

BEFORE THE CITY COUNCIL OF THE CITY OF LAFAYETTE

IN THE MATTER OF:

An Ordinance of the City Council of the City of Lafayette adding Chapter 3-2 of the Lafayette Municipal Code to Provide for an Encroachment Permit Schedule of Charges)	
)	
)	
)	
)	
)	Ordinance No. 638

WHEREAS, the City Council of the City of Lafayette (“City”) previously adopted Division 1002 of the Contra Costa County Code by reference under Section 1-501 of the Lafayette Municipal Code to govern encroachments in the City right-of-way; and

WHEREAS, Section 1002-4.020 of the Contra Costa County Code provides that the schedule of fees will be adopted by the board of supervisors; and

WHEREAS, the City Council wishes to update the City’s policies regarding use of City public right-of-way by contractors completing work on construction projects located in the City’s downtown area and on thoroughfares with daily traffic greater than 5,000 vehicles, where construction activities can have a severe detrimental impact on congestion and pose a health and safety hazard when located in City streets, sidewalks, bike lanes and the public right-of-way; and

WHEREAS, existing building requirements in the City require contractors to first obtain an encroachment permit and pay a nominal charge for said permit as rent for use of the public right-of-way during construction; and

WHEREAS, the City has discovered that construction projects are often exceeding estimated completion dates represented to the City at the time contractors submit encroachment permit applications; and

WHEREAS, the City finds that a charge adopted for use of City property, such as the City right-of-way, is not a tax subject to Proposition 26.

THE CITY COUNCIL OF THE CITY OF LAFAYETTE DOES ORDAIN AS FOLLOWS:

Section 1. Amendments. Chapter 3-2 is hereby added to the Lafayette Municipal Code to read in full as follows:

Chapter 3-2 ENCROACHMENT PERMIT SCHEDULE OF CHARGES

Sections:

- 3-201 Order of precedence.**
- 3-202 Applicability**
- 3-203 Schedule of Charges**
- 3-204 Restriction**
- 3-205 Exceptions**

3-201 Order of precedence.

This Chapter 3-2 shall take precedence over conflicting provisions of adopted Division 1002 of the Contra Costa County Code.

3-202 Applicability.

The encroachment permit schedule of charges set forth herein shall be applicable to those areas of the city described below.

(a) The downtown area with boundaries as defined by the planning area established in the City of Lafayette Downtown Specific Plan, Chapter 3, Figure 1, Context Map; and (b) All public roadways with average daily traffic in excess of 5,000 vehicles, including but limited to:

- (1) Acalanes Road, north of Hidden Valley Road;
- (2) Deer Hill Road;
- (3) Glenside Drive, from Reliez Station Road extending south to St. Mary's Road;
- (4) Moraga Road;
- (5) Mt. Diablo Boulevard;
- (6) Olympic Boulevard;
- (7) Reliez Station Road, south of Olympic Boulevard;
- (8) St. Mary's Road; and
- (9) Pleasant Hill Road

3-203 Schedule of Charges.

Subject to the exceptions set forth herein, encroachment permit applicants shall be charged for use of street parking spaces, sidewalks, bike lanes, vehicle traffic lanes and other areas of the public right-of-way at the rates set by resolution of the City Council.

3-204 Restriction on Use of Vehicle Traffic Lanes Under Encroachment Permit.

Complete closure of a City right-of-way to all vehicular traffic shall not be authorized under any encroachment permit unless expressly approved in writing by the City Manager.

3-205 Exceptions.

The following activities are expressly excepted from the charges established herein:

- (a) Projects undertaken by public utility companies or the City.
- (b) City sponsored events and activities.
- (c) Any other project, event or activity excepted by the City through a permit or license.

Section 2. CEQA. The City Council finds that adoption of this Ordinance is not a "project," as defined in the California Environmental Quality Act because it does not have a potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and concerns general policy and procedure making.

Section 3. Notice of Exemption. The City Council directs staff to prepare and file a Notice of Exemption no more than five (5) working days after adoption of this Ordinance

Section 4. Effective Date. This Ordinance becomes effective thirty (30) days after its adoption.

