



# MEMORANDUM

Agenda Item #: 10  
Meeting Date: 9/24/2013

**TO: HONORABLE MAYOR AND CITY COUNCIL**

**THRU: ANTON DAHLERBRUCH, CITY MANAGER**

**FROM: ALLAN RIGG, PUBLIC WORKS DIRECTOR**

**SUBJECT: INTRODUCTION OF ORDINANCE NO. 13-703, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALOS VERDES ESTATES ADDING SECTION 12.24.180 TO THE PALOS VERDES ESTATES MUNICIPAL CODE REGARDING CLOSURE OF CERTAIN TRAILS FROM ONE HOUR AFTER SUNSET TO ONE HOUR BEFORE SUNRISE**

**DATE: SEPTEMBER 24, 2013**

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## The Issue

Should the City Council introduce Ordinance No. 13-703 to add Section 12.24.180 to the Palos Verdes Estates Municipal Code regarding closure of certain trails from one hour after sunset to one hour before sunrise?

## Background

The City Council has heard concerns from the public regarding illegal activities at night within the City's parklands and along certain trails. The Council directed that staff create an ordinance for the Council's review that would prohibit persons from being with the parklands from dusk to dawn.

The proposed ordinance was discussed at the City Council meeting of September 10<sup>th</sup>, 2013. After significant discussion, the Council directed that the ordinance be modified to only close certain problematic trails from one hour after sunset to one hour before sunrise. The timing was modified to be more readily understood by the public and to match similar restrictions in Rancho Palos Verdes.

### Discussion

The attached ordinance would codify the closure of certain trails from one hour after sunset to one hour before sunrise with certain exceptions.

The proposed areas to be closed during these hours would be:

- The Paseo Del Sol Fire Road from the easterly terminus of lower Paseo Del Sol to Via Campesina.
- The Via Tejon trail beginning at the easterly terminus of Via Tejon and ending at the Via Campesina bridge.

The proposed exceptions would be:

- Persons performing emergency work.
- Persons engaged in City-sponsored events or specific events approved by the City Manager.
- The evening of July 4th.

Signage will be installed at the end of each trail to educate the public regarding the closure of the trail during the specified areas. The signs would read as follows:

**Trail Closed from One Hour After Sunset to One Hour Before Sunrise  
PVE Municipal Code 12.24.180**

### Notification

The ordinance has been sent to the Malaga Cove Homeowners Association, the Lunada Bay Homeowners Association, and the Trails Group.

### Alternatives Available to Council

The following alternatives are available to the City Council:

1. Introduce Ordinance No. 13-703.
2. Introduce Ordinance No. 13-703, with modifications.
3. Not introduce Ordinance No. 13-703.

**Recommendation**

Staff recommends the City Council introduce Ordinance No. 13-703.

Attachments: A - Proposed Ordinance No. 13-703  
B – Map of Trails to Be Closed  
C – Letters of Correspondence

ORDINANCE NO. 13-703

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALOS VERDES ESTATES, CALIFORNIA, ADDING SECTION 12.24.180 OF THE PALOS VERDES ESTATES MUNICIPAL CODE CLOSING CERTAIN TRAILS AT NIGHT

The City Council of the City of Palos Verdes Estates hereby ordains as follows:

SECTION 1. Section 12.24.180 of the Palos Verdes Estates Municipal Code is hereby added to read as follows:

**12.24.180 Nighttime Trail Closures**

A. General prohibition. No person shall be on the following trails from one hour after sunset to one hour before sunrise:

1. The Paseo Del Sol Fire Road from the easterly terminus of lower Paseo Del Sol to Via Campesina.
2. The Via Tejon trail beginning at the easterly terminus of Via Tejon and ending at the Via Campesina bridge.

B. Exceptions to this prohibition are as follows:

1. Persons performing emergency work.
2. Persons engaged in City-sponsored events or specific events approved by the City Manager.
3. The evening of July 4th.

C. Map available. The Police Department and City Clerk shall maintain a map of the areas subject to nighttime closure, which shall be subject to public inspection on request during business hours.

