ORDINANCE NO. 16-0020

AN ORDINANCE OF THE CITY OF MANHATTAN BEACH ADDING CHAPTER 9.44 (CONSTRUCTION RULES) TO TITLE 9 (BUILDING REGULATIONS) OF THE MUNICIPAL CODE TO CONSOLIDATE AND CODIFY THE CITY'S EXISTING CONSTRUCTION RULES

THE MANHATTAN BEACH CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Title 9 (Building Regulations) is hereby amended to add a new Chapter 9.44 (Construction Rules) as follows:

"Chapter 9.44
CONSTRUCTION RULES

9.44.010 Definitions
9.44.020 General Requirements for Construction Activities
9.44.030 Construction Hours and Prohibited Days
9.44.040 Construction Management and Parking Plan Requirement for Residential Areas III and IV
9.44.050 Street, Lane and Sidewalk Closures
9.44.060 Vehicular Activity

9.44.010 Definitions

For the purposes of this Chapter, the following words and phrases are defined as follows:

A. "Construction Activity" includes, but is not limited to:

1. The operation of any tool, machine or equipment, including but not limited to, vehicles and helicopters being used by contractors or subcontractors and their employees to perform work requiring a City permit.

2. Performing any construction, demolition, excavating, grading, maintenance or repair work on buildings, structures or property.

3. Any remodeling, improvements, or additions to residential homes requiring a City permit, such as, but not limited to, roof replacement, window replacement, and/or patio construction.

4. Any painting using motorized equipment.

5. Arrival or departure of vehicles bringing construction equipment, materials or supplies to the construction site, loading and unloading thereof, and the staging of such vehicles on public streets.

6. Arrival or departure of any food service vehicles providing food to persons working at a site of construction activity.

Notwithstanding the above, home improvements, routine maintenance, and repairs do not constitute construction activity as defined in this Chapter, provided such work does not require a City permit.

B. "Director": Director of Community Development.

C. "Vehicular Activity": Delivery and hauling of construction equipment, materials, supplies and construction debris to and from the site, and the loading and unloading thereof on the public right-of-way.

9.44.020 General Requirements for Construction Activities

A. All construction sites shall be posted with "Construction Rules" consistent with the provisions of this Chapter, which may be subsequently amended or supplemented by the City.

B. No construction activity shall impede or block access to private property or driveways except as authorized herein.

C. No construction activity shall impede or block the normal and reasonable movement of traffic except as authorized by a right-of-way permit.

D. Construction vehicles are subject to all posted parking restrictions and other applicable State and municipal codes.

E. Street and public parking spaces shall not be reserved for construction vehicles or workers at any time.

F. No audio devices shall be audible beyond the construction site property line.

G. There shall be no dumping or washing of debris, litter, or toxins into storm drains, streets or other public or private places. Sandbags may be required on the perimeter of a site to prevent water runoff. Contractors shall comply with the storm water and urban pollution control requirements set forth in Chapter 5.84.

H. Existing sidewalks shall not be obstructed at any time, except as authorized by Section 9.44.050. Public areas and rights-of-way shall be kept clear of debris, in the same manner as the clean-up of excavation work in accordance with Section 7.16.150.

I. Prior to commencing demolition or construction, the contractor shall erect a green mesh construction fence at the perimeter of the construction site.

J. Contractors shall prevent dust migration to surrounding properties in accordance with all South Coast Air Quality Management District and City requirements.

K. Containers for waste and recyclables are required at every site of construction activity. Food waste shall be removed on a weekly basis.

L. The contractor shall maintain all portable toilets in a sanitary condition. Such toilets shall be serviced on a regular basis. The City will not issue a Certificate of Occupancy until all portable toilets have been removed from the site.

M. Temporary power poles, if applicable, must be installed at the site of construction activity before any demolition or construction begins.

N. All CAL/OSHA requirements and guidelines shall be followed on the construction site.

O. Shoring construction and excavation is to be performed according to City shoring guidelines, and performed in such a manner so as to not damage adjoining property. At its expense, the contractor shall at all times preserve and protect from damage any adjoining property by providing proper foundations and taking all other necessary measures.

P. Contractors shall comply with the construction and demolition debris waste reduction and recycling requirements set forth in Chapter 5.26.

Q. Contractors shall comply with the construction site temporary encroachment requirements set forth in Chapter 7.40.

R. No smoking, including electronic devices, is permitted on any construction site or in any public area at any time.

S. An on-site meeting between each subcontractor and the Director's designee is required prior to the subcontractor starting work.

