

**RESOLUTION R21-28**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALOS VERDES  
ESTATES ADOPTING A POLICY FOR PARKLANDS AND ENCROACHMENT  
MANAGEMENT**

**THE CITY COUNCIL OF THE CITY OF PALOS VERDES ESTATES DOES  
HEREBY FIND AND RESOLVE AS FOLLOWS:**

SECTION 1: The City Council finds and declares as follows:

A. The City of Palos Verdes Estates has a unique urban forest displayed within dedicated open space known as the City Parklands;

B. In an effort to preserve and protect the City Parklands from unauthorized encroachments and maintain access to the City Parkland for the enjoyment and use by the public, the City Council wishes to implement a policy governing the removal of encroachments into the Parklands; and

C. The purpose of this Policy is to set forth guidelines and criteria governing the noticing and removal of encroachments into the City Parkland.

SECTION 2: Resolution Nos. R05-32, R12-05, and R14-18, relating to the removal of unauthorized encroachments, Parklands landscaping, and Parklands use, are hereby rescinded.

SECTION 3: *Adoption of the Policy for Parklands and Encroachment Management.* The City Council of the City of Palos Verdes Estates hereby adopts the Policy For The Removal Of Unauthorized Encroachments, attached hereto as Exhibit A.

SECTION 4: *CEQA.* The City Council hereby finds and determines that this Resolution relates to organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment, and therefore is not a project within the meaning of the California Environmental Quality Act ("CEQA") and the State CEQA Guidelines, section 15378(b)(5).

SECTION 5: *Severability.* If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City Council hereby declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion thereof.

SECTION 6. *Effective Date.* This Resolution shall take effect immediately upon its adoption.

SECTION 7: *Certification.* The City Clerk shall certify to the passage and adoption of this resolution.

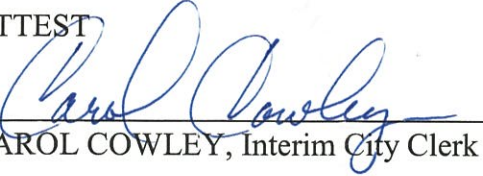
PASSED, APPROVED, AND ADOPTED this 13th day of July, 2021.



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MICHAEL KEMPS, Mayor

ATTEST



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CAROL COWLEY, Interim City Clerk

APPROVED AS TO FORM:

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JOHN COTTI, City Attorney

PASSED, APPROVED, AND ADOPTED this 13th day of July, 2021.



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MICHAEL KEMPS, Mayor

ATTEST

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CAROL COWLEY, Interim City Clerk

APPROVED AS TO FORM:



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JOHN COTTI, City Attorney

**Exhibit A**

**PARKLANDS AND ENCROACHMENT MANAGEMENT  
POLICY**

## **I. POLICY FOR THE REMOVAL OF UNAUTHORIZED ENCROACHMENTS**

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 and policies previously adopted by City Council for the removal of encroachments. 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.

It shall be the full fiscal responsibility of the adjacent property owner to remove any encroachment, including full restoration as approved by the Parklands Committee and signed-off by the Director or designee.

### **1) Definition of Encroachment**

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

*"Encroachment" means privately owned* improvements, facilities or structures, including without limitation any post, sign, pole, fence, deck, building, tree (unless permitted pursuant to PVEMC 12.16.030), pipe, cable, drainage facility, septic system, or recreational facility, in the public right-of-way or on other public property, constructed and maintained by the current or past 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) Review**

With the exception of other code provisions such as the Street Tree ordinance or Conditional Use Permits, a property owner may submit an application to request to maintain an adjacent encroachment into City right-of-way or Parklands (non-structural). The commission or committee to review each type of encroachment is appropriated as follows:

- Requests to approve any encroachment into Parklands shall be reviewed by the Parklands Committee.
- Requests to approve any encroachment into right-of-way between private property and edge of street pavement shall be reviewed by the Planning Commission.
- Requests to approve any other type of encroachment within right-of-way shall be reviewed by the Parklands Committee.

Any recommendation regarding a non-structural encroachment made by the Parklands Committee must also be approved by the City Council. The decision-making body may deny a request to maintain an encroachment upon which the adjacent property owner is required to remove the encroachment and restore the land per the Parklands Landscaping Policy prescribed herein.

### **3) 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 nonstandard encroachments both within City right-of-way and Parklands. However, any request to deviate from Street Tree requirements shall always be reviewed by the Parklands Committee.

*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.