SECTION 2. The City Clerk shall certify to the passage of this ordinance and shall cause the same to be published as required by law.

PASSED, APPROVED and ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
JAMES F. GOODHART, Mayor

ATTEST:

\_\_\_\_\_  
VICKIE KRONEBERGER, Deputy City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
CHRISTI HOGIN, City Attorney



# LETTERS OF CORRESPONDENCE

Vickie Kroneberger

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**From:** Katy Endicott  
**Sent:** Tuesday, September 17, 2013 9:47 PM  
**To:** City Council  
**Cc:** Anton Dahlerbruch  
**Subject:** Ordinance 13-703 hearing on Sept. 24

Honorable Mayor and City Council members,

I saw the hearing notice for next Tuesday on Ordinance 13-703. I'm unable to attend, but I hope you can consider my comments.

I empathize with local residents who must be unhappy about loitering or other activities near their homes and understand Ordinance 13-703 seeks to mitigate such concerns. Something should definitely be done.

On the other hand, a dusk to dawn closure precludes trail use in late fall/winter at the end of the work day. If you're home from work after 7:00 p.m., you cannot even walk your dog on the trails. If these trails could close at 9:00 p.m. year-round, that would be a wonderful compromise and sustain convenient trail connections for all trail users. It's also easier to keep track of since sunset time is always changing.

I've been enjoying these trails 10+ years and greatly appreciate them. Thank you for reading my comments.

Sincerely,

Katy Endicott  
San Pedro



Vickie Kroneberger

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**From:** sheila potter  
**Sent:** Wednesday, September 18, 2013 11:07 AM  
**To:** City Council; Anton Dahlerbruch  
**Subject:** Ordinance hearing on September 24

Dear Honorable Mayor and City Council members,

I was hiking with my family at the end of Via Tejon on Sunday and saw the hearing notice for next Tuesday, September 24 on Ordinance 13-703. Unfortunately, I'm unable to attend in person since I'll be in Chicago on business. But I wanted to send my thoughts with hopes that you will consider my opinion when discussing this subject.

I live close by and have utilized these trails for close to ten years. It's actually one of the main reasons we live in this area as we like to hike and bike with our family on these trails.

I understand why an ordinance is being proposed as residents must be unhappy about unpleasant activities near their homes. I also agree that something should be done. However, your proposal to close these trails would make it impossible for me to enjoy the beautiful surroundings since I work full-time and sometimes can't get on the trail until after dark, especially in the winter when it gets dark early.

I propose a slightly later closure, around 9:00 p.m. instead of the current dusk proposal. This would be a compromise where trail users could continue using the trails even in the winter but still have a closure time to curtail any unsavory activities. A win-win for everyone!

Thank you for your consideration.  
Sincerely,

Sheila Potter  
Redondo Beach



# MEMORANDUM

Agenda Item #: 11  
 Meeting Date: 9/24/13

**TO: HONORABLE MAYOR AND CITY COUNCIL**

**THRU: ANTON DAHLERBRUCH, CITY MANAGER** *AD*

**FROM: ALLAN RIGG, PUBLIC WORKS DIRECTOR** *AR*

**SUBJECT: REVIEW OF PROPOSED PARKLANDS AND TRAILS POLICY**

**DATE: SEPTEMBER 24, 2013**

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## The Issue

The City has recently heard testimony from the public concerning a variety of issues regarding the City's trails and parklands. Some residents have expressed a desire to improve the existing trails as well as develop additional pathways. Other residents have indicated that there are significant negative issues involving the existing trails and the general use of parklands. Moreover, there appears to be people developing trails in the parklands without the authority to do so. The City does not have policies addressing the improvement, development, and general use of trails. The City Council reviewed the issue at their meeting on July 23<sup>rd</sup>, 2013 meeting and directed that staff to "...draft an ordinance limiting use of Parklands from dawn to dusk, and to prepare a policy for Parklands/Trails use for Council and Parklands Committee review in preparation of an ordinance." Please note the "dawn to dusk" ordinance was previously reviewed by the City Council at their September 10<sup>th</sup>, 2013 meeting and in modified form will be reviewed again at the September 24<sup>th</sup>, 2013 meeting.

