

Portland, Oregon
FINANCIAL IMPACT and PUBLIC INVOLVEMENT STATEMENT
For Council Action Items

(Deliver original to Financial Planning Division. Retain copy.)

1. Name of Initiator Kurt Krueger	2. Telephone No. 503-823-6964	3. Bureau/Office/Dept. PBOT/Development & Capital/Development Review
4a. To be filed (date): February 12, 2014	4b. Calendar (Check One) Regular <input checked="" type="checkbox"/> Consent <input type="checkbox"/> 4/5ths <input type="checkbox"/>	5. Date Submitted to Commissioner's office and CBO Budget Analyst: January 29, 2014
6a. Financial Impact Section: <input checked="" type="checkbox"/> Financial impact section completed		6b. Public Involvement Section: <input checked="" type="checkbox"/> Public involvement section completed

1) Legislation Title:

Adopt TRN 8.08 Encroachments in the Public Right Of Way administrative rules (Ordinance)

2) Purpose of the Proposed Legislation:

Adopt administrative rules regarding at-grade encroachments in the public ROW and consolidate disparate regulations in one location.

3) Which area(s) of the city are affected by this Council item? (Check all that apply—areas are based on formal neighborhood coalition boundaries)?

- | | | | |
|--|------------------------------------|------------------------------------|--------------------------------|
| <input checked="" type="checkbox"/> City-wide/Regional | <input type="checkbox"/> Northeast | <input type="checkbox"/> Northwest | <input type="checkbox"/> North |
| <input type="checkbox"/> Central Northeast | <input type="checkbox"/> Southeast | <input type="checkbox"/> Southwest | <input type="checkbox"/> East |
| <input type="checkbox"/> Central City | | | |

FINANCIAL IMPACT

Revenue and/or Expense:

Is ALL the Revenue and/or Expense a part of the current year's budget? or 5-yr CIP? _____

SAP COST OBJECT No(s).: _____

All Revenue and Expense financial questions must be completed regardless of the current year's budget. Documents may be returned where the FIPIS portion has not been sufficiently completed.

4) Revenue: Will this legislation generate or reduce current or future revenue coming to the City? If so, by how much? If so, please identify the source.
 No.

5) Expense: What are the costs to the City related to this legislation? What is the source of funding for the expense? (Please include costs in the current fiscal year as well as costs in future year, including Operations & Maintenance (O&M) costs, if known, and estimates, if not

known. If the action is related to a grant or contract please include the local contribution or match required. If there is a project estimate, please identify the **level of confidence**.)

None.

6) Staffing Requirements:

- **Will any positions be created, eliminated or re-classified in the current year as a result of this legislation?** (If new positions are created please include whether they will be part-time, full-time, limited term, or permanent positions. If the position is limited term please indicate the end of the term.)

No.

- **Will positions be created or eliminated in future years as a result of this legislation?**

No.

(Complete the following section only if an amendment to the budget is proposed.)

7) Change in Appropriations (If the accompanying ordinance amends the budget please reflect the dollar amount to be appropriated by this legislation. Include the appropriate cost elements that are to be loaded by accounting. Indicate "new" in Fund Center column if new center needs to be created. Use additional space if needed.)

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount

[Proceed to Public Involvement Section — REQUIRED as of July 1, 2011]

PUBLIC INVOLVEMENT

8) Was public involvement included in the development of this Council item (e.g. ordinance, resolution, or report)? Please check the appropriate box below:

☐ **YES:** Please proceed to Question #9.

☒ **NO:** Please, explain why below; and proceed to Question #10.

9) If "YES," please answer the following questions:

a) What impacts are anticipated in the community from this proposed Council item?

b) Which community and business groups, under-represented groups, organizations, external government entities, and other interested parties were involved in this effort, and when and how were they involved?

c) How did public involvement shape the outcome of this Council item?

d) Who designed and implemented the public involvement related to this Council item?

e) Primary contact for more information on this public involvement process (name, title, phone, email):

10) Is any future public involvement anticipated or necessary for this Council item? Please describe why or why not.

Yes. The process for the encroachment manual included a robust advisory committee. This will prove clearer guidance regarding encroachments and permitting process related to encroachments. Future additions to policies based on new issues (such as "planter boxes in planter strips were previously") will be addressed in the TRN 8.08 framework but will need similarly robust outreach with the community before future new additions.

KK 1-16-14

BUREAU DIRECTOR

LEAH TREAT, Bureau of Transportation

**City of Portland
Bureau of Transportation**



**Encroachments in the Public
Right-of-Way**

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**City of Portland
Bureau of Transportation**

**Encroachments in the Public
Right-of-Way**



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Introduction

Encroachments in the Public Right-of-Way

“Right-of-Way” is the area between neighboring properties and includes street surfaces, curbs and sidewalk, and also frequently includes additional areas on either side of the sidewalk. The size and configuration of the right-of-way vary from street to street, as do the sizes of the actual street surfaces and sidewalks.

Rights-of-way are generally dedicated to the movement of vehicles, pedestrians and/or goods. However, the City of Portland’s transportation policy allows for some privately owned structures to be located in the public right-of-way (herein referred to as “*encroachments*”) as long as certain conditions are met. The most fundamental requirement is that encroachments may not impede on the Through Pedestrian Zone of the sidewalk corridor. Table A (see page 7) identifies the size and location of the Through Pedestrian Zone for various types of streets.

The City’s Major Encroachment Policy (TRN 8.01) was adopted in June, 1982. It establishes three categories of encroachments: Above Grade (sky bridges, arcaded structures), At Grade and Below Grade. Its primary focus is Above and Below Grade structures. Although it mentions At-Grade encroachments, to some, these may be classified as “minor” encroachments. It provides very minor guidance and criteria for approving or allowing these types of At-Grade encroachments.

At-Grade encroachments tend to be located within the realm of the sidewalk area and not in vehicular travel-ways. Two documents establish the foundation for the design and use of, including encroachments upon, the City’s sidewalks. The Portland Pedestrian Master Plan was created in June, 1998. The Portland Pedestrian Design Guide is a companion document to the Pedestrian Master Plan and was also created in June, 1998. In addition, the City’s *Comprehensive Plan Goal 12: Urban Design*, provides an important framework that will guide encroachment decisions.

The following policy statements are excerpts from these documents. These provide guidance regarding encroachments in the public domain.

- **Encroachments in the public right of way should not reduce access to light and air or the intimate scale that is so much a part of Portland’s character.**
- **The purpose of Portland’s Pedestrian Design Guide is to integrate the wide range of design criteria and practices into a coherent set of new standards and guidelines that, over time, will promote an environment conducive to walking.**

- Conflicts between the design needs of competing functions should not produce conditions that discourage pedestrian travel.

The public right-of-way houses many transportation activities, including walking, bicycling, transit, freight movement and automobile travel. It harbors the hardware, such as traffic signals and street lights, which supports those activities. The right-of-way also contains utilities. Each of these functions has specific design needs and constraints. The variety of functions is administered by people in several agencies, both inside and outside the City of Portland.

The following pedestrian design principles represent a set of ideals which should be incorporated, to some degree, into every pedestrian improvement. They are ordered roughly in terms of relative importance.

1. The pedestrian environment should be safe.

Sidewalks, pathways and crossings should be designed and built to be free of hazards and to minimize conflicts with external factors such as noise, vehicular traffic and protruding architectural elements.

2. The pedestrian network should be accessible to all.

Sidewalks, pathways and crosswalks should ensure the mobility of all users by accommodating the needs of people regardless of age or ability.

3. The pedestrian network should connect to places people want to go.

The pedestrian network should provide continuous direct routes and convenient connections between destinations, including homes, schools, shopping areas, public services, recreational opportunities and transit.

4. The pedestrian environment should be easy to use.

Sidewalks, pathways and crossings should be designed so people can easily find a direct route to a destination and delays are minimized.

5. The pedestrian environment should provide good places.

Good design should enhance the look and feel of the pedestrian environment. The pedestrian environment includes open spaces such as plazas, courtyards, and squares, as well as the building facades that give shape to the space of the street. Amenities such as street furniture, banners, art, plantings and special paving, along with historical elements and cultural references, should promote a sense of place.

6. The pedestrian environment should be used for many things.

The pedestrian environment should be a place where public activities are encouraged. Commercial activities such as dining, vending and advertising may be permitted when they do not interfere with safety and accessibility.

7. Pedestrian improvements should be economical.

Pedestrian improvements should be designed to achieve the maximum benefit for their cost, including initial cost and maintenance cost as well as reduced reliance on more expensive modes of transportation. Where

possible, improvements in the right-of-way should stimulate, reinforce and connect with adjacent private improvements.

- Enhance Portland as a livable city, attractive in its setting and dynamic in its urban character by preserving its history and building a substantial legacy of quality private developments and public improvements for future generations. (Comprehensive Plan Goal 12, Urban Design)

- Enhance and extend Portland's attractive identity. Build on design elements, features and themes identified with the City. Recognize and extend the use of City themes that establish a basis of a shared identity reinforcing the individual's sense of participation in a larger community. (Policy 12.1 - Portland's Character.)

