

ORDINANCE NO. CS-514

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, AMENDING PROVISIONS OF CHAPTER 11.16 CLARIFYING THE REGULATION OF THE TEMPORARY STORAGE AND STAGING OF CONSTRUCTION EQUIPMENT AND MATERIALS WITHIN THE CITY'S PUBLIC RIGHT-OF-WAY OR ON PUBLIC PROPERTY

WHEREAS, the public right-of-way is an improved or unimproved area where streets and sidewalks are generally located and controlled by the city for utility or access purposes; and

WHEREAS, the Carlsbad Municipal Code, specifically Chapter 11.16, establishes the permitting and processing requirements to authorize improvements or encroachments within the public right-of-way; and

WHEREAS, the City Council recognizes the need to allow construction materials and equipment associated with authorized public improvement projects to be stored and staged in areas that are safe, accessible and physically separate from where the improvements are occurring to avoid potential conflicts; and

WHEREAS, the City Council is willing to allow temporary construction storage and staging areas in the public right-of-way or on publicly owned property so long as the storage and staging area is associated with an authorized construction or maintenance project and will not cause health and safety issues; and

WHEREAS, the City Council recognizes that amendments to Chapter 11.16 are necessary to provide needed specificity, clarification and guidance to authorize temporary construction storage and staging of within the public right-of-way or on public property.

NOW, THEREFORE, the City Council of the City of Carlsbad, California, ordains as follows:

SECTION I: The above recitations are true and correct.

SECTION II: The proposed action that is being considered is covered by the general rule under California Environmental Quality Act, or CEQA, Guidelines 15061(b)(3), where the activity is covered by the commonsense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The proposed action seeks to amend Carlsbad Municipal Code Section 11.16 to clarify existing language and codify longstanding city practices.

SECTION III: Carlsbad Municipal Code Section 11.16.020 is hereby amended to read as follows:

§ 11.16.020 **Definitions.**

For the purpose of this chapter, the following words, terms and phrases shall have the following meanings as set out in this section:

"City Engineer" means the City Engineer or designee.

"Encroachment" means and includes any tower, pole, pole line, pipe, pipeline, fence, billboard, stand or building, or any structure or object of any kind or character not particularly mentioned in this definition, which is placed in, under or over any portion of a public place.

"Facility" means any street, highway, curb, gutter, fencing, pipe, pipeline, tube, main, service, trap, vent, vault, manhole, meter, gauge, regulator, valve, conduit, wire, tower, pole, pole line, anchor, cable, junction box, transformer or any other material structure or object of any kind or character, whether enumerated in this definition or not which is constructed, left, placed or maintained in, upon, along, across, under or over any public place.

"Improvement plans" means the construction plans, prepared by a civil engineer, in accordance with city standards for the purpose of describing a public improvement to be constructed, repaired, rehabilitated and/or otherwise installed in a public place. The term may also be used to mean the construction plans, prepared by a civil engineer, in accordance with city standards for the purpose of describing a private improvement to be constructed, repaired, rehabilitated and/or otherwise installed on private property or in a public easement or right-of-way.

"Plans" means the document developed and approved by the City Engineer describing the nature and extent of works proposed to be constructed or carried out on a public place.

"Public place" means any public street, highway, way, place, alley, sidewalk, easement, right-of-way, park, square, plaza or other similar public property owned or controlled by the city and dedicated to public use.

"Public property" means all land located within the corporate limits of the city to which the city holds the present right of possession and control. The definition also includes facilities and properties owned or operated by the city or its subsidiary district.

"Public right-of-way" means any public street, sidewalk, easement, or similar public property owned or controlled by the city and dedicated to public use.

"Specification" means the Standard Specifications for Public Works Construction (current edition including supplements) written and promulgated by Southern California Chapter American Public

Works Association and Southern California District Associated General Contractors or California Joint Cooperative Committee and published by Building News Incorporated, or such other specifications noted on approved plans.

"Standard drawings" means the "standard drawings" of the City of Carlsbad, adopted and revised by the City Engineer and the most recently adopted San Diego Area Regional Standard Drawings.

"Temporary Construction Support Use" means the temporary staging and/or storage on public property of tools, materials, equipment, and construction assembly operations in connection with a permitted or authorized public construction or maintenance project.

In addition to the above defined words, terms and phrases, the definition of words, terms and phrases, as described in Chapter 15.04, shall apply to this chapter.

SECTION IV: Carlsbad Municipal Code Section 11.16.050 is hereby amended to read as follows:

§11.16.050 Permits – Required.