## Background

The Parklands Committee recently worked to develop a list of projects to be pursued in the City with specific funding from the City Council for "Enhancement Projects." The top-rated project was the maintenance and development of trails within the City. The Parklands Committee discussed this topic at their January and February meetings this year.

The recommendation of the Parklands Committee to the City Council at their February meeting was to hire a consultant to help develop a scope of work for the “Backbone Trail”. The “Backbone Trail” is an existing trail that begins near Apsley Road and Palos Verdes Drive West in Lunada Bay, continues on the hillside above Bluff Cove and along the Paseo Del Sol Fire Road, and ends at the easterly end of Via Tejon. However, when reviewed by the City Council, there was significant testimony regarding the numerous existing problems along this trail. The topics are as follows:

- Excessive parking on Via Tejon and Paseo Del Sol
- Privacy impacts along the trail, including rear yards on Via Elevado and lower Paseo Del Sol
- Security issues due to the usage of trails
- Illegal activities such as drug use and drinking in the parklands, especially at the easterly end of Via Tejon and at the end of lower Paseo Del Sol
- Liability for the City
- Trash along the trails
- Issues with dog walkers and bicyclists
- Public Information

The City Council determined that the appropriate course of action was to not pursue the recommendation of hiring a trails consultant, but to instead develop a Policy for Parklands and Trails. In this way, the concerns may be addressed while also creating a framework for maintenance and management.

The City Council was presented a report at their July 23<sup>rd</sup>, 2013 meeting that contained staff’s research of potential elements within the policy. The City Council reviewed the report and directed staff to present a policy for their review at a future meeting. It was discussed that the policy would then be forwarded to the Parklands Committee for public meetings and recommendations for further refinement.

### **Discussion**

The attached policy has been drafted by staff for the City Council’s review. The policy is an outline statement for City Council modification and/or refinement. Subsequently, it could be forwarded to the Parklands Committee for further refinement. As a basis for the policy, the testimony of the public and the City Council at the July 23<sup>rd</sup> meeting was used to identify elements to be addressed (summary attached).

In regards to the Parklands, there are a significant number of existing Code sections and policies that regulate the Parklands and that a summary of these comprises the Parklands portion of the policy. Two policies are attached to this report:

- City of Palos Verdes Estates Parklands Landscaping Policy
- Policy for the Removal of Unauthorized Encroachments in the City’s Parklands

The draft Trails policy addresses the following issues:

- Who is allowed to utilize the trails?
- What should be done with illegally-created trails?
- What is the standard for trails and plantings within paths between homes which are located on right of way?
- What design/maintenance standards are used for the trails?
- What can be done regarding trails that are problematic?
- When are trails allowed to be used?
- Where are the trails within the City?
- How are trails created?

The issue of the standard for trails and plantings between homes that are located on right of way is a particularly important element. Throughout the City, there are numerous strips of right of way that are generally 20 feet in width and are located between homes. Many of these are maintained and a trail is kept clear by the City. However, many are blocked by significant vegetation that has been planted by the adjacent residents. The City has not historically mandated nor removed heavy vegetation in these areas as there has been no policy or regulation to mandate the removal. In the limited cases where removals have been required, it is very upsetting to the adjacent residents due to a reduction in privacy to their homes and yards. There is no policy or Code provision that regulates these areas.

Please note that the City's maintenance of the trails and parklands is performed per specifications within two contracts. One contract is the annual Fire Safety/Weed Abatement contract that is performed during the summer and fall and removes vegetation on City-owned land per Los Angeles County Fire Department specifications. The other contract is a Landscape Maintenance contract, which includes the ongoing maintenance of City parks and rights of way. It is possible that modifications to the scope of these two contracts would be part of the implementation of an adopted policy.

