

City Council Meeting: November 14, 2023

Santa Monica, California

ORDINANCE NUMBER 2768 (CCS)

(City Council Series)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA
REPLACING THE TEXT OF SANTA MONICA MUNICIPAL CODE SECTION 7.04.800
IN ITS ENTIRETY AND RENAMING THE SECTION TO “DEDICATION, EASEMENTS
AND IMPROVEMENTS OF PUBLIC RIGHT-OF-WAY”

WHEREAS, the City of Santa Monica is the owner and caretaker of the public right-of-way (ROW), and strives to ensure the public ROW addresses the various needs of the public and community; and

WHEREAS, new development on private parcels in the City often results in increased pedestrian and vehicular traffic, thus necessitating upgrades to the public ROW adjacent to the new development; and

WHEREAS, such upgrades are necessary to ensure safe pedestrian and vehicular travel, and include public ROW widening and improvements to sidewalks and streets to safely accommodate increased volumes of pedestrians and vehicles resulting from the new development; and

WHEREAS, on March 14, 1978, Council adopted Ordinance No. 1085CCS, (Chapter 7.04.800 – Access and street improvements), codifying the City’s public ROW requirements; and

WHEREAS, Ordinance No. 1085CCS is outdated and does not clearly or comprehensively communicate the City’s public ROW requirements; and

WHEREAS, the City Engineer has recommended replacing the codified text of Ordinance No. 1085CCS in its entirety, as set forth herein; and

WHEREAS, the City Council deems it necessary to replace Ordinance No. 1085CCS to reflect the City's public ROW requirements more clearly for new development.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MONICA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The entirety of Santa Monica Municipal Code Section 7.04.800 is hereby replaced with the following text, as follows:

7.04.800 Dedication, Easements, and Improvement of Public Right-of-Way

7.04.800.010 Purpose.

The intent of this Chapter is to provide for the orderly acquisition and improvement of the public right-of-way ("right-of-way") for the benefit of public health, safety, and welfare, and also provide proper circulation access for right-of-way users by preventing congestion and other hazards caused by impacts resulting from the development of land permitted in the applicable zones. The following provisions relating to right-of-way acquisition and off-site improvements are deemed necessary and must be provided by the private property developer or private property owner at no cost to the City.

7.04.800.020 Definitions.

A. **Dedication.** "Dedication" means the setting aside of private property for public right-of-way use and the acceptance of land for such use by the City of Santa Monica ("City").

B. **Easement.** "Easement" means the legal right or privilege to use real property (including access rights) distinct from the ownership of real property. Easement types after dedication of right-of-way:

1. **Access Easement.** A right or rights granted or taken for the construction, maintenance, and operation of roadways and/or pedestrian or bicycle trails and sidewalks which does not transfer fee title.

2. **Utilities Easement.** A right or rights granted or taken for the construction, maintenance and operation of City or private utilities including but not limited to water, sewer, storm, electricity, natural gas, and telecommunications above or below the ground, which does not transfer fee title.

C. **Institutional Development.** “Institutional Developments” consist of building projects that are within the jurisdictional oversight of the State or County, such as the Division of the State Architect (DSA) which oversees design and construction for K-12 schools and community colleges, the Office of Statewide Health and Planning & Development (OSHPD) which oversees design and construction of hospital buildings and other healthcare institutions, and the Los Angeles County Metropolitan Transportation Authority (Metro) which oversees construction of transit facilities. Although building construction is governed by the State or the County, right-of-way dedications may apply as deemed necessary by the City Engineer in accordance this ordinance.

D. **Major Project.** A “major project” is defined to be a residential, commercial, industrial or institutional development which meets certain applicable development characteristics as set forth in Section 7.04.800.030(A)(1) below.

E. **Newly Constructed Building.** “Newly Constructed Building” means a new structure that has never been used or occupied for any purpose or removal and replacement of an existing structure, or repair, alteration, modification, addition to, or

rehabilitation of an existing structure, where a demolition will occur, as defined in Chapter 9.25.030 (A.1) or (A.2).