Objectives (only those specifically relating to the pedestrian realm are included):

D. Expand the use of street furniture. As new street furniture is needed, incorporate Portland design themes into its design.

G. Extend urban linear features such as linear parks, park blocks and transit malls. Celebrate and enhance naturally occurring linear features such as rivers, creeks, sloughs and ridge-lines. Tie public attractions, destinations and open spaces together by locating them in proximity to these linear features. Integrate the growing system of linear features into the City's transportation system, including routes and facilities for pedestrians, bicyclists and boaters.

I. Encourage the use of materials and a quality of finish work which reinforce the sense of this City as one that is built for beauty and to last. Reflect this desire in both public and private development projects.

- Provide for a pleasant, rich and diverse experience for pedestrians. Portland is experienced most intimately by pedestrians. Recognize that auto, transit and bicycle users are pedestrians at either end of every trip and that Portland's citizens and visitors experience the City as pedestrians. Ensure that those traveling on foot have comfortable, safe and attractive pathways that connect Portland's neighborhoods, parks, water features, transit facilities, commercial districts, employment centers and attractions. (Policy 12.4 - Provide for Pedestrians.)

In most situations, the proposed encroachments must be reviewed by Bureau of Transportation staff to ensure that all necessary conditions are met, and a *"Revocable Encroachment Permit"* will be issued. In some other situations, no review or permit is required as long as the necessary conditions are met. This document describes the most common types of encroachments, the necessary conditions that must be met, and whether or not a permit must be issued for each one.

Pre-existing encroachments that have not been recently modified (i.e. within the last 1-year period) may be allowed to remain in place as non-conforming encroachments, without requiring a review by PBOT or a Revocable Encroachment Permit, as long as they are not: (a) deemed to be a safety hazard or nuisance, (b) modified, (c) damaged, (d) removed or relocated, and/or (e) the subject of a complaint. PBOT staff will determine whether the encroachment meets these conditions and whether it may remain in place without a permit; the encroachment shall have no “grandfathered” rights to remain in place. Regardless of whether an encroachment meets any or all of these conditions, the City Engineer may require a full review of the encroachment, a complete permit application, and/or removal of the existing encroachment.

Prior publications from the Bureau of Transportation and additional information may be obtained on the internet at <http://www.portlandonline.com/transportation>. Information may also be obtained by calling the Bureau of Transportation at (503) 823-7002.

Conditions Governing Encroachments

Encroachments in the Public Right-of-Way

1. Major Encroachments

All “Major Encroachments” are subject to (and are defined in) *Transportation Administrative Rule TRN 8.01, Encroachments in the Public Right-of-Way*. These “Major Encroachments” include sky bridges; building projections or extensions not covered by Title 16, Title 24 or Title 32; arcades; underground walkways; malls or parking; and other structures for the movement of people or goods, excepting items regulated as utilities.

2. Encroachments that are not defined as “Major Encroachments” are subject to the following general conditions:

- a) Unless otherwise indicated in this document, encroachments require a Revocable Encroachment Permit, establishing requirements and clarifying liability and maintenance obligations.
- b) The permittee is responsible for meeting all other applicable City Codes and regulations, and for paying any taxes resulting from the encroachment.
- c) The Revocable Encroachment Permit is issued to the owner of the abutting property and runs with the land, unless stated otherwise. The Revocable Encroachment Permit may also be issued, with the abutting property owner’s consent, to a business association, a neighborhood association, a district coalition, a non-profit organization or a government agency. Reference Chapter 17.44.015.B.
- d) Exceptions to the consent requirement will be made where the applicant is able to demonstrate underlying fee ownership of the right-of-way where the encroachment is to be placed. Reference Chapter 17.44.015.B.

- e) Where an encroachment is approved for a public agency and that agency has entered into a separate formal agreement with City Council that establishes ownership, liability, maintenance, removal, and provides a method for tracking the encroachment, a Revocable Encroachment Permit is not required.
- f) The PBOT Director will evaluate the acceptability of encroachments based on adopted policy and regulations, safety, right-of-way usage, management and operations, and legal issues. The City Engineer may deny a permit, revoke a permit, or require removal of an encroachment at any time, unless otherwise specified in Title 14 or Title 29 of City Code, based on their evaluation. Unless otherwise specified in City Code or in the permit, the party responsible for maintenance of the right-of-way as specified in Chapter 17.28.020 shall remove the encroachment within 30 days, with no liability and at no cost to the City.
- g) Various types of encroachments are permitted in the Frontage Zone and Furnishing Zone of the sidewalk corridor, but encroachments are not permitted in the Through Pedestrian Zone. The PBOT Director has the authority to approve or deny an encroachment request based on right-of-way management, usage needs and safety concerns, and to apply requirements as needed to address such issues.
- h) Design Review may be required for any non-standard item planned for the right-of-way.
- i) It is prohibited for an encroachment to close or preclude public access through a right-of-way.

Typical Encroachments

Encroachments in the Public Right-of-Way

This section describes many of the common types of encroachments (not considered “Major Encroachments”) and the specific conditions to which each must adhere. Some of these elements refer to requirements to maintain a minimum sidewalk corridor width and “Through Pedestrian Zone.” For these requirements, please refer to Table A below:

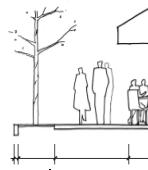
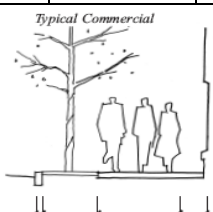
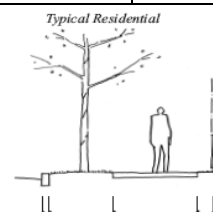
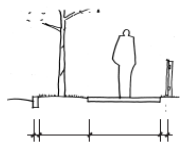
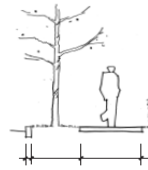
Sidewalk Corridor	Application	Recommended Configuration			
15'	City Walkways within a Pedestrian District, or any street with a right-of-way width of 80' or greater.				
		Curb Zone	Furnishing Zone	Through Pedestrian Zone	Frontage Zone
		0'-6"	4'-0"	8'-0"	2'-6"
12'	Local Service Streets within a Pedestrian District, City Walkways outside of Pedestrian Districts, or any street with a right-of-way width between 60' and 79'.	 			
		Curb Zone	Furnishing Zone	Through Pedestrian Zone	Frontage Zone
		0'-6"	4'-0"	6'-0"	1'-6"
11'	Local Service Streets in non-residential zones and higher density residential zones (R1 through R5) with a right-of-way width of less than 60'.				
		Curb Zone	Furnishing Zone	Through Pedestrian Zone	Frontage Zone
		0'-6"	4'-0"	6'-0"	0'-6"
10'	Local Service Streets in lower density residential zones (R7 through Rf) with a right-of-way width of less than 60'.				
		Curb Zone	Furnishing Zone	Through Pedestrian Zone	Frontage Zone
		0'-6"	4'-0"	5'-0"	0'-6"

Table A

C.1 – Fences

Fences may be allowed within the right-of-way. The fence must be located so that it does not restrict the minimum sidewalk corridor width and must be at least 1' away from the Through Pedestrian Zone (see Table A on page 7.) If the right-of-way is not wide enough to accommodate these requirements, fences will generally not be allowed in the right-of-way.

Also, the height of the fence must meet the Planning and Zoning requirements of Title 33, as if it were located on private property. These requirements vary depending on the zoning of the particular property; but generally require that a fence may not exceed 3.5' high in a front-yard setback or 6' high in a side-yard setback. For more information regarding allowable fence height and setbacks, consult with the Bureau of Development Services (Planning & Zoning - 503-823-7526) prior to beginning construction.

In design districts, fences in the right-of-way may be subject to Design Review.

A Revocable Encroachment Permit Application for the fence should be submitted to the Bureau of Transportation, including a site plan and any relevant details to clearly demonstrate the proposal. If it is acceptable, a Revocable Encroachment Permit will be issued to the owner of the property to which the encroachment is adjacent. The permit will detail specific maintenance and liability requirements. It will also be recorded with the county so that the permit will run with the land, and therefore any future owners will also be bound by the permit conditions. The applicant will be required to pay a permit fee as well as a county recording fee, as per Title 17 of the City Code.



C.2 - Retaining Walls

Private retaining walls may be allowed within the right-of-way. The retaining wall must be located so that it does not restrict the minimum sidewalk corridor width and must be at least 1' away from the Through Pedestrian Zone (see Table A on page 7.) If proposed on a street without sidewalks, it must not impede traffic or the safety of pedestrians, and should be located clear of the Through Pedestrian Zone's future location.