The issue of the removal of encroachments on public right of way that block trail access has been identified within the attached resident correspondence. The City previously addressed illegal encroachments on City Parklands per the attached "Policy for the Removal of Unauthorized Encroachments in the City's Parkland." This policy does not include encroachments on right of way. The City Council may want to discuss if modifications to this policy to also include unauthorized encroachments on right of way is desired. There may be in excess of 40 of these encroachments.

### **Notification**

The following groups have been notified of this agenda item: the Planning Commission, the Parklands Committee, the Traffic Safety Committee, the Palos Verdes Homes Association, the Valmonte Homeowners Association, the Malaga Cove Homeowners Association, and the Lunada Bay Homeowners Association.

**Alternatives Available to City Council**

- 1) Direct staff to forward the Parklands Committee the City Council’s directions relative to the Parklands and Trails Policy.
- 2) Direct staff to return to the City Council with a revised Parklands and Trails Policy.
- 3) Direct staff to proceed in a different direction such as creating a committee to develop a Parklands and Trails Policy.
- 4) Decline to act.

**Fiscal Impact**

There may be a fiscal impact if adopted policies change current enforcement, maintenance, and management practices. Upon further refinement of the policy, staff will return with an analysis of the cost impacts.

**Staff Recommendation**

Staff recommends the City Council direct staff to forward the Parklands Committee the City Council’s directions relative to the Parklands and Trails Policy.

Staff Report Prepared by:


FOR A. RIGG  
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 Allan Rigg  
 Public Works Director

- Attachment
- A: City of Palos Verdes Estates Parklands and Trails Policy (draft)
  - B: City of Palos Verdes Estates Parklands Landscaping Policy
  - C: Policy for the Removal of Unauthorized Encroachments in the City’s Parklands
  - D: Summary of issues/ideas per public testimony at the July 23<sup>rd</sup> City Council meeting
  - E: Topics for PARKLAND & TRAIL POLICIES

**CITY OF PALOS VERDES ESTATES  
PARKLANDS AND TRAILS POLICY**

**PURPOSE** - The purpose of the Parklands and Trails Policy is to guide residents, staff, and the Parklands Committee regarding the use, development, and maintenance of the City's parklands and trails.

**POLICY** - The City's parklands were intended to serve as open space, available to the public and to remain as undeveloped as possible. The misuse of the Parklands can lead to severe impacts to other users of the parklands/trails as well as residents living near the parklands/trails. It is the policy of the City to manage the use of open space/parklands and trails to maintain a balance between the interests of those people using them and the interests of adjacent and nearby residents. The implementation of this policy must conform to the deed restrictions placed upon the City's parklands.

**DEFINITIONS**

1. Parklands - Fee-owned parcels of land owned by the City of Palos Verdes Estates and zoned as Open Space.
2. Trails – A foot-worn or developed path through parklands or on public right of way.

## PARKLAND POLICY

The Parklands owned by the City were conveyed to the City zoned as open space and with significant deed restrictions. These restrictions require that the land remain available for public use in perpetuity. Over the years it has been determined that these uses are primarily as passive open space and as active open space utilized by the City's four concessionaires. It has also been determined that it is not appropriate for the parklands to be leased for profit such as for cell facilities.

The regulations regarding the Parklands are within different areas of the City's Municipal and are as follows:

- Chapter 6.08 "Regulations Pertaining to Dogs" – Prohibits dogs running at large, nuisances, and dogs on beach or in ocean.
- Chapter 8.56 "Smoking Prohibited" – Includes the prohibition against smoking in any undeveloped public place.
- Chapter 8.24 "Hang Gliders and Model Aircraft" – Prohibits hang gliders and limits areas where model aircraft may be flown.
- Chapter 8.60 "Fireworks" – Prohibits fireworks within the City (also in 12.24.100).
- Chapter 9.16 "Use of Beaches" – Requires the safe operation of all wave-riding devices and prohibits blocking access to the beach.
- Chapter 12.24 "Parks" – Includes regulations regarding closure of parklands, horses, peddling, rubbish, disorderly conduct, injuring plant life, and vandalism.
- Chapter 18.16 "OS Zone" – Limits the use of Open Space zoned parcels and provides processes for development with a conditional use permit of specific uses.
- Title 19 "Coastal Regulations" – Regulates the Coastal Zone which includes both private properties and the ocean bluffs and beaches.