F. **Offsite Improvements.** "Offsite improvements" or "improvements" means any construction or reconstruction of certain infrastructure within a public right-of-way or easement as set forth in this ordinance.

G. **Principal Structure.** "Principal Structure" means a building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

H. **Right-of-Way.** "Right-of-Way" means a strip of land over which a public road and/or corridor are built for vehicular (motorized) and pedestrian/bikeway (non-motorized) transportation as well as parking, utility and buffering uses. A right-of-way may exist through the establishment of an easement or the dedication of land for right-of-way purposes.

I. **Substandard Alley.** A "substandard alley" is an alley less than 20 feet in width.

7.04.800.030 Dedication and Easements.

A. **Dedication.** Dedication of Right-of-Way— Applicable project types. Any residential, commercial, industrial, or institutional development, that meets the following development characteristics:

1. **New development or redevelopment of a Parcel.** The new development or redevelopment of parcel(s) that entails the construction of "Principal Structure(s)" as a "Newly Constructed Building" as defined in Section 7.04.800.020 and;

2. **Right-of-way abutment.** The development parcel(s) is abutting an existing public right-of-way alley that is less than the standard right-of-way width set forth in this ordinance or the parcel(s) is abutting existing public rights-of-way fronting the development that is less than the standard right-of-way widths set forth in the width standards specified on file and published with the City Engineer's Office and website.

B. **Dedication Standard.** Private parcels shall be required to dedicate right-of-way in such a manner as to create an easement for street and public utilities purposes and all other uses appurtenant thereto, in, over, under, along, and across the portion of that lot based upon the width standards specified on file and published with the City Engineer's Office and website. The right-of-way easement area shall be dedicated and improved prior to the issuance of a building permit and certificate of occupancy, respectively, for such proposed new construction.

C. **Width.** Standard City Street right-of-way widths establishes the various classifications for City public rights-of-way. The standard widths for each City Street are on file and published with the City Engineer's Office and website. Existing or new alleys are required to be a standard of 20 feet in width. Substandard alley locations are also on file with the City Engineer's Office and website. The right-of-way dedication on an individual lot shall be one-half ($\frac{1}{2}$) of the required standard width, measured from the centerline of the street or alley.

1. **Greater Widths.** Greater widths may be required as determined by the City Engineer to accommodate needed vehicular and pedestrian paths of travel as a result of such proposed new construction if the City Engineer determines that a

dedication or improvement greater than what is required by the standard widths for each City street bears an essential nexus and rough proportionality to a project impact. Additional dedication and improvements may also be imposed to ensure compliance with the Americans with Disabilities Act (ADA).

2. **Reduced Widths.** The required standard width may be reduced at specific locations on specific streets due to unusual conditions, as authorized by the City Engineer or his or her designee.

D. **Effect on Development Standards.** Except as expressly provided herein, all required development standards shall adhere to the following requirements:

1. **Project density, lot area, buildable area, parcel coverage, or floor area ratio.** Shall apply to the Parcel Area per Section 9.52.020.1590, provided, however, that any required street or alley right-of-way dedications pursuant to this Chapter shall not count as excluded street or alley rights-of-way per Section 9.52.020.1590.

2. **Building setback requirements in relation to right-of-way dedications.** Shall adhere to Section 9.04.130 for determining yard setback requirements and shall adhere to specified Development Standards for setbacks in each particular zoning district per Chapter 9.07 thru 9.20. Pursuant to Section 9.04.130, setbacks required to be measured from parcel lines and not from the centerline of the street or alley must be measured from the right-of-way dedication required by this Chapter.

3. **Required yards, parking area, loading space, and building locations for new structures or additions to buildings or structures.** Shall be measured and calculated from the new lot lines being created by said dedication.

4. **All other provisions.** Area of such land shall be considered as that which existed immediately prior to such street dedication.

E. **Nonconformities.** Nothing herein shall modify an owner's non-conforming rights under Chapter 9.27.

F. **Dedication Instrument.** Dedications shall be memorialized by an easement agreement in a form approved by the City Attorney and recorded by the City with the Office of the Los Angeles County Recorder.

