SEC. 62.61. WORK WITHIN OR ON A PUBLIC STREET OR RIGHT-OF-WAY, OBSTRUCTION OF A PUBLIC STREET OR RIGHT-OF-WAY – PERMIT REQUIRED, REGULATIONS, PENALTIES FOR NON-COMPLIANCE.

(Added by Ord. No. 178,103, Eff. 1/9/07.)

(a) Definitions.

1. "Activity or Work Permissible within a Public Street" is defined as any work or activity permitted by this Code, or authorized by the Board of Public Works.

2. "Emergency Work" is defined as immediate and unplanned action that must be taken to alleviate a hazardous condition, which represents an immediate threat to life, health, safety, or property. This includes continuous efforts to effect the restoration of interrupted utility services (electrical, water, gas, wastewater and telecommunications).

3. "Peak Hour Construction and Right-of-Way Obstruction Regulations" is defined as all regulations contained in this section that control and limit all construction and obstruction activity in the public right of way during "Peak Traffic Hours."

4. "Peak Traffic Hours" is defined as Monday through Friday, 6:00 am to 9:00 am and 3:30 pm to 7:00 pm.

5. "Street Classifications Subject to Work Hour Restrictions" is defined as major and secondary highways, or collector streets, as designated in the transportation element of the general plan.

6. "Temporary Street Closure" is defined as the temporary restriction of all vehicular traffic for construction purposes authorized by a valid permit, and an approved "Traffic Management Plan."

7. "Traffic Lane Closure" is defined as any activity within the public street (from curb-line to curb-line), or in an alley, which reduces the usable width to the point where one or more lanes of traffic cannot move safely and efficiently.

8. "Traffic Management Plan" is defined as a Plan that addresses traffic control requirements in a construction area, and along detour routes. The operation of a Traffic Management Plan is affected by the project's construction phasing, construction schedules, and work area required by the contractor, and shall be consistent with the contractor's project requirements, provided by the Department of Public Works.

9. "Worksite Traffic Conditions" is defined as those physical conditions, including signage, signal devices, operation of equipment, and conduct of workers (which are required by law), permit and plans to provide adequate street space, and accommodate traffic demands, particularly during peak traffic hours.
(b) **Permit Required.** No person shall effect a "Traffic Lane Closure," perform work within or on any public street or right-of-way or obstruct any public street or right-of-way for any reason without first applying for, in writing, and obtaining a permit from the Board of Public Works. The person or entity requesting the permit shall pay all applicable permit fees as set by the Board of Public Works pursuant to the Los Angeles Municipal Code sections governing the issuance of "A," "B," Excavation, Manhole, Sewer and Utility permits for work in the public right-of-way or any permit issued by the Bureau of Street Services for obstruction of the Public Right-of-Way.

1. **Prohibition on Work or Obstructions During Peak Traffic Hours.** Notwithstanding any other provision of this code, no person or entity shall effect a "Traffic Lane Closure," perform work within or on any public street or right-of-way or in any manner obstruct a public street or right-of-way on those "Street Classifications Subject to Work Hour Restrictions" during "Peak Traffic Hours," all as defined above.

2. **Exemption from Work or Obstruction Prohibition During Peak Traffic Hours.**

   A. "Emergency Work" as defined above shall be exempt from the prohibition on work or obstruction of public streets or rights-of-way during "Peak Traffic Hours" if the party performing the emergency work contacts the designated City agency as determined by the Board of Public Works prior to the work being initiated in the right of way and obtains a permit within 48 hours of beginning the emergency work.

   B. If a party desires to have a non-emergency public right-of-way construction project or other "Traffic Lane Closure" exempted from the prohibition on work or obstruction of public streets or rights-of-way during "Peak Traffic Hours," the party shall submit the request with its permit application to the appropriate City permitting agency along with a "Traffic Management Plan." If the "Traffic Management Plan" is approved by the City for work during "Peak Traffic Hours," the project is exempt.

(c) **Application for Permit.** Any application for a permit under this Section shall include the following information:

   1. The name, address and telephone number of the applicant and the person responsible for the work or obstruction of the public street or right-of-way;

   2. The name, location and area of the street for which the permit is desired; and

   3. A description of the work to be done within the public street or right-of-way and an explanation of why the proposed obstruction of the public street or right-of-way is necessary.

(d) **Penalties for Non-Compliance.**

   1. **Administrative Penalties.**
A. The failure to obtain a permit pursuant to this section, the failure to abide by the "Peak Hour Construction and Public Right-of-Way Obstruction Regulations" contained in this section, the failure to comply with "Worksite Traffic Conditions" or the violation of any special condition or requirement of a valid construction permit issued pursuant to the Los Angeles Municipal Code, shall subject the violator to administrative penalties as follows: (1) For each violation listed on the initial citation, $250.00; (2) For each violation on a second citation, issued to the same person or entity, if the violations occurred within 12 months of the first citation date, $500.00; (3) For each violation on a third citation, issued to the same person or entity, if the violations occurred within 12 months of the first citation date, $1,000.00.