T. In the event of a claim from a neighboring property owner that construction has physically damaged the neighboring property, and the owner of the property where the construction occurred or owner's agent (collectively "owner") has refused to repair the damage, upon request of the neighbor or the City, the owner has a mandatory duty to enter a mediation program either administered by the City, or implemented by a third-party mediator subject to the City's approval, to resolve the claim.

U. The Director may waive any requirements set forth in this section that are inapplicable due to the magnitude of the construction.

V. All permits issued by the City pertaining to any on-site construction activities and any authorized right-of-way activity are required to be retained on-site for the duration of the project.

9.44.030 Construction Hours and Prohibited Days

A. Construction activity shall occur only between 7:30 a.m. and 6:00 p.m. on weekdays, and between 9:00 a.m. to 6:00 p.m. on Saturdays.

B. There shall be no construction activity on Sundays or on City-recognized holidays, including the following:

1. New Year's Day
2. Martin Luther King Jr's Day
3. Presidents' Day
4. Memorial Day
5. Independence Day
6. Labor Day
7. Columbus Day
8. Veterans Day
9. Thanksgiving Day
10. Friday after Thanksgiving
11. Christmas Day.

C. The presence of workers or delivery trucks at the site of construction, even if no actual work or unloading is being done, constitutes construction activity for purposes of this section.

D. The presence of equipment, tools or supplies, vehicles being started, idled or unloaded and loud talking at the site of construction activity constitutes construction activity for purposes of this section.

E. In connection with any project that requires a discretionary permit, the Planning Commission or City Council may impose more restrictive hours of construction.

F. The City Council or Director may modify construction hours as follows:

1. Director Authorization. Upon request, the Director may modify the hours for interior construction activity on commercial property under limited circumstances. The Director shall consider the noise disturbance criteria listed in Section 5.48.140 in determining whether to modify the hours. The Director may impose conditions to mitigate or eliminate any potential adverse impacts arising from the activities and shall provide prior notice to persons and businesses in the vicinity, at the owner's expense. The Director shall notify the Council of the decision at the next City Council meeting. The Director may forward a request to the City Council for its consideration.

2. Council Authorization. Upon request, the City Council may modify the hours for construction activity under limited circumstances. The Council shall consider the noise disturbance criteria listed in Section 5.48.140 in determining whether to modify the hours. The Council may impose conditions to mitigate or eliminate any potential adverse impacts arising from the activities and shall provide prior notice to persons and businesses in the vicinity, at the owner's expense.

G. Exceptions.

1. An owner-builder who resides on the property while that property is under construction may perform construction activity between the hours of 9:00 a.m. and 6:00 p.m. on Sundays and City-recognized holidays; provided, however, that no subcontractors perform any work on Sundays or City-recognized holidays.

2. In the case of an emergency, the Building Official may authorize construction activity at times other than the hours specified in subsection A and on Sundays and City recognized holidays. For the purpose of this subsection 2, an emergency is defined as substantial property damage or a threat to the public health or safety. Such authority shall lapse once the site and structure(s) are safe. The Building Official may require the permitee to notify affected residents.

9.44.040 Construction Management and Parking Plan Requirement for Residential Areas III and IV

A. The contractor or owner shall prepare and submit a Construction Management and Parking Plan ("CMPP") pursuant to City requirements, and in conjunction with building plan check submittal or a rough grading permit application, whichever occurs first. The CMPP must describe the manner in which potential construction traffic and parking impacts will be mitigated. No demolition or construction may commence until such time that the CMPP has been approved by the Director or his or her designee.

B. The Director's designee will visit the site to determine which residents will be impacted by the proposed construction activity. At least ten days before construction commences, the contractor or owner shall provide written notification to each resident identified by the designee in a form approved by the City.

C. The Director's designee will require that the contractor or owner obtain a right-of-way permit prior to any delivery and hauling of construction equipment, materials, supplies and construction debris to and from the site, and the loading and unloading thereof on the public right-of-way, that lasts more than two hours in duration.

D. The CMPP's terms or conditions cannot be changed or modified unless the contractor or owner receives written approval by the Director.

9.44.050 Street, Lane and Sidewalk Closures

The contractor must receive a right-of-way permit prior to any construction activity encroaching on the public right-of-way that requires a closure. The Director, in

consultation with the City Traffic Engineer and Director of Public Works, may impose conditions to eliminate, mitigate and reduce the impacts arising from the encroachment. In addition, the Director may require a traffic control plan. Contractor shall provide 72-hour minimum written notice to all impacted properties prior to any street closure.