Some retaining walls will require a structural review. Walls that exceed 4' in height, measured from the bottom of the footing to the top of the wall, as well as any retaining wall that is affected by the weight of an adjacent slope, nearby driveway or structure, will require a structural review by Bureau of Transportation staff.

In design districts, retaining walls in the right-of-way may be subject to Design Review.

A Revocable Encroachment Permit Application for the retaining wall should be submitted to the Bureau of Transportation, including a site plan and any relevant details to clearly demonstrate the proposal. If the wall requires a structural review, calculations prepared by a licensed engineer shall also be submitted. If it is acceptable, a Revocable Encroachment Permit will be issued to the owner of the property to which the encroachment is adjacent. The permit will detail specific maintenance and liability requirements. It will also be recorded with the county so that the permit will run with the land, and therefore any future owners will also be bound by the permit conditions. The applicant will be required to pay a permit fee as well as a county recording fee, as per Title 17 of the City Code. If a structural review of the retaining wall is required, additional review fees will also be assessed based upon the complexity of the review.



C.3 - Stairs and Hand Railings

Stairs and hand railings may be allowed within the right-of-way. The stairs and hand railings shall be located so that they do not restrict the minimum sidewalk corridor width and must be at least 1' away from the Though Pedestrian Zone (see Table A on page 7.)

Stairs and railings should be constructed so as to comply with Building Code and other applicable regulations, as if they were being constructed on private property. If the stairs exceed the allowance of the International Building Code (IBC 3202.2.1) (i.e., project more than 12" into the public right-of-way), then a building code appeal is also necessary.

In design districts, stairs and hand railings in the right-of-way may be subject to Design Review.

A Revocable Encroachment Permit Application for the stairs and/or railings should be submitted to the Bureau of Transportation, including a site plan and any relevant details to clearly demonstrate the proposal. If it is acceptable, a Revocable Encroachment Permit will be issued to the owner of the property to which the encroachment is adjacent. The permit will detail specific maintenance and liability requirements. It will also be recorded with the county so that the permit will run with the land, and therefore any future owners will also be bound by the permit conditions. The applicant will be required to pay a permit fee as well as a county recording fee, as per Title 17 of the City Code.



C.4 - Irrigation Systems

Private property owners may install certain elements of an irrigation system in the public right-of-way. Only non-pressurized plastic feeder lines and sprinkler heads are allowed in the right-of-way. No other part of the irrigation system, such as control valves and back-flow preventers, may be located within the right-of-way. All parts of the irrigation system must be buried a minimum of 12" below grade, except for sprinkler heads. Sprinkler heads must be flush with the surrounding surface when not in use, and should be oriented so as to limit the distribution of water to the landscaped areas. Feeder lines beneath the sidewalk shall be installed perpendicular to the sidewalk. The abutting property owner is responsible for installation in a manner that does not interfere with street trees, utilities, sidewalks, or other public infrastructure.

The adjacent property owner is responsible for any damage to the irrigation system caused by repair, replacement or installation of any utility systems, street or sidewalk facilities or any other permitted right-of-way work.

As described above, private irrigation systems do not require any permit from the Bureau of Transportation. A Revocable Encroachment Permit Application does not need to be submitted, and no review of the proposal will be performed by City staff. However, if any portion of a driveway approach, sidewalk or curb is damaged or replaced in the process of installing the irrigation system, then a right-of-way permit will be required as usual. Any concrete work in the public right-of-way requires a standard right-of-way construction permit.



C.5 – Landscaping

Low-growing landscaping, such as grass and other ground cover, installed and maintained by the abutting property owner may be allowed within the right-of-way. Landscaping installed in the portion of right-of-way for which the abutting property owner is responsible and which complies with Title 29 of the City Code does not require a permit. Such landscaping must not be allowed to become a nuisance, as per Title 29. Landscaping that meets these requirements does not require any sort of application or city review, and no Revocable Encroachment Permit will be issued.

Landscaping in the public right-of-way must not be allowed to become a safety hazard by obscuring the visibility of drivers, bicyclists or pedestrians. As per Title 16 of the City Code, the City Traffic Engineer has the authority to require the removal or pruning of any such hazardous vegetation.

Landscaping installed in traffic islands or other areas for which the permittee is not normally responsible for maintenance does require a Revocable Encroachment Permit. This type of proposal should be submitted to the Bureau of Transportation for review, and if approved, a revocable encroachment permit will be issued to an insured neighborhood or business association.

This type of landscaping does not include trees in the public right-of-way. Trees planted in the right-of-way require a separate permit from the Urban Forestry Division of the Portland Parks Bureau.



C.6 - Structural Driveways

Structures connecting to and providing access from a parking facility to a public street may be allowed within the right-of-way when there is a grade differential between the public right-of-way and private property. Such structures will require structural review by Bureau of Transportation staff.

A Revocable Encroachment Permit Application for the structural driveway should be submitted to the Bureau of Transportation, including a site plan, engineered calculations and any relevant details to clearly demonstrate the proposal. If it is acceptable, a Revocable Encroachment Permit will be issued to the owner of the property to which the encroachment is adjacent. The permit will detail specific maintenance and liability requirements. It will also be recorded with the county so that the permit will run with the land, and therefore any future owners will also be bound by the permit conditions. The applicant will be required to pay a permit fee as well as a county recording fee, as per Title 17 of the City Code. An additional review fee will also be assessed for the structural review of the driveway, based upon the complexity of the review.



C.7 - Bollards and Barricades

Bollards and/or barricades are generally not allowed in the public right-of-way – they are only allowed with the prior approval of the City Engineer and the City Traffic Engineer. Proposals for bollards and/or barricades in the right-of-way should be submitted to the Bureau of Transportation, along with a Revocable Encroachment Permit Application, and will be reviewed on a case-by-case basis. If they are allowed, a Revocable Encroachment Permit will be issued to the responsible party, and will detail case-specific conditions and requirements.

In design districts, bollards or barricades in the right-of-way may be subject to Design Review.



C.8 - Temporary Shoring

Piles and anchors placed within the right-of-way under tension for the purpose of temporary building shoring may be allowed. All components of the shoring system in the right-of-way that are less than 5' below the ground surface must be permanently removed upon completion. Any components of the system within the right-of-way that are greater than 5' deep and will remain in place must be permanently detensioned upon completion. The proposed shoring system will be reviewed for any conflicts with existing utilities and will also require a structural review. Liability insurance meeting the Bureau of Transportation's requirements for street and sidewalk use permits is required until all permanent detensioning and all permanent removal of components is complete.

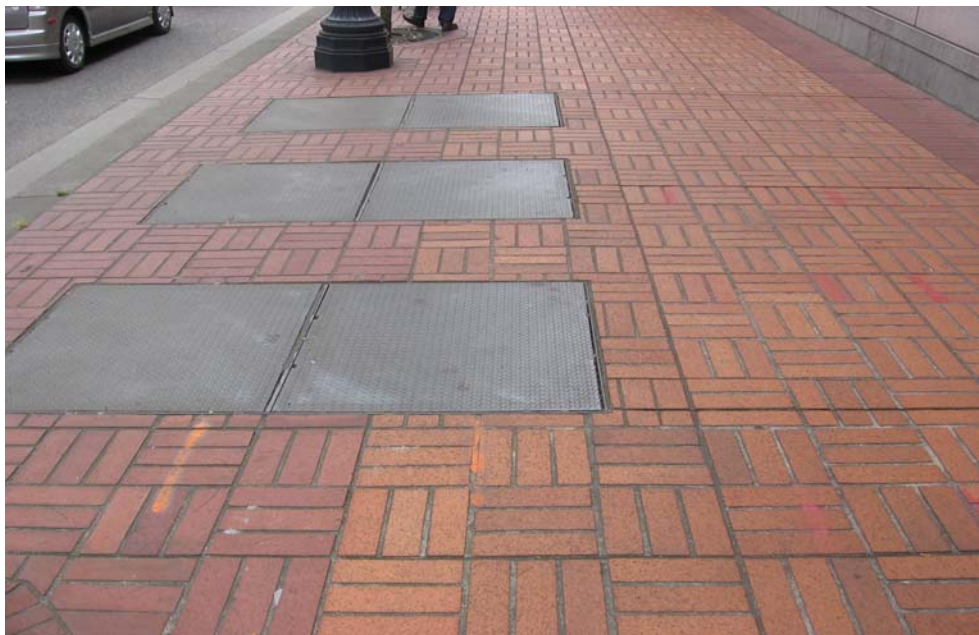
A Revocable Encroachment Permit Application for the shoring should be submitted to the Bureau of Transportation, including drawings and engineered calculations. If it is acceptable, a Revocable Encroachment Permit will be issued to the owner of the property to which the shoring is adjacent. The permit will detail specific maintenance and liability requirements. It will also be recorded with the county so that the permit will run with the land, and therefore any future owners will also be bound by the permit conditions. The applicant will be required to pay a permit fee as well as a county recording fee, as per Title 17 of the City Code. An additional review fee will also be assessed for the structural review of the shoring system, based upon the complexity of the review.



