHA Permit is required for any excavation that is five feet or more. Contractors must carry a one million dollar liability policy in order to obtain a CAL-OSHA permit.
4. The Building Official issues a Stop Work Order on a project at any time if the work being performed is dangerous, unsafe, or non-compliant with the Building Code or other applicable regulations, as stated in the California Building Code.
5. The Building Official withholds issuing the Certificate of Occupancy or Permit Final for properties that caused damage to adjacent properties during construction until all repairs are done or both parties reach an agreement to remedy the damaged property.
6. The Building Official limits the construction hours beyond what is allowed by code on certain projects to mitigate construction impacts to residents living near a construction site.

Based on research and the information provided, Staff recommends not requiring a surety bond and continuing to utilize the measures that are available through the California Building Code, CAL-OSHA and other City safety policies. Staff will continue to work with the City Attorney to explore additional measures to mitigate construction impacts to residents.

CONCLUSION:

Because of our daily patrolling, in combination with the Police Department's assistance, and because of the modified Construction Parking Program, parking congestion and residents' complaints have diminished. Parking issues have dropped each month since we have aggressively been patrolling the

hot spots and we will continue to monitor the hot spots. The residential construction enforcement will be continuously updated, to reflect today's needs and safety concerns, as well as to minimize the construction impacts on residents.

Attachments:

1. Statistical Numbers for 6 Months
2. Original Staff Report from March 6, 2014
3. Meeting Minutes from March 6, 2014

RESIDENTIAL CONSTRUCTION OFFICER

DAILY COMPLAINT LOG

MONTHLY TOTALS (Not all days in each month are documented.)		RE-INSPECTION												INSPECTION															
APRIL	0	846	0	0	1	2	0	0	0	0	8	3	3	0	0	2	0	0	0	1	2	837	0	1	7	5			
MAY	0	839	0	0	1	0	0	0	0	0	4	1	0	2	0	0	0	0	0	0	0	846	0	0	4	8			
JUNE	6	475	6	2	6	0	1	0	0	9	0	3	18	0	3	4	21	13	6	3	0	1	4	5	452	0	0	8	12
JULY	8	677	4	2	0	0	0	1	6	5	0	9	0	9	0	0	1	5	1	1	0	1	4	540	0	3	13	15	
AUGUST	1	1219	0	1	1	2	0	0	1	2	5	4	15	0	0	3	0	0	0	0	0	1	1159	2	0	6	9		
SEPTEMBER	0	1884	0	2	2	1	8	2	0	1	2	2	8	6	11	0	0	1	3	1	0	0	2	0	1869	1	0	6	8
2014 YEAR TO DATE	15	5940	15	8	9	8	10	8	1	16	8	11	49	13	43	4	21	18	16	5	1	1	8	14	5703	3	4	44	57