9.44.060 Vehicular Activity

A. General Rules.

1. A contractor must receive a right-of-way permit prior to:

(a) Any delivery and hauling of construction equipment, materials, supplies and construction debris to and from the site, and the loading and unloading thereof on the public right-of-way ("Vehicular Activity") that lasts more than two hours; or

(b) Any truck queuing or staging in residentially zoned districts.

The Director, in consultation with the City Traffic Engineer and Director of Public Works, may impose conditions to eliminate, mitigate and reduce the impacts arising therefrom. In addition, the Director may require a traffic control plan and establish a hauling route.

2. A right-of-way permit is not required for Vehicular Activity of less than two hours, provided there is no street, lane or sidewalk closure.

B. Additional Rules. The following rules apply to each Vehicular Activity:

1. Vehicular Activity shall occur only between 9:30 a.m. and 4:00 p.m. on weekdays, and between 9:00 a.m. to 6:00 p.m. on Saturdays.

2. Drivers shall comply with all traffic and parking regulations.

3. Drivers shall be available, upon request, to immediately move the vehicle to avoid blocking access to adjacent properties.

4. Vehicular Activity shall not occur on the respective scheduled waste collection day for Residential Area Districts III and IV.

5. Vehicular Activity shall not occur on residential streets except directly to or from the site of construction activity or on an approved hauling route.

6. Vehicular Activity shall not block access to any street, driveway or adjacent properties at any time except as authorized by a right-of-way permit.

7. Vehicular Activity shall not impede traffic flow except as authorized by a right-of-way permit.

8. Where feasible, parking pads located at the construction site shall be used for loading, unloading, deliveries and hauling in order to reduce or avoid construction activity encroaching into traffic lanes."

SECTION 2. Section 5.48.060 of this Code is hereby deleted in its entirety.

SECTION 3. Section 5.48.310 of this Code is hereby deleted in its entirety.

SECTION 4. Section 5.48.250 is hereby amended to read as follows:

"Construction activity.

Construction activity as defined in Section 9.44.010 is exempt from the provisions of this chapter except as provided in Chapter 9.44."

SECTION 5. CEQA. The City Council hereby finds that it can be seen with certainty that there is no possibility that the adoption of this Ordinance, and the prohibitions established hereby, may have a significant effect on the environment, because the Ordinance will only impose greater limitations on activities in the City, and will thereby serve to eliminate potentially significant adverse environmental impacts. It is therefore not subject to the California Environmental Quality Act review pursuant to Title 14, Chapter 3, Section 15061(b)(3) of the California Code of Regulations. A Notice of Exemption will be prepared.

SECTION 6. Severability. 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 any 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 7. Savings Clause. Neither the adoption of this Ordinance nor the repeal or amendment by this Ordinance of any ordinance or part or portion of any ordinance previously in effect in the City, or within the territory comprising the City, shall in any manner affect the prosecution for the violation of any ordinance, which violation was committed prior to the effective date of this Ordinance, nor be construed as a waiver of any license, fee or penalty or the penal provisions applicable to any violation of such ordinances.

SECTION 8. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be published within 15 days after its passage, in accordance with Section 36933 of the Government Code.

SECTION 9. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the 31st day after its passage.

PASSED, APPROVED AND ADOPTED by the Manhattan Beach City Council on October 18, 2016.

AYES: Burton, Powell, Howorth, Lesser and Mayor D'Errico
NOES: None.
ABSENT: None
ABSTAIN: None

TONY D'ERRICO
Mayor

ATTEST:

LIZA TAMURA
City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS.
CITY OF MANHATTAN BEACH)

I, Liza Tamura, City Clerk of the City of Manhattan Beach, California, do hereby certify that the whole number of members of the City Council of said City is five; that the foregoing Ordinance, being Ordinance No. 16-0020 was duly passed and adopted by the said City Council, approved and signed by the Mayor, and attested by the City Clerk, of said City, all at a regular meeting of the said Council duly and regularly held on the 18th day of October 2016, and that the same was so passed and adopted by the following vote, to wit:

Ayes: Burton, Powell, Howorth, Lesser and Mayor D'Errico.
Noes: None.
Absent: None.
Abstain: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 19th day of October.

City Clerk of the City of
Manhattan Beach, California

(SEAL)

CERTIFICATE OF PUBLICATION

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS.
CITY OF MANHATTAN BEACH)

I, Liza Tamura, City Clerk of the City of Manhattan Beach, California, do hereby certify that Ordinance No. 16-0026 has been duly and regularly published according to law and the order of the City Council of said City and that same was so published in The Beach Reporter, a weekly newspaper of general circulation on the following date, to wit October 27, 2016 and in witness whereof, I have hereunto subscribed my name this 27th day of October, 2016.

City Clerk of the City of
Manhattan Beach, California