G. **Timing of Dedication.** As required by this Section, the recordation of the dedication with the Office of the Los Angeles County Recorder shall occur prior to issuance of a building permit.

H. **Revocable Dedication / Easement.** In the event that an applicable building permit is deemed expired per Section 8.08.070(c) by the Building Official, and an easement dedication has been recorded at the Office of the Los Angeles County Recorder in accordance with this Section, the easement dedication shall be deemed null and void. Any application for new development or redevelopment after building permit expiration shall require the execution and recording of a new revocable easement agreement prior to issuance of a new building permit.

07.04.800.040 Off-Site Improvements.

A. **Applicability.** Prior to the issuance of occupancy permits for any new or redeveloped residential, commercial, industrial, or institutional developments, the development shall provide the following off-site improvements (“improvements”) as deemed necessary and applicable by the City Engineer. All property owners shall make all required improvements and repairs to abutting public rights-of-way. The improvements and repairs shall extend along the width and/or depth of the property and for a reasonable distance beyond the property as is necessary to complete the improvement or repair. Existing improvements that are damaged and that may have been damaged during construction of the building shall also be repaired.

B. **Required Improvements—All applicable project types.** All applicable projects shall be required to provide some or all of the following right-of-way improvements as are deemed necessary and applicable by the City Engineer:

1. **Sidewalk and Parkway.** Construction or repair of a sidewalk and parkway adjoining the site. The sidewalks shall be parallel to the curb and travel lanes on the street. The sidewalk shall have a minimum clear width as shown on file and published with the City Engineer’s Office; however, the sidewalk shall be four (4) feet wide at a minimum. Partial relief from this requirement may only be granted by the City Engineer or his or her designee. Curb ramps shall also be reconstructed or repaired if non-compliant.

Additionally, as a minimum requirement, any parkway disturbed due to project improvements must be removed and replaced to match existing. Any new parkway

landscaping required per project scope must be implemented per the Parkway Landscape Design, Installation and Maintenance section below.

2. **Curb and Gutter.** Construction or repair of curbs and gutters adjoining the site. All unused driveway curb cuts shall be replaced with a full-height curb and gutter per Chapter 7.24.

3. **Street Trees.** As required by Chapter 7.40.

C. **Required Improvements - All applicable projects abutting alley.** In addition to the improvements required above, projects that abut an alley right-of-way may require implementation of the following alley improvements as deemed necessary and applicable by the City Engineer.

1. **Alley Paving.** Construction, replacement, repair, or extension of alley paving up to standard alley right-of-way width. The alley shall be paved the length of the site. If vehicle access is taken from the alley, the City Engineer may also require that the alley be paved to a point where the alley intersects a paved public right-of-way, which may also include alley approach improvements. Curb returns and adjacent curb ramps shall be relocated and/or improved as necessary to accommodate alley access and circulation.

2. **Alley Lighting.** Construct or install on-site alley lighting as deemed necessary and applicable by the City Engineer.

D. **Required Improvements—Major Projects.** In addition to the improvements required in Subsections B and C above, Major Projects shall provide the additional improvements required by this Section as are deemed necessary and applicable by the City Engineer.

1. **Roadway Paving.** Construction, replacement, repair, or extension of roadway paving to standard street width as shown on file and published with the City Engineer's Office. Improvements also include construction, replacement and repair of all roadway markings affected by the roadway paving.

2. **Traffic Signals and Street Signs.** Provide the Construction, replacement, repairs or modifications to traffic signals and street signs attributable to the development.

3. **Streetlights.** Install, remove, and replace, upgrade or relocate streetlights per established City design guidelines. This may include widening the right-of-way as necessary.

4. **Utility Improvements and Relocation.** Install, upgrade, or relocate public and/or private utilities and facilities as necessary and as applicable to the project.

5. **Bicycle Trail/Lane/Route.** Construction of bicycle accessway as required by the "Bike Route System" and as specified in the Bike Action Plan adopted by the City Council.