B. Any administrative penalty issued pursuant to this section shall be governed by the provisions set forth in Section 80.06.1 of this Code. The Department of Transportation, Administrative Adjudication Division shall conduct any required administrative hearing for any appeal of a citation issued pursuant to Section 62.61 of this Code in the same manner in which it conducts processes pursuant to Section 80.06(c) of this Code for parking citations.

2. **Criminal Prosecution for Multiple Violations.** Four or more administrative citations issued to the same person or entity within 12 months may constitute a misdemeanor under the Los Angeles Municipal Code, may subject the violator to prosecution by the Los Angeles City Attorney's Office and may subject the violator to other potential criminal penalties as allowed by law.
SEC. 80.06.1. ADMINISTRATIVE PROCEDURES FOR VIOLATIONS OF SECTION 62.61, WORK WITHIN OR ON A PUBLIC STREET OR RIGHT-OF-WAY, OBSTRUCTION OF A PUBLIC STREET OR RIGHT-OF-WAY, PEAK TRAFFIC HOURS RESTRICTIONS.

(Added by Ord. No. 178,104, Eff. 1/9/07.)

(a) Service Procedures for Issuing Administrative Citations.

1. An administrative citation in a form approved by the City may be issued to the responsible party by an enforcement officer for violations of those sections set forth in Section 62.61 of the Los Angeles Municipal Code in the following manner:

   (i) Personal Service of Administrative Citation. In any case where an administrative citation is issued to an individual, corporation, or a business, the enforcement officer shall attempt to:

      A. Locate the individual, corporation or business and serve the administrative citation to the responsible person or party.

      B. Obtain on the administrative citation the signature of the person in violation of this code, or in cases in which the violation of this code is by a corporation or business, the signature of the responsible person or party.

      C. If the responsible person or party served refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the citation or of subsequent proceedings.

2. Service of Citation by Mail. If the enforcement officer is unable to locate the responsible person for the violation, the administrative citation shall be mailed to the responsible person by certified mail, postage prepaid, return receipt requested. Simultaneously, the same notice may be sent by regular mail. If a notice sent by certified mail is returned unsigned, then service shall be deemed effective pursuant to regular mail, provided the notice that was sent by regular mail is not returned.

3. Service of Citation by Posting Notice. If the enforcement officer does not succeed in serving the responsible party personally, or by certified mail or regular mail, the enforcement officer shall post the administrative citation on any real property within the City in which the City has knowledge that the responsible party has a legal interest, and that posting shall be deemed effective service.

4. Service of Citation by Publication. If the enforcement officer does not succeed in serving the responsible party personally by certified mail or regular mail, and the City is not aware that the responsible party has a legal interest in any real property within the City, the enforcement officer shall cause the administrative citation to be published in a newspaper likely to give actual notice to the responsible citation. The publication shall be once a week for four successive weeks in a newspaper published at least once a week.
(b) Contents of Administrative Citations. Administrative citations shall contain all of the following information:

1. The date and location of the violation and the approximate time the violation was observed;
2. The code section violated and a description of how the section was violated;
3. The action required to correct the violation;
4. The consequences of failing to correct the violation;
5. The amount of penalty imposed for the violation;
6. Information regarding the procedure to contest the citation;
7. The signature of the enforcement officer and the signature of the responsible person if that person can be located and will sign the citation, as set forth in this section.

(c) Satisfaction of Administrative Citation.

1. Upon receipt of a citation, the responsible party shall either:
   
   (i) Pay the Penalty. Payment of the penalty waives the responsible party's right to the administrative hearing and appeal process pursuant to Paragraph (iii), below; or
   
   (ii) Remedy the Violation. If the violation is of a nature that it can be remedied, and the responsible party remedies it within the time indicated on the citation, upon providing proof of correction to the enforcement officer the responsible party shall pay only the administrative reimbursement portion of the penalty; or
   
   (iii) Request an Administrative Hearing. If the responsible party chooses to contest the citation, the party shall do so no later than 15 calendar days, excluding weekends and holidays, after service of the citation. The request shall be submitted in writing as directed on the citation and shall include a statement of reasons why the citation is being contested. The request shall be accompanied by a deposit in the full amount of the penalty, inclusive of the administrative reimbursement portion, or written proof of financial hardship, which at a minimum must include tax returns, financial statements, bank account records, salary records or similar documentation demonstrating that the responsible party is unable to deposit the penalty. A hearing will not be scheduled unless the full amount of the penalty is deposited, or the City finds the responsible party financially unable to do so and waives the deposit requirement.

In the event the responsible party fails or refuses to select and satisfy any of the alternatives set forth in Paragraphs (i), (ii) or (iii) above, then the penalty shall be immediately due and owing to the City and may be collected in any manner allowed by
law for collection of a debt. Commencement of an action to collect the delinquent penalty shall not preclude issuance of additional citations to the responsible party should the violations persist.

(d) Administrative Hearings and Appeal Process.