C.9a - Vault Openings

Vault openings within the right-of-way to a vaulted basement or a facility in a vaulted basement may be allowed, as described here. The vault opening must be within the furnishing zone of the sidewalk corridor and flush with the surrounding surface. It may not interfere with public use of the right-of-way, the placement of street trees or public and franchise utilities. The vault opening must meet all ADA requirements and the material and construction requirements of the City Engineer. See Code Chapter 24.65 for additional regulations.

This section does not pertain to utility vaults permitted under the City's franchise agreement.



C.9b - Vault Vents

Intake and exhaust vents or other facilities releasing gases or providing ventilation from vaulted structures or facilities located within vaulted basements are prohibited within the right-of-way.

This section does not pertain to utility vaults permitted under the City's franchise agreement.

C.10 – Signs

The City Engineer does not have authority to allow the encroachment of private signs in the public right-of-way. The City Traffic Engineer has authority to install and regulate signs in the right-of way for certain guidance, traffic and transportation functions as defined in Title 16 of the City Code. These may include delineating Neighborhood Associations, delineating Business Districts and identifying political boundaries, as well as those functions otherwise meeting the requirements of the City Traffic Engineer.

Signs as defined in Title 32 of the City Code, Signs and Related Regulations, are allowed within the right-of-way only as described in that code section. These regulations are reviewed and enforced by the Bureau of Development Services. Furthermore, where requested modifications or adjustments for signs over the right-of-way allowed under Title 32 would interfere with management or use of the right-of-way, the City Engineer or City Traffic Engineer may deny the adjustment or modification.



C.11 – Public Art

Public art, either as its own structure or as treatment to a surface in the right-of-way, may be allowed subject to approval through the Regional Arts and Culture Council (RACC). In addition, public art is subject to approval by the City Engineer or City Traffic Engineer for location and safety considerations. Public art is placed within the public right-of-way through the Art on the Street Program or as part of the 2 percent contribution on capital projects. All public art is owned by the City and maintained by RACC through contract; privately owned structures containing art are not allowed in the public right-of-way.

A proposal for an artistic installation in the public right-of-way should first be made to RACC. Upon their approval, a Revocable Encroachment Permit Application for the public art should be submitted by RACC to the Bureau of Transportation, including a site plan and any relevant details to clearly demonstrate the proposal. A Revocable Encroachment Permit will be issued to the artist or contractor for construction. The applicant will be required to pay a permit fee, as per Title 17 of the City Code.

Public art in the right-of-way approved by RACC is exempt from Historic Review and Design Review.

Bicycle racks approved as art racks are not subject to this section. (See “Bicycle Racks” section below.)



C.12 – Public Memorials, Historic Markers and Plaques

In limited circumstances, public memorials, historic markers and plaques may be approved subject to review and approval of the City Engineer and City Attorney. Generally speaking, the language must represent the City's interest. Proposals for this type of installation in the right-of-way should be submitted to the Bureau of Transportation, along with a Revocable Encroachment Permit Application, and will be reviewed on a case-by-case basis. If approved, a Revocable Encroachment Permit will be issued to the responsible party, and will detail case-specific conditions and requirements.

In design districts, this type of encroachment may be subject to Design Review.



C.13 - 'Intersection Repair' Projects

The City Engineer may allow the installation of structures that are part of an approved 'Intersection Repair' project. Reference Ordinances 175937 and 172207, and also Portland Policy Document TRN-2.04. The structure may be considered only after having met the project requirements as defined by the City Engineer and the City Traffic Engineer. Examples of structures which may be considered for approval include benches, arbors, trellises, walls, bulletin boards and kiosks.

A Revocable Encroachment Permit Application for the proposed project should be submitted to the Bureau of Transportation, including a site plan and any relevant details to clearly demonstrate the proposal. If it is acceptable, a Revocable Encroachment Permit may be issued to either the adjacent property owner or to the appropriate neighborhood association. If the permit is issued to the adjacent property owner, then the permit will be recorded with the county, so that the permit will run with the land to any future owners. If the permit is issued to a neighborhood association, then the permit will be personal to the neighborhood association and they must have and maintain proper liability insurance. The permit will detail maintenance and liability requirements that will be vary based on the specific proposal. No fee will be assessed for the encroachment permit, although a county recording fee may be assessed if necessary, as per Title 17 of the City Code. Depending on the specific proposal, a structural review may also be required by the office of the City Engineer, and may potentially add structural review fees.

In design districts, 'Intersection Repair' projects in the right-of-way may be subject to Design Review.

Art and signs are not approvable through this process.



C.14 - Bicycle Racks

Public bicycle racks are allowed in the right-of-way through a bicycle rack permit from the City Engineer or City Traffic Engineer. Public bicycle racks are owned and maintained by the City of Portland. Requests to have publicly owned and maintained bicycle racks installed in a particular location may be made by phone to 503-823-CYCL (503-823-2925.)

Privately owned and non-standard bicycle racks are allowed in the right-of-way under the terms as described in the Administrative Rule for Art Racks. Reference TRN 10.09.

Private development may meet Title 33 bicycle parking requirements within the right-of-way subject to the Administrative Rule for the Bicycle Parking Fund. Reference TRN 5.02, Title 17.28.065.C, and Title 33.266.220.A.2.d.



C.15 – Benches

Privately owned benches for public use may be allowed in the right-of-way within the furnishing zone. A proposal for the bench should be submitted to the Bureau of Transportation, along with a Revocable Encroachment Permit Application. A Revocable Encroachment Permit will be issued to either the adjacent property owner or an appropriate neighborhood association. For this type of street furniture, offering a public benefit, the Revocable Encroachment Permit may be issued without assessment of the full permit fee. If the permit is issued to an adjacent property owner, then the permit will be recorded with the county and the applicant will be required to pay the necessary recording fee. If the permit is issued to a neighborhood association, then the permit will be personal to that association, and they will be required to have and maintain proper liability insurance.

In design districts, benches in the right-of-way may be subject to Design Review.

Benches containing advertising must be approved, owned and maintained by Tri-Met. Reference Chapter 17.44.030. In this instance, a permit for the bench is issued to Tri-Met.



C.16 - Transit Shelters

Transit shelters owned by Tri-Met and Portland Streetcar may be allowed in the right-of-way only under agreement adopted by City Council. Siting is regulated by agreement between Tri-Met or Portland Streetcar and the City.

In design districts, transit shelters in the right-of-way may be subject to Design Review.

Shelters containing advertising must be approved, owned and maintained by Tri-Met. Reference Chapter 17.44.030.



C.17 - Garbage Receptacles

Permanent garbage receptacles for use by the general public may be allowed in the right-of-way. The garbage receptacle may not be greater than 3 feet in width and 4 feet in height, and must fit within the Frontage Zone or the Furnishing Zone of the sidewalk corridor. The garbage receptacle should not be easily movable. The owner must provide garbage removal service at the minimum frequency needed to keep the garbage receptacle from overflowing or developing odor problems, and must maintain the garbage receptacle with regard to vandalism, sanitation and physical condition.

A proposal for the garbage receptacle should be submitted to the Bureau of Transportation along with a Revocable Encroachment Permit Application. A Revocable Encroachment Permit will be issued to either the adjacent property owner or an appropriate neighborhood association. For this type of street furniture, offering a community benefit, the Revocable Encroachment Permit will be issued with no permit fee; however, if the permit is issued to an adjacent property owner, then the permit will be recorded with the county and the applicant will be required to pay the necessary recording fee. If the permit is issued to a neighborhood association, then the permit will be personal to that association, and they will be required to have and maintain proper liability insurance.

The garbage receptacle may not be used for business purposes.

In design districts, garbage receptacles in the right-of-way may be subject to Design Review.

Garbage receptacles and dumpsters used for private use are not included as part of this policy, and are not allowed in the public right-of-way. Reference the final report from the Containers in the Right-of-Way (CROW) Work Group dated September 13, 2007. Information about the CROW work group is available on the Bureau of Planning and Sustainability's web site:

<http://www.portlandonline.com/osd/index.cfm?c=45762&>



C.18 - Planter Boxes

(a) Planter boxes in the “Frontage Zone” (adjacent to buildings)

Planter boxes are allowed in the Frontage Zone of the public right-of-way (between the sidewalk and the building) without a permit, if meeting general guidelines as described here. The planter box should not be greater than 8 feet in length and 3 feet in height, and should fit entirely within the Frontage Zone of the sidewalk corridor. The planter box should be movable and, in combination with other planter boxes, should take up no more than 30% of the length of the building frontage.

