

FILE
CITY CLERK

RESOLUTION NO. 3899

POLICY REGARDING THE INSTALLATION OF PRIVATE IMPROVEMENTS
WITHIN PUBLIC RIGHTS OF WAY FOR STREET PURPOSES

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SANTA CLARA,
as follows:

SECTION 1:

It is the current policy of the City Council that the owners of lots or portions of lots fronting on any portion of a public street or place, when that street or place is improved or if and when the area between the property line and the street line is maintained as a park or parking strip, shall maintain any sidewalk including park and parking strip in such condition that they will not endanger persons or property and maintain it in a condition which will not interfere with the public convenience in the use of these works or areas save and except as to those conditions created or maintained in, upon, along, or in connection with such sidewalk, park or parking strip by any person other than the owner (examples: U.S. Post Office mail boxes, franchised bus bench company benches) under and by virtue of any permit or right granted to him by law or by City authorities in charge thereof, any such persons shall be under a like duty in relation thereto.

To assist in the administration of this policy, the City Council finds and declares that each of the following private improvements existing on sidewalks (as that term is defined in Section 25-57 of the City Code) in this City shall be deemed, until approved as otherwise by the City Council, to interfere with the public convenience in the use of those works and areas no matter the state of repair and be abated as such:

Walls or other parts thereof whether brick, concrete,
or of other permanent construction

Fences or parts thereof whether brick, rock, wood, or
of other permanent construction

When such improvements come to the attention of the City, the property owner shall be advised of the City's policy and owner's responsibility with respect thereto, and of his right to apply to the

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City for approval of the encroachment upon such terms and conditions that the improvement would not interfere with public convenience. An encroachment covenant shall be proposed by the Department of Public Works which this department finds most likely to achieve this result, and the owner shall be advised that the improvement may be abated unless the encroachment covenant is executed within 10 calendar days. Upon execution by owner of the encroachment covenant, and payment by owner of the fees as, from time to time, may be determined by the City Council, the City Clerk shall set a time and date for a public hearing, and advise the owner thereof. Any action by the City to abate the encroachment shall be stayed pending hearing, including City Council hearing and determination of whether an encroachment covenant could and should be approved, where the condition of the encroachment is maintained in a state so as not to endanger unreasonably persons or property. At the time and date set for the public hearing before the City Council, the Council may approve said encroachment covenant and direct the recording thereof in the Office of the Recorder in the County of Santa Clara. If the Council fails to approve said encroachment covenant, the owner shall not erect any such proposed improvement, and any such existing encroachment shall be removed promptly by owner, at no cost to the City. If owner fails to remove the existing private improvement to the satisfaction of the Department of Public Works, the private improvement shall be abated in the manner provided for the repair of sidewalks in Division 3 of Chapter 25 of The Code of the City of Santa Clara.

Encroachment covenants granted pursuant to this policy shall be subject to such terms and conditions as are required by the City from time to time. If and when the City determines that any private improvement is in conflict with the above stated purposes, or becomes contrary to the public health, safety and welfare, the City Council shall rescind or terminate the City's approval thereof, and upon notification the covenantee shall remove the improvements at no cost to the City.

With respect to private improvements not heretofore mentioned (e.g., paving flatwork, landscaping, irrigation systems, private mail-boxes), it is the policy of the City Council that it is the obligation

of the owner of any lot or a portion of a lot to maintain the abutting sidewalk including park and parking strip, outside of the conventional width and extent City has recently maintained sidewalk, curb and gutter without seeking reimbursement from owner. To the extent the owner of a lot or a portion of a lot fails to meet owner's obligations with respect to such maintenance, City shall commence assessment procedures pursuant to Division 3 of Chapter 25 of The Code of the City of Santa Clara providing for the collection of all costs of correction from owner.

SECTION 2:

The policies herein set forth or referenced are subject to further change and modification as the City Council might from time to time see fit in its exercise of discretion.


SECTION 3:

Resolution No. 3853 is hereby repealed.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SANTA CLARA, this 6th day of September, 1977, by the following vote:

AYES:	COUNCILMEN:	Hansen, Kiely, Mahan, Stewart, Street and Mayor Gissler
NOES:	COUNCILMEN:	Texera
ABSENT:	COUNCILMEN:	None

ATTEST:


A. S. BELICK
City Clerk
City of Santa Clara

I, A. S. Belick, City Clerk of the City of Santa Clara, do hereby certify that the within Ordinance or Resolution is a correct copy of the original, and that same has been published as required by law.


City Clerk