No person shall do any of the following acts without first obtaining a valid right-of-way permit:

- A. Make or cause to be made any excavation or opening, fill or obstruction in, over, along, on, across or through any public place for any purpose whatsoever;
- B. Construct or repair or cause to be constructed or repaired any curb, sidewalk, gutter, curb with integral gutter, drive approach, driveway, alley approach, spandrel and cross gutter, wheelchair ramp, A.C. dike, or any other work of any nature covered by the city standard drawings or city policy within a public place; or place, change, renew an encroachment in, over, along or across or through any street right-of-way or public place excepting, however, for or in connection with the installation of poles, guys and anchors constructed for use under franchise for public utility purposes where such poles, guys and anchors do not interfere with or lie within 10 feet of existing improvements;
- C. Place any banner over, across, on, or along any public place;
- D. Plant, remove, cut, cut down, injure or destroy any tree, plant, shrub, or flower growing within any public place excepting necessary pruning or trimming to protect persons or property;
- E. Construct or modify or cause to be constructed or modified, any storm drain or conveyer of drainage waters and appurtenant items within a public place;
- F. Modify, alter or deface any block wall on or adjacent to public places;

- G. Engage in any traffic-control operations in such a fashion as to affect any public place while constructing, demolishing or maintaining any facility;
- H. Enter onto or exit from any public place at any location not approved and constructed as a driveway;
- I. Install marquees, awnings and building mounted signs which obtrude into a public place;
- J. Engage in any Temporary Construction Support Use within the public right-of-way or on public property.

SECTION V: Carlsbad Municipal Code Section 11.16.095 is hereby added to read as follows:

§ 11.16.095 Permits— Standards for Temporary Construction Support Uses.

A. A Temporary Construction Support Use shall be subject to the following standards when located within the public right-of-way or on public property.

1. Temporary Construction Support Use must be associated with and run concurrently with an authorized public construction or maintenance project.
2. Only developed or legally disturbed property may be used for Temporary Construction Support Use. Use of property with existing protected or sensitive habitat is prohibited.
3. Public property may only be used for Temporary Construction Support Use under the following conditions:
 - a. Only public construction or maintenance projects that have been approved or funded by a majority vote of the City Council or a majority vote of the City Council acting as the Board of Directors of a municipal utility district may use public property for Temporary Construction Support Use.
 - b. The public construction or maintenance project that will be served by Temporary Construction Support Use shall be entirely located within the city boundaries.
 - c. Public property site or portion of public right-of-way may be used for Temporary Construction Support Use no more than three times per calendar year, with each use not to exceed 60 consecutive days, unless otherwise authorized by the City Engineer.
 - d. Temporary perimeter screening and security fencing shall be installed and maintained for the duration of the Temporary Construction Support Use.
4. Compliance with the construction operating hours specified under Section 8.48.010 of this code.

5. Compliance with all stormwater standards and requirements specified in Chapter 15.12 of this code.
6. Upon completion, the Temporary Construction Support Use shall be removed, and the site shall be restored to the satisfaction of the City Engineer.
7. Compliance with any modified or additional specific requirements or conditions deemed necessary to ensure the health, safety, and welfare of the public during the use.

SECTION VII: Carlsbad Municipal Code Section 11.16.130 is hereby amended to read as follows:

§ 11.16.130 Right-of-way permit fees.

- A. Right-of-way permit fees shall be charged by the city for the processing of a right-of-way application and the issuance of a right-of-way permit. The fee shall be established by resolution of the City Council and is for the purpose of defraying the cost of processing an application, issuing the requested right-of-way permit, inspection of works completed under the right-of-way permit and other costs of administrating this chapter.
- B. The City Council may impose by resolution a fee that will be applied towards the use of public property for Temporary Construction Support Use.

EFFECTIVE DATE: This ordinance shall be effective thirty days after its adoption; and the City Clerk shall certify the adoption of this ordinance and cause the full text of the ordinance or a summary of the ordinance prepared by the City Attorney to be published at least once in a newspaper of general circulation in the City of Carlsbad within fifteen days after its adoption.

INTRODUCED AND FIRST READ at a Regular Meeting of the Carlsbad City Council on the 28th day of April, 2026, and thereafter

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the 12th day of May, 2026, by the following vote, to wit:

AYES: Blackburn, Bhat-Patel, Acosta, Burkholder, Shin.

NAYS: None.

ABSTAIN: None.

ABSENT: None.

APPROVED AS TO FORM AND LEGALITY:

Jennifer R. True

CINDIE K. McMAHON, City Attorney

Keith Blackburn

KEITH BLACKBURN, Mayor

Morgen Fry for

SHERRY FREISINGER, City Clerk

(SEAL)