Under these general guidelines (in the Frontage Zone), no application or city review is required, nor will a permit be issued. It is important to remember that, whether or not a review has been performed or a permit has been issued, the adjacent property owner remains responsible for maintenance of any such encroachments and retains liability for any damage that may occur as a result of the encroachment. Permission for these encroachments to exist in the right-of-way may be revoked at any time and for any reason that the City Engineer deems to be in the interest of the City. Upon written notice of such revocation, the adjacent property owner shall remove any such structure from the public right-of-way and return the street area in which the structure was located to the satisfaction of the City Engineer.

In design districts, planter boxes in the right-of-way may be subject to Design Review.



Planter Boxes (continued)

(b) Planter boxes in the “Furnishing Zone” (between the curb and the sidewalk)

Planter boxes may be allowed in the Furnishing Zone of the public right-of-way (between the curb and the sidewalk) if meeting the following general guidelines.

In Furnishing Zones wider than four feet, planter boxes:

- Should be located two (2) feet from the curb face.
- Should be located one (1) foot from the Through Pedestrian Zone, which is the concrete sidewalk in most cases.
- Should not exceed ten (10) feet in length.
- Should maintain four (4) feet of separation between adjacent planter boxes.

In Furnishing Zones four feet wide or narrower, planter boxes:

- May be constructed with no separation from the curb and the Through Pedestrian Zone.
- Should not exceed four (4) feet in length.
- Should maintain ten (10) feet of separation between adjacent planter boxes.

Regardless of Furnishing Zone width:

- Planter boxes (raised beds or pots) should not exceed eighteen (18) inches in height.
- Landscaping and soil within the planter box should not exceed thirty (30) inches in height (as measured from the top of the curb) when located within twenty-five (25) feet from an intersection.
- Planter boxes should be located a minimum of five (5) feet from any utility or apparatus (street lights, utility poles, water meters, fire hydrants, etc.) (to allow access and maintenance by the utility.)
- Planter boxes should not be located within the drip line of any street tree (to protect the health of the tree.)

Planter Boxes (continued)

(b) Planter boxes in the “Furnishing Zone” (continued)

Under the parameters of these general guidelines (in the Furnishing Zone), no application or city review is required, nor will a permit be issued. It is important to remember that, whether or not a review has been performed or a permit has been issued, the adjacent property owner remains responsible for maintenance of any such encroachments and retains liability for any damage that may occur as a result of the encroachment. Permission for these encroachments to exist in the right-of-way may be revoked at any time and for any reason that the City Engineer deems to be in the interest of the City. Upon written notice of such revocation, the adjacent property owner shall remove any such structure from the public right-of-way and return the street area in which the structure was located to the satisfaction of the City Engineer.

In design districts, planter boxes in the right-of-way may be subject to Design Review.



C.19 - Tree Tubs

Tree tubs may be allowed in the right-of-way within the Furnishing Zone to meet street tree requirements when tree wells are not possible. Tree tubs within the furnishing zone must be located at least 2 feet from the curb face, at least 1 foot from the Through Pedestrian Zone, and must not impede access from the Through Pedestrian Zone to parked vehicles or the street. The tree tub should not be easily movable. The tree tub must be maintained and may not become a nuisance. Reference Chapter 17.52.050.

In design districts, tree tubs in the right-of-way may be subject to design review

C.20 - Loading Docks

Loading docks in the public right-of-way are generally discouraged. They may be allowed in the River District per the River District Right-of-Way Standards (2004), or in other districts with similar adopted standards. They may be considered on a case-by-case basis in industrial areas of the city where they do not significantly conflict with traffic operations, safety or existing or future pedestrian facilities. Docks are considered only with approval from the City Traffic Engineer.

Docks extending from a building face into the right-of-way are private structures; however, accessibility by the public may be required. Docks are considered accessory to private buildings and fall under ADA building regulations. However, where the dock will provide through pedestrian access in lieu of a public sidewalk, the City Engineer will apply ADA requirements in order to provide a higher level of accommodation. Since docks are allowed in the right-of-way under a Revocable Encroachment Permit, they cannot serve as the required building ADA access.

Docks may be allowed when they are in compliance with the River District Right-of-Way Standards (2004) and requirements as described herein. Docks extending into the right-of-way are discouraged except on NW 13th Avenue between West Burnside Street and NW Raleigh Street, and NW 15th Avenue between NW Glisan Street and NW Savier Street. In these locations, requests are evaluated based on traffic operations, safety, pedestrian facility requirements and the purpose they serve regarding loading.



Loading Docks (continued)

(1) NW 13th Avenue, between West Burnside Street and NW Raleigh Street

- (a) Existing docks in private use may be retained in private use if previously permitted as such, no modifications are proposed, and the City Engineer chooses not to revoke the existing permit to accommodate transportation or other right-of-way functions.
- (b) Existing docks being renovated for purposes other than vehicle loading, but as determined by the City Engineer are not able to serve as a through pedestrian access, must be open to the public right-of-way across one full end.
- (c) Existing docks proposed for renovation, modification or reconstruction, and new docks, when for uses other than vehicle loading, shall be rebuilt to serve as a through public pedestrian facility including entries the full width of the dock on each end, a minimum 6-foot clear zone the length of the dock, and ADA accessibility on at least one end. Docks shall be modified or reconstructed to a minimum average height of at least 18 inches.
- (d) Existing docks proposed for renovation, modification or reconstruction, when for vehicle loading purposes, do not need to provide through pedestrian access.

(2) NW 15th Avenue, between NW Glisan Street and NW Xavier Street

- (a) Existing docks proposed for renovation, modification or reconstruction, or new docks, when for uses other than vehicle loading, shall be rebuilt to serve as a through public pedestrian facility including entries the full width of the dock on each end, a minimum 6-foot clear zone the length of the dock, and ADA accessibility at each end.
- (b) Existing docks proposed for renovation, modification or reconstruction, when for vehicle loading purposes, do not need to provide through pedestrian access.

In design districts, docks extending into the right-of-way may be subject to Design Review.

C.21 - Private (Non-Franchised) Utilities

Private sanitary sewers, storm drains, water facilities, monitoring manholes and other private utility facilities are not allowed in the right-of-way except as described here.

Private storm connections, such as rain drains to the curb, outfalls to existing roadside ditches and connections to storm sewers or combination sewers as allowed per the Bureau of Environmental Service's (BES) Rules of Connection are permitted without an encroachment permit. This includes connections from private storm water planter boxes located on private property.

Private swales and private sump/sed systems may be permitted only with BES approval and a Revocable Encroachment Permit detailing the maintenance requirements. In these limited situations, the Bureau of Environmental Services must agree to be a "co-issuer", or in some cases a "co-permittee", on the Revocable Encroachment Permit, ensuring that the stormwater system is appropriate and that emergency maintenance service will be available to these facilities at all times.

Permitting of private stormwater and sanitary facilities are subject to change. Contact the PBOT Development Review Manager for the latest requirements.

C.22 - Electrical Vehicle Charging Stations

Privately owned and maintained electrical vehicle charging stations may be allowed in the public right-of-way through a separate policy, currently under development. Contact the Portland Bureau of Transportation (503)-823-7002 or www.portlandoregon.gov/transportation for most current information.

C.23 - Electrical Outlets for Street Tree Lights

Electrical outlets may be allowed when installed in tree wells for the purpose of powering temporary festive lights placed in street trees only when within recognized business districts. The outlet must be located at or below sidewalk grade so as not to constitute a tripping hazard, and must be placed so as not to restrict tree growth or damage the tree. The outlet must be supplied through a conduit with a power cut-off switch at the property line. The conduit shall run perpendicular to the curb and sidewalk and must be marked with locator tape for future underground work. Only Level 1 power is allowed – no Level 2 or Level 3 power may be used for these purposes in the public right-of-way. The applicant is required to become a member of the Oregon Utility Notification Center One-Call system. Proof of participation in One-Call is required for as long as the conduit remains.

A proposal for the placement of the electrical outlets should be submitted to the Bureau of Transportation along with a Revocable Encroachment Permit Application. A Revocable Encroachment Permit will be issued to the adjacent property owner, and will be recorded with the county so that the permit will run with the land. The applicant will be required to pay a permit fee as well as a county recording fee, as per Title 17 of the City Code.

Additionally, a separate permit is required from the Urban Forestry Division of the Portland Parks Bureau in order to install lights in trees. For specific conditions and more information, reference Parks Administrative Rule PRK-2.02 or contact the Urban Forestry Division at (503) 823-4489 or online at: <http://www.portlandoregon.gov/parks>.



C.24 - Sidewalk Cafés

Sidewalk Cafés may be allowed in the public right-of-way, administered through a separate permitting process. Reference Portland City Code Chapter 17.25 and Portland Policy Document TRN-10.04. The Sidewalk Café program, administered by the Bureau of Transportation, allows bars, restaurants and cafés to place tables and chairs in the sidewalk area for the purpose of serving food and beverages to their patrons. These cafés, when properly applied, add vibrancy and diversity to Portland's commercial streets. There are limitations placed on the size and location of the café area located in the public right-of-way. For more information regarding the Sidewalk Café program, call (503) 823-7002 or visit www.portlandoregon.gov/transportation.