Section 5. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof is for any reason held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the fact that one or more sections, subsections, subdivision, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective. To this end the provisions of this Ordinance are declared to be severable.

Section 6. Publication. The City Clerk shall either (a) have this Ordinance published in a newspaper of general circulation once within fifteen (15) days after its adoption, or (b) have a summary of this Ordinance published twice in a newspaper of general circulation, once five (5) days before its adoption and again within fifteen (15) days after adoption.

The foregoing Ordinance was introduced at a meeting of the City Council of the City of Lafayette held on February 23, 2015 and adopted and ordered published at a meeting of the City Council held on March 9, 2015 by the following vote:

AYES: B. Andersson, Reilly, M. Anderson, Mitchell and Reilly

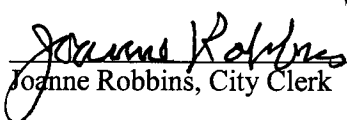
NOES: None

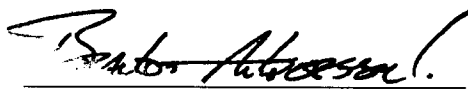
ABSTAIN: None

ABSENT: None

ATTEST:

APPROVED:


Joanne Robbins, City Clerk


Brandt Andersson, Mayor

NOTICE OF EXEMPTION

TO: County Clerk
County of Contra Costa
P.O. Box 350
Martinez, CA 94553

FROM: City of Lafayette
3675 Mt. Diablo Blvd., Suite 210
Lafayette, CA 94549

Project Title: Adoption of Ordinance No. 638, Providing for an Encroachment Schedule of Charges.

Project Location: Lafayette, Contra Costa County, California

Description of Nature, Purpose, and Beneficiaries of Project: Ordinance will add Chapter 3-2 to the Lafayette Municipal Code, setting forth a schedule of charges for certain encroachment activities in the public right-of-way.

Name of Public Agency Approving Project: City of Lafayette

Name of Person or Agency Carrying Out Project: City of Lafayette

Exempt Status: *(check one)*


- Ministerial (Sec. 21080(b)(1); 15268)
 Categorical Exemption (Class 15301, 15302, 15304)
 Project Not Subject to CEQA (Sec. 15061(b)(3))

Reasons why project is exempt:

Lafayette City Council finds that the adoption of this ordinance is not a "project" as defined by CEQA, because it concerns general policy and procedure making, and does not have a potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment.

Contact Person: Tony Coe **Telephone:** 925.299.3203

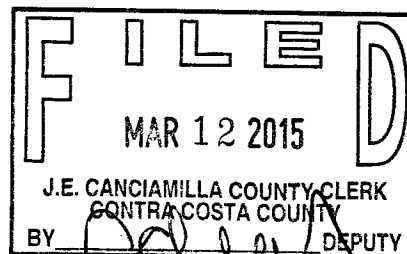
Signed and Filed by Lead Agency:



Tony Coe

3/12/15

Date



Contra Costa Times

175 Lennon Lane, Suite 100
Walnut Creek, CA 94598
925-943-8019

LAFAYETTE, CITY OF
ATTN: ACCOUNTS PAYABLE, 3675 MT. DIABLO BLVD.,
#210
LAFAYETTE CA 94549-3793

PROOF OF PUBLICATION

FILE NO. Ord 638

In the matter of

Contra Costa Times

I am a citizen of the United States. I am over the age of eighteen years and I am not a party to or interested in the above entitled matter. I am the Legal Advertising Clerk of the printer and publisher of the Contra Costa Times, a newspaper published in the English language in the City of Walnut Creek, County of Contra Costa, State of California.

I declare that the Contra Costa Times is a newspaper of general circulation as defined by the laws of the State of California as determined by court decree dated October 22, 1934, Case Number 19764. Said decree states that the Contra Costa Times is adjudged to be a newspaper of general circulation for the City of Walnut Creek, County of Contra Costa and State of California. Said order has not been revoked.

