

CITY OF DANA POINT
AGENDA REPORT

Reviewed By:	
DH	X
CM	X
CA	

DATE: JUNE 22, 2005

TO: CITY MANAGER/CITY COUNCIL

FROM BRAD FOWLER, DIRECTOR OF PUBLIC WORKS AND ENGINEERING SERVICES

SUBJECT: SECOND READING AND ADOPTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING SECTION 14.01.530 OF THE MUNICIPAL CODE RELATIVE TO DECORATIVE PAVING IN CITY OWNED RIGHTS-OF-WAY

RECOMMENDED ACTION:

That the City Council (1) adopt an Ordinance of the City of Dana Point (Action Document A) as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA AMENDING SECTION 14.01.530 OF THE DANA POINT MUNICIPAL CODE

ISSUES:

Whether to approve the ordinance included in Action Document A.

BACKGROUND:

The Dana Point Municipal Code currently requires residents that would like to install decorative pavement in City owned right-of-way to secure City Council approval. Section 14.01.530 of the Dana Point Municipal Code currently reads as follows:

14.01.530 Construction of Decorative Pavement Within Public Right-of-Way.

(a) The Director may issue encroachment permits for the replacement or installation of decorative pavements within public right-of-way only after the request has been approved by the City Council. The applicant shall include as information to support a request for decorative pavements the following information:

- (1) A colored rendering of the proposed installation in plan and perspective views accurately reflecting the proposed colors and patterns desired;*
- (2) Full construction details showing how the proposed decorative paving will be constructed and, if the surface will be uneven, details of the contour of the finished surface of the decorative pavement; and*

(3) A financial analysis of the life cycle maintenance costs of the proposed decorative pavement.

(b) The Director may require the applicant to enter into a maintenance agreement with the City. Said agreement shall be recorded as a covenant against the property and shall apply to all successors in interest to the property. The agreement shall include provisions for the indemnification of the City as established in Section 14.01.050 and for removal of the decorative pavement and the restoration of the street surface to match the surrounding surface before the agreement can be terminated by either party. (Added by Ord. 98-04, 6/23/98)

The overall intent of the Municipal Code section is to regulate the installation of decorative pavements to protect the public's interest relative to liability and future maintenance.

DISCUSSION:

The proposed ordinance is as follows:

14.01.530 Construction of Decorative Pavement Within Public Right-of-Way.

(a) The Director may issue encroachment permits for the replacement or installation of decorative pavements within public right-of-way. ~~only after the request has been approved by the City Council.~~ The applicant shall include as information to support a request for decorative pavements the following information:

(1) A colored rendering of the proposed installation in plan and perspective views accurately reflecting the proposed colors and patterns desired;

(2) Full construction details showing how the proposed decorative paving will be constructed and, if the surface will be uneven, details of the contour of the finished surface of the decorative pavement; and

(3) A financial analysis of the life cycle maintenance costs of the proposed decorative pavement.

(b) The Director may require the applicant to enter into a maintenance agreement with the City. Said agreement shall be recorded as a covenant against the property and shall apply to all successors in interest to the property. The agreement shall include provisions for the indemnification of the City as established in Section 14.01.050 and for removal of the decorative pavement and the restoration of the street surface to match the surrounding surface before the agreement can be terminated by either party. ~~If an agreement is not determined to be needed, the Director shall still require the applicant to produce indemnification pursuant to Section 14.01.050 of the Dana Point Municipal Code. (Added by Ord. 98-04, 6/23/98)~~

The City Council, at its regular meeting of June 8, 2005, introduced the proposed ordinance for its first reading. Staff is bringing it back for adoption at this time (Action Document A).

NOTIFICATION/FOLLOW-UP:

33802 Copper Lantern

FISCAL IMPACT:

All costs associated with the construction of the driveway are the responsibility of the owner at 33802 Copper Lantern. Therefore, no financial impact is expected to the City.

ALTERNATIVE ACTIONS:

1. The City may also deny this request or request a different decorative pavement treatment.

ACTION DOCUMENTS:

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A. Ordinance	4
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SUPPORTING DOCUMENTS:

None

Action Document A – Ordinance

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF DANA POINT, CALIFORNIA
AMENDING SECTION 14.01.530 OF THE DANA POINT MUNICIPAL CODE**

WHEREAS, the City of Dana Point (“City”) has determined that Section 14.01.530 of the Dana Point Municipal Code that is used to regulate the placement of decorative pavement within public rights-of-way needs to be modified to allow the City to better serve our community; and

THE CITY COUNCIL OF THE CITY OF DANA POINT DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 14.01.530 of the Dana Point Municipal Code is hereby amended to read in its entirety as follows:

14.01.530 Construction of Decorative Pavement Within Public Right-of- Way.

(a) The Director may issue encroachment permits for the replacement or installation of decorative pavements within public right-of-way. The applicant shall include as information to support a request for decorative pavements the following information:

- (1) A colored rendering of the proposed installation in plan and perspective views accurately reflecting the proposed colors and patterns desired;
- (2) Full construction details showing how the proposed decorative paving will be constructed and, if the surface will be uneven, details of the contour of the finished surface of the decorative pavement; and
- (3) A financial analysis of the life cycle maintenance costs of the proposed decorative pavement.

(b) The Director may require the applicant to enter into a maintenance agreement with the City. Said agreement shall be recorded as a covenant against the property and shall apply to all successors in interest to the property. The agreement shall include provisions for the indemnification of the City as established in Section 14.01.050 and for removal of the decorative pavement and the restoration of the street surface to match the surrounding surface before the agreement can be terminated by either party. If an agreement is not determined to be needed, the Director shall still require the applicant to produce indemnification pursuant to Section 14.01.050 of the Dana Point Municipal Code.

SECTION 2. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the 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 adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or

more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 3. The City Clerk shall certify as to the adoption of this Ordinance and shall cause a summary thereof to be published within fifteen (15) days of the adoption and shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this 22nd day of June, 2005.

WAYNE RAYFIELD, MAYOR

ATTEST:

SHARIE APODACA, INTERIM CITY CLERK

STATE OF CALIFORNIA)

COUNTY OF ORANGE) ss

CITY OF DANA POINT)

I, Sharie Apodaca, Interim City Clerk of the City of Dana Point, California, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 03-_____ introduced at a regular meeting of the City Council held this 22nd day of June, 2005, and passed and adopted at a regular meeting held _____, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

SHARIE APODACA, INTERIM CITY CLERK