C.25 - Vending Carts

Vending Carts may be allowed in the public right-of-way and are administered through a separate permitting process. Reference Portland City Code Chapter 17.26 and Portland Policy Document TRN-10.05. The Vending Cart program is administered by the Bureau of Transportation and allows certain types of goods and services to be sold in the public right-of-way. The goods or services must be sold from an approved cart, and limitations are placed on the location of the cart to allow sidewalk use to be accommodated in the public right-of-way. For additional information regarding the Vending Cart program, call (503) 823-7002, or visit <http://www.portlandonline.com/transportation/sidewalkvending>.



C.26 - Street Banners

The City periodically receives requests to place banners in the right-of-way for the purpose of identifying a neighborhood or public charitable event. Permits are issued for three types of banners placed on one of three types of structures: street light poles, utility poles or Transit Mall banner standards. This section applies to banners that hang over the public right-of-way, affixed to utility poles. For information on Transit Mall banner standards, refer to Portland City Code Chapter 17.45. Permits for hanging banners on street lights are issued by the Signals and Street Lighting Division (503.823.5185.)

For cross-street banners outside the Transit Mall, the banner must meet the following conditions:

- Cross-street banners may be used for the purpose of identifying a neighborhood event or a public charitable event only.
- Cross-street banner permits are issued to recognized neighborhood associations, district neighborhood coalitions and non-profit agencies only. There is no fee for a cross-street banner permit to such an agency.
- A cross-street banner may be in place for a maximum of four weeks and must be installed in the vicinity of the neighborhood or public charitable event it is announcing.
- Banner layout, design and location must be approved by the City Engineer.
- Logos of commercial supporters who help defray the cost of a banner must fit within a square that is no more than half the height of the banner.
- Installation of cross-street banners is not allowed at intersections, in underground wiring districts or on City street light or traffic signal poles.
- Banners shall be installed with the bottom of the banner a minimum of 18 feet above the travel way and a minimum of 10 feet above the sidewalk area.
- The banner shall be fabricated with crescent shaped slots held closed with a small piece of material or thread, which will blow open if a wind gust hits the banner, or some other equivalent means of reducing wind loading.
- The banner must be attached to a 3/8" or larger steel support cable strung between cable mounts. All banners must be hemmed, fitted with grommets and attached to the steel support cable with a 5/16" or larger nylon rope.
- Liability insurance shall be provided by one of the recognized neighborhood associations/district neighborhood coalitions or by a non-profit agency.

Street Banners (continued)

To apply for a cross-street banner, submission of the following is required:

- A letter requesting a cross-street banner permit, which includes a description of the event, the requested location, dates the cross street banner will be in place, contact person and phone number.
- Information on the banner including the layout, design, text, construction, and method of hanging the banner.
- Letter of authorization from the owner of the structure(s) to which the banner will be mounted.
- Liability insurance certificate and additional insured form that meet City of Portland Bureau of Transportation insurance requirements.



C.27 - Other Structures in the Public Right-of-Way

Proposals for other, less typical structures in the public right-of-way will be considered on a case-by-case basis. The following criteria identify general location and placement restrictions. The encroachment should be located:

- (1) Outside of the Through Pedestrian Zone
- (2) Outside of the Sidewalk Corner Obstruction-Free Area
- (3) Outside of any Bus Zone
- (4) Minimum 2' from the curb face
- (5) Minimum 5' from fire hydrants
- (6) Minimum 3' from utility, light or signal poles, guy wires and driveways

In addition, the location and placement must not compromise transportation safety (sight distance, visibility, object hazard), ADA requirements or interfere with City maintenance functions.

Encroachments and Building Projections

Encroachments in the Public Right-of-Way

This section describes specific types of encroachments and building projections that are defined by the International Building Code (IBC.) All building projections that encroach into the right-of-way and that meet Chapter 31 and Chapter 32 of the IBC and the following requirements may be allowed without an encroachment permit, unless otherwise specified herein.

- (1) The *Conditions Governing Encroachments in the Public Right-of-Way* (see pages 4-5) apply to permitted building projections as defined by the International Building Code.
- (2) IBC does not differentiate between alleys and streets. It is Portland Bureau of Transportation policy that no projections are allowed in alleys.
- (3) IBC categorizes building projections into four categories:
 - (a) 0' (at-grade) and below
 - (b) 0' to 8' above-grade
 - (c) 8'-15' above-grade
 - (d) 15' or more above-grade

IBC Chapter 32 states that encroachments 15' or more above grade shall not be limited; however, the Bureau of Transportation requires that building projections 15' or more above grade comply with the IBC regulations for encroachments that are 8'-15' above-grade.

D.1 - IBC Section 3202.1 – Encroachments Below Grade

“Encroachments below grade shall comply with Sections 3202.1.1 through 3202.1.3.”

3202.1.1 – Structural support. *A part of a building erected below grade that is necessary for structural support of the building or structure shall not project beyond the lot lines, except that the footings of street walls or their supports which are located at least 8 feet (2438 mm) below grade shall not project more than 12 inches (305 mm) beyond the street lot line.*

PBOT policy makes no changes to Section 3202.1.1. No encroachment permit is necessary for structural supports that meet these building code requirements.

3202.1.2 – Vaults and other enclosed spaces. *The construction and utilization of vaults and other enclosed space below grade shall be subject to the terms and conditions of the authority or legislative body having jurisdiction.*

Vaults and other enclosed below-grade spaces may be allowed within the right-of-way with a Revocable Encroachment Permit, a lease if conditions warrant it, and a building code appeal granted by the Bureau of Development Services. The building section within the right-of-way must be designed to be severable from the main building and the structural support for the building above grade must meet IBC 3202.1.1. No projections are allowed beyond the curb line. A minimum of 5' of clearance is required from the street gutter grade to the top of the building lid. It is the applicant's responsibility to demonstrate that no conflict will exist with street trees, streetlights, signals, ADA ramps or any other item constructed within the right-of-way permitted through the Public Works Permit.

A Revocable Encroachment Permit for the vault or other enclosed structure must be issued before the building code appeal to the Bureau of Development Services will be granted. The building code appeal submitted to the Bureau of Development Services must include a demonstration and statement from the structural engineer of record that the main building structure will meet all of the necessary structural requirements and remain stable under gravity, lateral, soil and flood loads if the projection is removed. The proposed design should clearly delineate the extent of the projection, both in plan view and in section view. The Revocable Encroachment Permit from the Bureau of Transportation must be included with the building code appeal. A revocable encroachment permit should also be issued for existing unpermitted vaulted basements upon being modified.

Vaulted and other enclosed structures extending beyond the curb line are considered a “*Major Encroachment*”. They are only allowed on a limited basis, are strongly discouraged and must be approved by City Council. See Transportation Administrative Rule TRN 8.01, *Encroachments in the Public Right-of-Way*, for more information on “*Major Encroachments*.”

3202.1.3 – Areaways. Areaways shall be protected by grates, guards or other approved means.

Areaways may be allowed in the public right-of-way. The areaway must be contained entirely within the building Frontage Zone and must be protected by grates, guards or other approved means meeting ADA requirements and IBC regulations. The areaway requires a Revocable Encroachment Permit, issued to the adjacent property owner. Areaways will be reviewed on a case-by-case basis. It is the applicant's responsibility to demonstrate the need for the areaway versus other means contained on private property.

A proposal for the areaway should be submitted to the Bureau of Transportation, along with a Revocable Encroachment Permit Application. If acceptable, a Revocable Encroachment Permit will be issued to the adjacent property owner. The applicant will be required to pay a permit fee, as well as a county recording fee, as required by Title 17 of the City Code.

D.2 – IBC Section 3202.2 – Encroachments above grade and below 8' in height

Encroachments into the public right-of-way above grade and below 8' (2438 mm) in height shall be prohibited except as provided for in Sections 3202.2.1 through 3202.2.3. Doors and windows shall not open or project into the public right-of-way.

Doors or windows that open or swing out into the right-of-way less than 8' above the sidewalk surface are only allowed under certain circumstances and require a revocable encroachment permit. The door must meet one of the two following conditions:

- (1) The door is used solely for access to an on-site garbage receptacle or utility room. The door or gate must be operated solely from the outside. The door must automatically return to the closed position except when it is flush and latched to the building wall.

-or-

- (2) The door is used solely as an emergency exit. The door must have no exterior hardware and must be connected to an audible alarm, which shall be operational at all times, to alert passersby when the door is being opened. The door is to be signed as an "emergency exit only".

Security gates that swing into the right-of-way at recessed doorways also require a revocable encroachment permit and must meet *both* of the following conditions:

- (1) The gate opens independently of the door.

-and-

- (2) The gate is locked in the open position at the start of the day and is closed at the end of the day. PBOT will not permit gates that are designed to be opened and closed throughout the day.