### **4) Removal Requirements for Vegetative-Only Parklands Encroachments**

Within a maximum of ninety (90) days of City issuance of a notice of violation for a vegetative-only encroachment, the adjacent property owner must remove any encroaching vegetation, including full restoration as approved by the Parklands Committee and signed-off by the Urban Forester.

### **5) Removal Requirements for Structural Parklands Encroachments**

Within a maximum of one (1) year of City issuance of a notice of violation for a structural encroachment, the adjacent property owner must remove any encroachment, including full restoration as approved by the Parklands Committee and signed-off by the Urban Forester.

### **6) Notification**

As staff becomes aware of 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 within City records. An administrative citation shall not be issued sooner than ninety (90) days from issuance of the encroachment's first notice of violation.

Should the adjacent property owner object to the notice of violation or otherwise appeal, that individual shall obtain a survey at their own expense accompanied by a complete, stamped, and signed Survey Certification to prove lack of encroachment.

3. That the granting of the application will not result in material damage or prejudice to other property in the vicinity, nor be detrimental to the public safety or welfare.
  4. That the landscaping, to the extent reasonably practicable, is not to be done so that the area appears to be privately-owned or so that the landscaping creates a barrier to the public.
6. **PERMIT FEES.** A fee shall be submitted with the application in the amount that shall be established by resolution of the City Council.
7. **COSTS FOR INSTALLATION AND MAINTENANCE.** All costs for installation and maintenance shall be paid by the applicant. The City and property owner shall enter into a contract that defines a maintenance schedule for the first three (3) years after final sign-off by the Director or designee and confirming that the restoration plan has been fully implemented.

### III. PARKLANDS USE POLICY

#### Purpose

The City places high value on the City Parklands as a free, open and accessible resource to residents and the public; the Parklands provide open space, passive recreation, scenic views, a green belt, and natural beauty that define and represent the quality of life for Palos Verdes Estates residents that the City is committed to preserve in perpetuity.

This policy functions as a guide, outlining the City's goals to maintain the Parklands for public use, manage Parklands in a manner to sustain the beauty created by the Parklands, respect the reasonable privacy of adjacent residents, provide limited active uses and open space for the community and users (as described herein).

#### Background

The City's Parklands include many acres of undeveloped passive open space. The use of all Parklands parcels are subject to deed restrictions. Thus, this policy must also conform to applicable deed restrictions placed upon the City's Parklands.

Within the Parklands, pathways have developed over time and, while they can create recreational opportunities, they can also be a nuisance when misused. Examples of misuse are camping, smoking, commercial uses, unauthorized removal of vegetation, and other activities prohibited by the City's Municipal Code. The misuse of the Parklands can lead to environmental degradation of the Parklands, along with adverse impacts to residents living near the Parklands and other visitors to the Parklands.

## **Definitions**

For purposes of this policy, the definitions in the Palos Verdes Estates Municipal Code govern, unless context dictates otherwise.

“Parklands” for purposes of this policy shall have the same meaning as that set forth in Palos Verdes Estates Municipal Code Section 12.24.010(E).

“Pathway” means a foot-worn or developed path through the Parklands.

## **Parklands Policy**

### **1. Users**

The Parklands are intended for use by residents and the public, provided that such use (a) does not impair the natural beauty of the Parklands and (b) does not unreasonably intrude upon the personal privacy interests and property rights of residents living near the Parklands.

### **2. Maintenance**

The City will use reasonable effort to keep Paths within Parklands open for public use. The maintenance standards for Parklands and paths within them shall be stated within the City’s maintenance contract(s) as approved by the City Council. From time to time, as necessary and pursuant to the terms of the contract(s), the City Council may modify the maintenance standards within the City’s maintenance contract(s). City staff is responsible for implementing and managing the maintenance contract(s).

Trash cans serving Parklands are serviced by the City. Upon recognizing the need for additional trash cans to augment existing trash cans at a location, the City may add additional cans. If there is additional cost to service the new can(s), the City Manager shall review the request and make a determination if the new can(s) shall be placed.

### **3. Special Events**

Special events that concern the City are those that may impact City streets and services, public safety, citizen welfare, or disrupt traffic and community activities. The City, therefore, imposes specific conditions upon the sponsors of such events including those in the Parklands.

### **4. Signage**

The City may provide signage in and around the Parklands for purposes such as safety advisories, hazard notification, posting rules and regulations, and as otherwise required by law. Signage within the Parklands is generally limited to the following:

- a) Signs indicating the City’s regulations, such as the closure of Parklands due to but not limited to Fire Department “red flag warnings” for fire danger and unsafe conditions, prohibition of private vehicles, and “No Smoking.”