1. Pre-hearing Dismissal of Citation. The City may dismiss an administrative citation at any time if it is determined to have been issued in error, in which event any deposit made shall be refunded.

2. Time for Administrative Hearing. The administrative hearing shall be scheduled no later than 90 days after receipt of the request for a hearing to contest the citation. The responsible party will be notified in writing at least ten days prior to the date of the hearing by first class mail of the date and time of the hearing.

3. Appointment of Administrative Hearing Officer. The hearing shall be conducted by an Administrative Hearing Officer appointed by the City to perform hearings.

4. Request for Continuance of Hearing. The responsible person may request one continuance of the hearing, but in no event may the hearing begin later than 90 days after receipt of the request for hearing from the responsible person.

5. Failure to Attend Administrative Hearing. The individual to whom an administrative citation is issued, or that person's representative, may attend the hearing in person, or in lieu of attending may submit an Appearance by Written Declaration on a form provided by the City for that purpose.

   (i) If the cited individual or his or her representative fails to attend the scheduled hearing, or fails to submit an Appearance by Written Declaration on the form provided by the City for that purpose, he or she shall be deemed to have waived his or her right to an administrative hearing. Under these circumstances, the Administrative Hearing Officer shall dismiss the challenge to the administrative citation, and shall issue a written notice to that effect. An individual whose challenge to an administrative citation is dismissed under this section shall be deemed not to have availed himself or herself of the right to an administrative hearing as provided in this chapter.

   (ii) An individual who has been issued an administrative citation and who has requested an administrative hearing to challenge the citation as provided in this chapter may request in writing that his or her challenge to the citation be dismissed and the hearing canceled. Upon receipt of a request to dismiss a challenge to the administrative citation, the City shall cancel the pending hearing, and issue a written notice to that effect. Any individual who requests the dismissal of a challenge to an administrative citation under this section shall be deemed never to have availed himself or herself of the right to an administrative hearing as provided in this chapter.
6. **Procedures at Administrative Hearing.** Administrative hearings are informal, and formal rules of evidence and discovery do not apply. Each party shall have the opportunity to present evidence in support of his or her case and to cross-examine witnesses. The City bears the burden of proof at an administrative hearing to establish a violation. The citation is prima facie evidence of the violation and the enforcement officer who issued the citation is not required to participate in the hearing. The Administrative Hearing Officer shall use preponderance of the evidence as the standard of evidence in deciding the issues. Evidence shall be submitted under penalty of perjury.

7. **Decision of Administrative Hearing Officer.** At the conclusion of the hearing or within 15 days thereafter, the Administrative Hearing Officer shall render a decision as follows:

   (i) Determine that the violation for which the citation was issued occurred, and impose a fine in the amount set forth in the penalty schedule, inclusive of the administrative reimbursement portion, and if the violation has not been corrected as of the date of the hearing, order correction of the violation; or

   (ii) Determine that the violation for which the citation was issued occurred, but that the responsible party has introduced credible evidence of mitigating circumstances warranting imposition of a lesser penalty than that prescribed in the penalty schedule, or no penalty at all, and impose a lesser fine, if any, and if the violation has not been corrected as of the date of the hearing, order that the violation be corrected; or

   (iii) Determine that the violation for which the citation was issued did not occur or that the condition did not constitute a violation of the code.

8. **Issuance of Administrative Order.** The Administrative Hearing Officer shall issue a written decision entitled "Administrative Order" no later than 15 days after the date on which the administrative hearing concludes. The Administrative Order shall be served upon the responsible person by first class mail, or if that method fails, by any one of the other methods set forth in this section. The Administrative Order shall become final on the date of mailing or other service, and shall notify the responsible person of his or her right to appeal as provided below in this section. The Administrative Order shall also (i) either set a deadline for compliance with its terms, in the event that the responsible person fails to file an appeal, in no event less than 20 days from the date of mailing or other service, or (ii) if the hearing officer determines as described in Subdivisions 7.(ii) or 7.(iii) immediately above, and the responsible party has deposited the penalty with the City, order a partial or full refund of the deposit.

9. **Appeal to Administrative Order.** Within 20 days after mailing or other service of the Administrative Order to the responsible person, he or she may seek review of the Administrative Order by filing a notice of appeal with the Superior Court, pursuant to California Government Code Section 53069.4. The responsible person shall serve upon the City Clerk either in person or by first-class mail a copy of the notice of appeal. If the
responsible person fails to timely file a notice of appeal, the Administrative Order shall be deemed final.

10. **Failure to Comply With Administrative Order.** Failure to comply with an Administrative Order directing the abatement of a continuing violation is a misdemeanor. In that event, or if the City prevails in an appeal of an Order to the Superior Court pursuant to Subdivision 9. above, and the responsible person fails to comply with the Administrative Order, the City may file a criminal misdemeanor action against the responsible person. Filing a criminal misdemeanor action does not preclude the City from using any other legal remedy available to gain compliance with the Administrative Order. For purposes of this Subdivision 10., the term "continuing violation" shall mean a single, ongoing condition or activity in violation of the Los Angeles Municipal Code.