Door or window projections that do not meet the requirements of IBC Chapter 32 will require a building code appeal to the Bureau of Development Services. A Revocable Encroachment Permit for the door or window projection must be issued before the building code appeal will be granted by the Bureau of Development Services. The Revocable Encroachment Permit from the Bureau of Transportation must be included with the building code appeal. Proposals that do not meet the above conditions are discouraged and will be reviewed on a case-by-case basis. It is the applicant's responsibility to demonstrate the building constraints which cause the inability to meet the IBC regulations.

3202.2.1 – Steps. *Steps shall not project more than 12 inches (305 mm) and shall be guarded by approved devices not less than 3 feet (914 mm) high, or shall be located between columns or pilasters.*

Stairs and hand railings may be allowed within the right-of-way. A Revocable Encroachment Permit Application for the stairs and/or railings should be submitted to the Bureau of Transportation, including a site plan and any relevant details to clearly demonstrate the proposal. If it is acceptable, a Revocable Encroachment Permit will be issued to the owner of the property to which the encroachment is adjacent. The permit will detail specific maintenance and liability requirements. It will also be recorded with the county so that the permit will run with the land, and therefore any future owners will also be bound by the permit conditions. The applicant will be required to pay a permit fee as well as a county recording fee, as per Title 17 of the City Code. The stairs and hand railings shall be located so that they do not restrict the minimum sidewalk corridor width as defined in Table A (on page 7) and must be at least 1' away from the Thorough Pedestrian Zone.

Stairs and railings should be constructed so as to comply with Building Code and other applicable regulations, as if they were being constructed on private property. If the stairs exceed the allowed 1' encroachment of the International Building Code (IBC 3202.2.1), then a building code appeal to the Bureau of Development Services is also necessary.

In design districts, stairs and hand railings in the right-of-way may be subject to Design Review.

3202.2.2 – Architectural features. *Columns or pilasters, including bases and moldings shall not project more than 12 inches (305 mm). Belt courses, lintels, sills, architraves, pediments and similar architectural features shall not project more than 4 inches (102 mm).*

Structures extending from a building whose front is located at or within 1 foot of the property line, such as utility meters and valves, garage entry protections and other building appurtenances are allowed without a Revocable Encroachment Permit. The appurtenance must be severable, may not extend more than 1 foot from the face of the building and may not restrict the minimum required Thorough Pedestrian Zone as defined in Table A on page 7.

Decorative building facings and architectural features are allowed to extend up to 4 inches beyond the property line without a Revocable Encroachment Permit. The building facing must be severable, may not extend more than 4 inches into the right-of-way and may not restrict the minimum required Thorough Pedestrian Zone as defined in Table A on page 7.

Other building appurtenances and architectural features that do not meet these requirements are generally discouraged. Appurtenances and architectural features that do not meet the requirements of IBC Chapter 3202.2.2 will require a building code appeal to the Bureau of Development Services. A Revocable Encroachment Permit must be issued before the building code appeal will be granted by the Bureau of Development Services. The Revocable Encroachment Permit from the Bureau of Transportation must be included with the building code appeal. This type of proposal will be reviewed on a case-by-case basis.

3202.2.3 – Awnings. *The vertical clearance from the public right-of-way to the lowest part of any awning, including valances, shall be 7 feet (2134 mm) minimum.*

Awnings must be supported by the building or another structure on private property. No structural supports are allowed within the public right-of-way. Awnings may not extend more than two-thirds of the distance from the property line to the curb, and the horizontal clearance between the awning and the curb shall not be less than 2 feet.

Awnings that meet these requirements and the IBC regulations do not require Revocable Encroachment Permits. Awnings that do not meet these requirements and the IBC regulations are considered a “*Major Encroachment*.” They are only allowed on a limited basis, are strongly discouraged and must be approved by City Council. See Transportation Administrative Rule TRN 8.01, *Encroachments in the Public Right-of-Way*, for more information regarding “*Major Encroachments*.”

D.3 – IBC Section 3202.3 – Encroachments 8' or more above grade

Encroachments 8 feet (2438 mm) or more above grade shall comply with Sections 3202.3.1 through 3202.3.4.

3202.3.1 – Awnings, canopies, marquees and signs. *Awnings, canopies, marquees and signs shall be constructed so as to support applicable loads as specified in Chapter 16. Awnings, canopies, marquees and signs with less than 15 feet (4572 mm) clearance above the sidewalk shall not extend into or occupy more than two-thirds the width of the sidewalk measured from the building. Stanchions or columns that support awnings, canopies, marquees and signs shall be located not less than 2 feet (610 mm) in from the curb line.*

PBOT policy dictates that awnings, canopies, marquees and signs must be supported by the building or another structure on private property. No structural supports within the public right-of-way are allowed.

Awnings, canopies and signs may not extend more than two-thirds of the distance from the property line to the curb, and the horizontal clearance between the awning, canopy or sign and the curb shall not be less than 2 feet.

Marquees may project more than two-thirds of the distance from the property line to the curb line with the following conditions:

- (1) The marquee must be at least 12 feet above the sidewalk.
- (2) The horizontal clearance between the marquee and the curb line must be at least 2 feet.
- (3) The length of the marquee may not exceed 25 feet along the direction of the street.

Awnings, canopies, marquees and signs that meet these requirements and the IBC regulations do not require Revocable Encroachment Permits.

Awnings, canopies, marquees and signs that do not meet these requirements or the IBC regulations are considered a “*Major Encroachment*.” They are allowed on a limited basis, are strongly discouraged and must be approved by City Council. See Transportation Administrative Rule TRN 8.01, *Encroachments in the Public Right-of-Way*, for more information regarding “*Major Encroachments*.”

3202.3.2 – Windows, balconies, architectural features and mechanical equipment. *Where the vertical clearance above grade to projecting windows, balconies, architectural features or mechanical equipment is more than 8 feet (2438 mm), 1 inch (25 mm) of encroachment is permitted for each additional 1 inch (25 mm) of clearance above 8 feet (2438 mm), but the maximum encroachment shall be 4 feet (1219 mm).*

Oriel Windows and balconies that meet these IBC regulations do not require a Revocable Encroachment Permit. No oriel window or balcony projections are allowed less than 8' above grade. Over 8' above grade, one inch of encroachment is allowed for each additional inch of clearance above 8', with a maximum allowable encroachment of 4'. Oriel Windows and balconies that do not meet these IBC regulations are considered a "Major Encroachment" and require a lease. They are only allowed on a limited basis, are strongly discouraged, may require Design Review and must be approved by City Council. See Transportation Administrative Rule TRN 8.01, *Encroachments in the Public Right-of-Way*, for more information regarding "Major Encroachments." Reference Portland Policy Document ENB-15.51 for additional requirements of the Bureau of Development Services for oriel windows.

3202.3.3 – Encroachments 15 feet or more above grade. *Encroachments 15 feet (4572 mm) or more above grade shall not be limited.*

PBOT policy requires that all encroachments 15 feet or more above grade shall meet the same requirements encroachments 8 feet above grade (Section 3202.3).

3202.3.4 – Pedestrian Walkways. *The installation of a pedestrian walkway over a public right-of-way shall be subject to the approval of local authority having jurisdiction. The vertical clearance from the public right-of-way to the lowest part of a pedestrian walkway shall be 15 feet (4572 mm) minimum.*

Elevated Pedestrian Walkways are considered a "Major Encroachment" and require a lease. They are allowed on a limited basis, are strongly discouraged, may require Design Review and must be approved by City Council. See Transportation Administrative Rule TRN 8.01, *Encroachments in the Public Right-of-Way*, for more information regarding "Major Encroachments."

D.4 – IBC Section 3202.4 – Temporary encroachments

Where allowed by the local authority having jurisdiction, vestibules and storm enclosures shall not be erected for a period of time exceeding 7 months in any one year and shall not encroach more than 3 feet (914 mm) nor more than one-fourth of the width of the sidewalk beyond the street lot line. Temporary entrance awnings shall be erected with a minimum clearance of 7 feet (2134 mm) to the lowest portion of the hood or awning where supported on removable steel or other approved noncombustible support.

Per Portland City Code and PBOT policy, it is unlawful for any person to obstruct or cause to be obstructed any roadway, curb or sidewalk by leaving or placing, to remain longer than 2 hours, any object, material or article which may prevent free passage over any part of such street or sidewalk area. Reference Chapter 17.44.010 A.

Exception Process

Encroachments in the Public Right-of-Way

If a proposal for a right-of-way encroachment does not meet the policy as described in this document, the proposal may be reviewed by the Bureau of Transportation on a case-by-case basis, at the discretion of the Transportation Development Review Manager. The encroachment applicant should include the reasons for the exception request and an explanation of how the proposal meets the intent of City Code and adopted policies. The Development Review Manager will review the request and consult with staff and the City Engineer as needed. The applicant may be contacted for additional information. A written response will be provided to the applicant, explaining the reasons for approval or denial of the request. The timeline for a response may vary depending on the complexity of the issue. Decisions made by the Bureau of Transportation regarding proposed right-of-way encroachments are final.