I declare that the notice, of which the annexed is a printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

3/4/2015

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Executed at Walnut Creek, California.
On this 5th day of March, 2015.

Signature

Legal No.

0005424685

NOTICE AND SUMMARY OF PROPOSED AMENDMENTS TO THE LAFAYETTE MUNICIPAL CODE ORDINANCE 638 ADDING CHAPTER 3-2 OF THE LAFAYETTE MUNICIPAL CODE (LMC) TO PROVIDE FOR AN ENCROACHMENT PERMIT SCHEDULE OF CHARGES

Notice is given that on Monday, March 9, 2015 the City Council of the City of Lafayette will consider adopting Ordinance 638 and Resolution No. 2015-07 at 7:00 p.m. in the Community Hall at the Lafayette Library & Learning Center, 3491 Mt. Diablo Blvd. Ordinance 638 and Resolution No. 2015-07, if adopted, will add Chapter 3-2 to the Lafayette Municipal Code and set an Encroachment Permit Schedule of Charges for use of City Public Right-of-Way by contractors completing work on construction projects located in the City's downtown area and on thoroughfares with daily traffic greater than 5,000 vehicles, where construction activities can have a severe detrimental impact on congestion and pose a health and safety hazard when located in City streets and public right of way:

The encroachment permit schedule of charges are applicable to those areas of the city described as (a) the downtown area with boundaries as defined by the planning area established in the City of Lafayette Downtown Specific Plan, Chapter 3, Figure 1, Context Map; and (b) All public roadways with average daily traffic in excess of 5,000 vehicles. Schedule of charges for encroachment permit applicants shall be charged for use of street parking spaces, sidewalks, bike lanes, vehicle traffic lanes and other areas of the public right-of-way at rates set by resolution of the City Council.

Note: The above is a summary of the major highlights of the ordinance. A reading of the entire ordinance is necessary to obtain a full understanding of the ordinance. A Certified copy of the full text of the ordinance is posted in the City Clerk's office at 3675 Mt. Diablo Boulevard, Lafayette, California 94549. A copy may be obtained from that office upon payment of the fee based on the City's actual cost of providing the copy.

Joanne Robbins, City Clerk
CCT #5424685; Mar. 4, 2015

Contra Costa Times

175 Lennon Lane, Suite 100
Walnut Creek, CA 94598
925-943-8019

LAFAYETTE, CITY OF
ATTN: ACCOUNTS PAYABLE, 3675 MT. DIABLO BLVD.,
#210
LAFAYETTE CA 94549-3793

PROOF OF PUBLICATION

FILE NO. Ord 638 and Res 2015-07

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I declare that the notice, of which the annexed is a printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

3/18/2015

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Executed at Walnut Creek, California.
On this 31th day of March, 2015.

Signature

Legal No. 0005436217

NOTICE OF ADOPTION ORDINANCE 638 and RESOLUTION 2015-07 OF THE CITY COUNCIL OF THE CITY OF LAFAYETTE

At its regular meeting on Monday, March 9, 2015 the City Council of the City of Lafayette adopted Ordinance 638 and Resolution 2015-07. The recorded vote of the City Council was as follows:

AYES: E. Andersson, Reilly, M. Anderson,
Mitchell and Tatzin
NOES: None
ABSTAIN: None
ABSENT: None

ORDINANCE 638 AND RESOLUTION 2015-07 ADDING CHAPTER 3-2 OF THE LAFAYETTE MU- NICIPAL CODE (LMC) TO PROVIDE FOR AN EN- CROACHMENT PERMIT SCHEDULE OF CHARGES

Ordinance 638 and Resolution 2015-07 adding Chapter 3-2 to the Lafayette Municipal Code and setting an Encroachment Permit Schedule of Charges for use of City Public Right-of-Way by contractors completing work on construction projects located in the City's downtown area and on thoroughfares with daily traffic greater than 5,000 vehicles, where construction activities can have a severe detrimental impact on congestion and pose a health and safety hazard when located in City streets and public right of way:

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Joanne Robbins, City Clerk
CCT #5436217; Mar. 18, 2015