Additionally the City has adopted two policies that regulate City Parklands:

- Policy for the Removal of Unauthorized Encroachments in the City's Parklands – adopted by Resolution R05-32.
- Parklands Landscaping Policy – adopted by Resolution R12-05.

## TRAILS POLICY

### **Who is allowed to utilize the trails?**

Pedestrians and bicyclists are allowed on trails. Horses and motor-driven vehicles are not allowed, with the exception of horses on trails within Parklands adjacent to the Stables, and within the median trail on Palos Verdes Drive North. Additional trails may be used by horses as approved by the City (Municipal Code Section 12.24.060).

### **What should be done with illegally-created trails?**

Illegally created trails shall immediately be blockaded and closed per Section 12.24.040 of the City's Municipal Code. Restoration will then be effected by the City as appropriate.

### **What is the standard for trails and plantings within paths between homes which are located on right of way?**

These are typically 20 feet in width and pass between two streets. A foot-worn path is allowed approximately in the center of the area between the homes. The adjacent residents may plant and maintain screening vegetation in the right of way along their private property so long as a clear area of at least ten feet remains for the path, in a mostly straight line. The right of way adjacent to the asphalt where the trails intersects a street may be planted per the standards of parkway plantings adjacent to private residences (Ordinance 361), but may not be planted as to obstruct access to the trail. Standards for planting materials and irrigation shall be developed by the Parklands Committee. In cases where there is no access due to existing vegetation, the clearance of the area shall be reviewed by the Parklands Committee in order determine if clearances are warranted. The Parklands Committee shall also review requests to plant vegetation that would restrict access to paths.

### **What design/maintenance standards are used for the trails?**

For trails included within the City's maintenance contract(s), the standards shall be within the contract(s).

### **What can be done regarding trails that are problematic?**

If a trail is problematic for any reason an application can be made to the Parklands Committee for the trail to be closed or relocated.

### **When are trails allowed to be used?**

Trails can be used at any time except as prohibited per the City's Municipal Code.

### **How are trails created?**

In areas where there is no vegetation, the public often create a foot-worn trail by repeated use. Trails may not be created by the public where vegetation is needed to be removed per Chapter 12.24 of the Municipal Code which prohibits the removal of public vegetation. The Parklands Committee may recommend to the City Council for their approval the development of new trails where vegetation needs to be removed.



**CITY OF PALOS VERDES ESTATES  
PARKLANDS LANDSCAPING POLICY**

1. **GOALS.** The goal of the Parklands Landscaping Policy is to guide residents and the Parklands Committee regarding the landscaping of the City’s parklands by private individuals.

2. **OBJECTIVES.**

The City’s parklands were intended to remain open to the public and to remain as undeveloped as possible. Landscaping within the parklands should only be done to retain an undeveloped and natural look that simulates natural forestation and ground cover.

Landscaping should not be done so that the area appears to be privately-owned or so that the landscaping creates a barrier to the public. Any landscaping that is allowed as a result of an approved application should be limited to “native” varieties as determined by the City. Any irrigation should be temporary in nature and placed on the ground, not buried.

Applications for placement within the parklands of man-made items, such as benches, statues, hardscape, or other, shall be reviewed on a case by case basis, and in general such applications should be denied.

3. **PERMIT PROCEDURE.** An “Application to Landscape City Parklands” shall be obtained from and filed with the City.

4. **PROCESS FOR CONSIDERATION AND APPROVAL.** Each application shall be reviewed by the Parklands Committee. The Committee shall consider the proposed improvements and the testimony, both verbal and written, of the applicant and of affected property owners. The recommendation of the Parklands Committee shall be placed on the Consent Agenda of the City Council for final action.

5. **FINDINGS FOR APPROVAL**

The findings for approval are based on those required for approving a Variance within the Zoning section of the Municipal Code:

- 1. That there are special circumstances attached to the property referred to in the application, which do not apply generally to other properties in the same area;
- 2. That the granting of such application is necessary to do substantial justice, and to avoid practical difficulty or unnecessary hardship;
- 3. That the granting of the application will not result in material damage or prejudice to other property in the vicinity, nor be detrimental to the public safety or welfare.