Glossary

Encroachments in the Public Right-of-Way

- **Alley** - A facility primarily intended to provide access to the rear or side of lots or buildings in urban areas and not intended for through vehicular movement.
- **Bus Zone** – The area of the Sidewalk Corridor adjacent to a bus when stopped at a marked bus stop, running the length of the bus, necessary for passenger loading and unloading.
- **Curb Zone** – The area of the Sidewalk Corridor between the Furnishing Zone and the roadway as defined in Table A on page 7.
- **Design District** – Areas subject to Design Review as defined on the Zoning Map of the Comprehensive Plan and in Title 33.
- **Design Review** – Review by the Bureau of Development Services to ensure that facility design meets design parameters for development and preserves the conservation, enhancement, and continued vitality of the identified scenic, architectural, and cultural values of each Design District or area and the quality of development near transit facilities.
- **Frontage Zone** – The area of the Sidewalk Corridor between the Through Pedestrian Zone and the property line as defined in Table A on page 7.
- **Furnishing Zone** – The area of the Sidewalk Corridor between the Curb Zone and the Through Pedestrian Zone as defined in Table A on page 7.
- **Encroachment** – Any private structure installed within the Right-of-Way.

Glossary (continued)

- **Major Encroachment** – Any of the following specific encroachments, as defined in Transportation Administrative Rule TRN 8.01, Encroachments in the Public Right-of-Way:
 - a. sky-structures
 - b. building projections or extensions not covered by Title 16, Title 24 or Title 32
 - c. arcades
 - d. underground walkways
 - e. malls or parking
 - f. other structures for the movement of people or goods, excepting items regulated as utilities
- **Private** – For the purposes of this rule, “private” is defined as a facility not owned by the Bureau of Transportation, Bureau of Water Works or the Bureau of Environmental Services, or a facility that is owned by a Franchise Utility but not allowed though the franchise agreement.
- **Right-of-Way** – The area between property lines of a street, easement, tract or other area dedicated to the movement of vehicles, pedestrians and/or goods.
- **Sidewalk** – An improved facility intended to provide for pedestrian movement; usually, but not always, located in the public right-of-way adjacent to a roadway. Typically constructed of concrete. (See Standard Construction Specifications.)
- **Sidewalk Corner Obstruction-Free Area** – The space between the curb face and the lines created by extending the adjacent property lines (or boundary lines of the public sidewalk easements) to the curb face.
- **Sidewalk Corridor** – The area behind the curb face of a street and including the area designated for the Curb Zone, Furnishing Zone, Through Pedestrian Zone and the Frontage Zone as defined in Table A on page 7.
- **Structural Review** – Review by either the Bureau of Development Services or the Bureau of Transportation to ensure conformance of a structure with City standards and governing codes.
- **Through Pedestrian Zone** – The area of the Sidewalk Corridor between the Furnishing Zone and the Frontage Zone as defined in Table A on page 7.

TRN – 8.08 – Encroachments in the Public Right-of-Way

Encroachments in the Public Right-of-Way

*Administrative Rule Adopted by Bureau of Transportation Pursuant to Rule-Making Authority
XXX-TRM-X.XX*

I. Background

This rule and document encompass a multi-year effort with significant public outreach and involvement to document Portland Bureau of Transportations policies related to private encroachments into the public right of way. The Portland Bureau of Transportation may allow for a private encroachment into the public right-of-way under certain conditions by approving an encroachment permit. Encroachment permits are revocable and considered temporary. (Encroachments must be removed from the public right-of-way upon notice by the City Engineer.

II. Rule

See attached document.

III. General Requirements

Revocable encroachment permits are issued to the abutting property and runs with the land. The revocable encroachment permit may also be issued, with the abutting property owner's consent, to a business association, a neighborhood association, a district coalition, a non-profit organization, or a government agency. Reference Chapter 17.44.010.B. Exceptions to the consent requirement will be made when the applicant is able to demonstrate underlying fee ownership of the right-of-way where the encroachment is to be placed. The City Engineer will evaluate the acceptability of encroachments based on adopted policy and regulations, safety, right-of-way usage, management and operations, and legal issues. The City Engineer may deny a permit, revoke a permit, or require removal of an encroachment at any time, unless otherwise specified in Title 14 or Title 29 of City Code, based on their evaluation. Unless otherwise specified in City Code or in the permit, the party responsible for maintenance of the right-of-way as specified in Chapter 17.28.020 shall remove the encroachment from the right-of-way upon notice by the City Engineer, with no liability and at no cost to the City.

Failure to maintain the landscaping and/or planter box(es) (raised beds or pots), or failure to repair or replace any portion of the landscaping and/or planter box(es) (raised beds or pots), immediately upon notification from City, shall be cause for the City to declare the landscaping and/or planter box(es) (raised beds or pots) a nuisance. The City may summarily abate the nuisance, initiate proceedings through the Code Hearings Officer, file civil suit or take any other action necessary to ensure the permittee, transferee

or assignee performs the required repairs to the public right of way.

III. Reference

Pursuant to Rulemaking Authority under 3.12.

Title 17.24.005 Jurisdiction and Management of Public Right-of-Way

ORDINANCE No.

*Referred to Commissioner of
Public Safety*

Adopt TRN 8.08 Encroachments in the Public Right Of Way administrative rules (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. The City's Encroachment Policy (TRN 8.01) was adopted in June 1982 and establishes three categories of encroachments: Above Grade (sky bridges, arcaded structures), At Grade and Below Grade.
2. Although TRN 8.01 mentions At-Grade encroachments, there is very little guidance for Transportation staff and community members to understand what the parameters are for permitting and how Transportation interprets and implements regulation on At-Grade encroachments in the public Right Of Way.
3. Over time, on an as needed basis, Transportation has adopted business practices or developed administrative rules regarding some aspects of encroachments in the public Right Of Way.
4. The Portland Bureau of Transportation (PBOT) established a work group and conducted outreach to internal and external stakeholders through a rule development process regarding encroachments in the public Right Of Way to create a framework for and consolidation of existing policies and related procedures.
5. PBOT completed a draft Encroachments in the Public Right-Of-Way manual and made it available for comment and review.
6. PBOT has taken steps to modify the City's Encroachment Policy (TRN 8.01) to be retitled "Major Encroachments Policy" and is also providing for the repeal of several disparate encroachment policies once they are consolidated within TRN 8.08 and it becomes effective.

NOW, THEREFORE, the Council directs:

- a. That the City of Portland adopt the attached policy document for Encroachments in the Public Right-Of-Way in a form similar to the contract attached as Exhibit A as a Non-Binding City Policy.
- b. That the City of Portland adopt TRN 8.08, Encroachments in the Public Right-Of-Way as an administrative rule attached as Exhibit B.
- c. That City Council authorize the Director of the Bureau of Transportation to make further adjustments to TRN 8.08 pursuant and consistent with existing rule making authority

delegated to the Director as needed to facilitate clarifications, modifications, or additions to ensure good stewardship of the Public Right-Of-Way.

Passed by the Council,

Commissioner Steve Novick
Prepared by: Kurt Krueger:slg
Date Prepared: January 15, 2014

LaVonne Griffin-Valade
Auditor of the City of Portland
By

Deputy

Agenda No.
ORDINANCE NO.

Title

Adopt TRN 8.08 Encroachments in the Public Right Of Way administrative rules (Ordinance)

INTRODUCED BY Commissioner/Auditor: COMMISSIONER STEVE NOVICK	CLERK USE: DATE FILED <u>FEB 07 2014</u>
COMMISSIONER APPROVAL Mayor—Finance and Administration - Hales Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman Position 4/Safety - Novick <i>Onk</i>	LaVonne Griffin-Valade Auditor of the City of Portland By: <i>[Signature]</i> Deputy
BUREAU APPROVAL Bureau: Bureau of Transportation Interim Group Mgr. Christine Leon Development & Capital Program Other: Greg Jones <i>gjk</i> Prepared by: Kurt Krueger: slg Date Prepared: January 15, 2014	ACTION TAKEN: FEB 12 2014 <i>REFERRED TO COMMISSIONER OF PUBLIC SAFETY</i>
Financial Impact & Public Involvement Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
Council Meeting Date February 12, 2014	
City Auditor Office Approval: required for Code Ordinances	
City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter	

AGENDA TIME CERTAIN <input type="checkbox"/> Start time: _____ Total amount of time needed: _____ (for presentation, testimony and discussion)
CONSENT
REGULAR <input checked="" type="checkbox"/> (2 OF 2) Total amount of time needed: <u>10 MIN</u> (for presentation, testimony and discussion) <i>TOTAL</i>

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz		
2. Fish	2. Fish		
3. Saltzman	3. Saltzman		
4. Novick	4. Novick		
Hales	Hales		