- b) Signs otherwise allowed by the Municipal Code or a permit issued by the City (PVEMC § 8.20.030).

## 5. Changes to the Parklands

“Changes to the Parklands” as used herein encompasses intentional, human-caused modification and disturbance of landscaping (trees, shrubs, plants), natural habitat, soil, and existing Pathways within the Parklands. This section does not apply to, nor is it intended to include, landscaping requests under the City’s “Parklands Landscaping Policy.”

The City, at all times, retains the unrestricted, immediate and direct ability to address Parklands uses, paths, and access under the provisions of the Municipal Code. Proposals for private party-initiated changes to the Parklands will first be submitted to the Parklands Committee. The submittal of an application to the Parklands Committee must be accompanied by the appropriate fee(s) as established by resolution by the City Council. Fee(s) may be instituted and collected for the City’s reasonable cost of staff time and resources for research, report preparation and administrative services, public noticing, expert consultant services, and implementation of the approved change to the Parklands.

Upon submission of the application and payment of the required fees, the Parklands Committee will hold a public meeting, consider the application, and formulate recommendations to the City Council. The Parklands Committee may independently also recommend changes/enhancements to the Parklands to the City Council including, for example, the relocation of Pathways. City staff and consultants shall provide information, as necessary, to facilitate and assist the Parklands Committee in reaching recommendations consistent with this policy.

The Parklands Committee shall be responsible to make findings in support or denial of changes to Parklands on a case-by-case basis taking into consideration specific facts and details. In reviewing and coming to a majority consensus on an application, the Parklands Committee shall consider the following factors: providing the public with access to and use of Parklands, preservation of the environment, protecting residential/property owner privacy, maintaining public safety, minimizing impacts to the neighborhood and sustaining neighborhood character. Findings shall specifically address privacy, safety, neighborhood character. Additional considerations that may be considered include usage of and historical significance of the subject Parklands, and community input.

Upon the Committee’s submission of its recommendation, the City Council will then consider the proposed change to the Parklands. The City Council’s final decision will include, but not be limited to, consideration of the Parklands Committee findings and recommendation(s), public input, expert consultant comments, fees collected or committed to cover the cost of implementing the proposed change to the Parklands, and the availability of the City’s fiscal and staffing resources to implement the proposed change to the Parklands.

Injuring or removing any existing tree, plant, soils or rocks from Parklands and/or creating any new paths within the Parklands without prior City authorization by cutting or removing existing vegetation or new grading of soil is prohibited (PVEMC §§ 12.24.150, 12.24.160) and will cause said Parklands or Pathway to be temporarily closed while damage is being remediated, the area is

restored or an application is submitted to, and considered by, the Parklands Committee for "Change to the Parklands." Perpetrators of vandalism in the Parklands are subject to criminal prosecution and restitution for damage to and repair of the Parklands.

## **7. Police Enforcement**

Enforcement of applicable laws in and around the Parklands falls under the purview and authority of the Police Department. Consistent with its citywide responsibilities, the Police Department will patrol and enforce the law within the Parkland while giving consideration to officer safety, manpower, and response times. In addition, directed patrols may be used to increase the Police Department's presence in these areas and may be periodically adjusted as needed. The City may seek restitution through the court for any damage attributed to violations of the law caused by any person within the Parklands.

## **8. Community Resources**

Maintenance and preservation of City Parklands can be enhanced through the supplemental resources of volunteers and donations. The City welcomes community resources in support of the Parklands. Volunteers and volunteer organizations, with City approval and appropriate training, experience, and background for the specific activity may be authorized for community service on City Parklands.

STATE OF CALIFORNIA )  
COUNTY OF LOS ANGELES ) SS:  
CITY OF PALOS VERDES ESTATES )

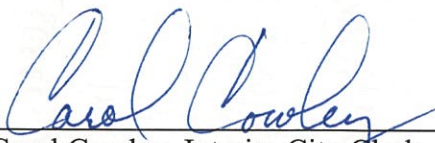
I, Carol Cowley, Interim City Clerk for the City of Palos Verdes Estates, California, do hereby certify that the foregoing Resolution **R21-28** was duly and regularly approved and adopted by the City Council of the City of Palos Verdes Estates at its regular meeting of the City Council on the 13<sup>th</sup> day of July 2021, by the following vote:

AYES: COUNCILMEMBERS: Murdock, Roos, McGowan, Lozzi, Kems

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None

ABSTAIN: COUNCILMEMBER: None

  
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Carol Cowley, Interim City Clerk