4. That the landscaping is not to be done so that the area appears to be privately-owned or so that the landscaping creates a barrier to the public.

6. **PERMIT FEES.** A fee shall be submitted with the application in the amount that shall be established by resolution of the City Council.

7. **COSTS FOR INSTALLATION AND MAINTENANCE.** All costs for installation and maintenance shall be paid by the applicant. A legal contract between the city and the property owner defining a maintenance schedule and standards that runs with the property in perpetuity is required.

**EXHIBIT 1**

**POLICY FOR THE REMOVAL OF UNAUTHORIZED  
ENCROACHMENTS IN THE CITY'S PARKLANDS  
Updated 11/8/05**

The Policy for the Removal of Unauthorized Encroachments in the City's Parklands is established to summarize the existing policies established by the Municipal Code for the removal of encroachments, and to add a requirement for the removal of encroachments when the adjacent private property changes ownership. It is the goal of this policy to restore public access to and use of these areas in a timely fashion.

This Policy in no way limits the City's ability to require the removal of any unauthorized encroachment in the parklands for any reason.

**1) Definition of Encroachment**

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

*"Encroachment" means privately owned facilities or structures in the public right of way or on other public property, constructed and maintained by the property owner."*

Examples of encroachments include, but are not limited to: fences, walls, hardscape (such as concrete or brick), fireplaces, sheds, gazebos, swings and other play equipment, and tree houses.

**2) Removal Requirements Per City Code**

*Require removal of unauthorized encroachments during a discretionary review by the City's Planning Commission*

Section 17.04.090 of the City's Municipal Code states that the approval of any development entitlement application per Title 17 or 18 of the Code may be conditioned by the Planning Commission or Council. Such conditions may address any aspect of the project or the property. At the time of developing project plans, surveys are typically conducted and encroachments are identified. As a routine, the Planning Commission imposes a condition on all its approvals, requiring the removal of non-standard encroachments.

*Require removal of unauthorized encroachments when they fall into disrepair.*

Section 8.48.015 H of the City's Municipal Code states that it is a public nuisance to maintain fences, walls, landscaping, or walkways that are maintained in a defective, unsightly, or no longer viable condition. As the City becomes aware of encroachments which have fallen into disrepair, they are deemed a public nuisance and removal is required. The

Public Works Director, or his or her designee, shall have the authority to judge when these encroachments are in a state of disrepair.

*Require removal of unauthorized encroachments when they are modified.*

Section 12.04.010 of the City's Municipal Code does not allow the permanent private occupation of City property without a permit. When the City is made aware of any modification underway to an existing unauthorized encroachment, removal of the entire encroachment is required.

### **3) Removal Requirements Upon Adjacent Private Property Transfer of Ownership**

Within 60 days of the close of escrow for the transfer of ownership of a previously noticed private property located adjacent to an unauthorized encroachment(s), the encroachment(s) shall be removed by the adjacent property owner and the area shall be restored to a condition similar to other parklands in the area.

### **4) Removal Requirements Five Years After Notification by the City**

If a property has not be transferred within five years after notification by the City of the need to remove the illegal encroachment(s), the encroachment(s) shall be removed by the adjacent property owner and the area shall be restored to a condition similar to other parklands in the area.

### **5) Notification**

As staff becomes aware of significant unauthorized encroachments in the City's parklands, a notice of the violation shall be sent to the adjacent property owner and permanent record of the notice shall be maintained in the correlating "Address File". Real Property Records Reports shall include mention of any encroachment notices on file.

### **6) Enforcement**

Staff will track monthly County Assessor's transfer reports and the Code Enforcement Officer will investigate relevant property transfers. If an illegal encroachment(s) is not removed per this policy, the City will immediately remove the encroachment(s), bill the adjacent property owner, lien the property if necessary, and cite the adjacent property owner for an infraction(s).