E. **Parkway Landscape Design, Installation and Maintenance.** Parkways are located within the public right-of-way confined by the area between the outside edge of the sidewalk and inside edge of curb. Parkway design, installation and maintenance of landscaping shall be in accordance with Chapter 3.5 of the Urban Forest Master Plan and other applicable code standards.

F. **Standards.** All improvements within public rights-of-way shall be designed, installed, permitted, and inspected in conformance with the specifications and guidelines on file with the office of the City Engineer.

1. **Engineer of Record.** The owner or developer shall assure the City that an engineer, registered in California, will be employed to provide required engineering services for offsite improvements, unless waived by the City Engineer. The responsibilities of the engineer shall include, but not be limited to the following:

a. Preparation of required engineering design reports and plans for offsite improvements.

b. Certify accuracy of vertical and horizontal alignments and dimensioned in accordance with available survey and field data.

c. Delivery of reproducible “as-built” plans for offsite improvements along with an electronic copy for City records.

2. **Permit for work in right-of-way.** A permit, approved by the City Engineer or his or her designee, shall be required prior to any construction as required by this code within public rights-of-way. Such permit shall be issued subject to the following requirements:

a. Review and acceptance of engineering design reports and plans for offsite improvements unless plan requirements have been waived by the City Engineer.

b. Payment of review and inspection fees for all offsite improvements located within the public right-of-way, in accordance with a fee schedule to be adopted by the City Council.

c. Construction and scheduling for the offsite improvements shall be the responsibility of the developer or owner and the Engineer of Record. All construction shall conform to City standards.

3. **Acceptance of offsite improvements.** Reproducible "as built" plans and the Engineer of Record certificate shall be accepted by the City Engineer prior to the Final inspection of offsite improvements and prior to their acceptance. Acceptance of offsite improvements will be executed by the City Engineer or his or her designee when the requirements of these regulations have been fulfilled and ownership of the facilities is offered to the City.

Table-1
Summary of Dedication and Off-Site Improvement Requirements
for All Development Projects

	Right-of-Way		Off-Site Improvements		
	Dedication				
Project Type	Dedication (alleys)	Dedication (streets and highways)	Sidewalk, Parkways, Curb and Gutter, Street Trees	Alley Paving, Alley Lighting (as required), Utilities Relocation	Roadway Paving, Traffic Signals, and Street Signs, Street Lights, and Utilities Relocation
Major Projects	X	X	X	X	X
All Other Projects			X	X (as needed)	

7.04.800.050 Relief from Standard Requirements.

Full or partial relief from the standard requirements prescribed by this Chapter may be granted by the City Engineer or his or her designee, provided that the only finding required to grant relief is that the dedication and/or improvement is not necessary for a public

purpose generated at least in part by the development, the dedication and/or improvement is physically impractical, is in conflict with state or federal laws, or that the cost of the dedication and/or improvement is proportionally excessive when compared to the impacts caused by the project.

SECTION 2. Any provision of the Santa Monica Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 3. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 4. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective 30 days from its adoption.

APPROVED AS TO FORM:

DocuSigned by:
DOUGLAS SLOAN
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DOUGLAS SLOAN
City Attorney

Approved and adopted this 14th day of November, 2023.

DocuSigned by:
Gleam Davis
8FE4004DAD0B40B...

Gleam Davis, Mayor

State of California)
County of Los Angeles) ss.
City of Santa Monica)

I, Esterlina Lugo, acting City Clerk of the City of Santa Monica, do hereby certify that the foregoing Ordinance No. 2768 (CCS) had its introduction on October 24, 2023 and was adopted at the Santa Monica City Council meeting held on November 14, 2023, by the following vote:

AYES: Councilmembers Zwick, Parra, Brock, Torosis, de la Torre
 Mayor Davis

NOES: None

ABSENT: Mayor Pro Tem Negrete

ATTEST:

DocuSigned by:
Esterlina Lugo
2674518F2E014C9...

Esterlina Lugo, Acting City Clerk

11/16/2023
Date

A summary of Ordinance No. 2768 (CCS) was duly published pursuant to California Government Code Section 40806.