

COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject

Regulations, Placement of Transit Benches and Shelters in County Rights of Way

Policy Number

J-31

Page

1 of 4

Purpose

To establish regulations for the conditions and placement of transit benches and shelters with or without advertising at no cost to the public within County rights-of-way.

Background

The Board of Supervisors has encouraged the use of transit and its support facilities as a means to provide alternative travel choices to the public. With this support given to public transit service in the unincorporated area, a supplemental policy for transit bench and shelter placement within County rights-of-way is needed to provide a satisfactory level of safety and comfort for the waiting passenger. The Metropolitan Transit System (MTS) installs and maintains transit shelters, some of which are financed through sale of advertising space on the shelters.

If and when The North County Transit District (NCTD) establishes an acceptable program, the County, through the Department of Public Works (DPW) may discuss entering into a Memorandum of Understanding (MOU) with NCTD to administer the program in the unincorporated area of NCTD's jurisdiction.

It is the policy of the Board of Supervisors that:

No person shall place, cause to be placed, maintain or cause to be maintained, any bench, or shelter within or on any County rights-of-way or property without first obtaining a revocable encroachment permit from DPW. The County of San Diego, through DPW, may enter into a MOU with the MTS and/or NCTD for the placement and maintenance of transit shelters in County rights-of-way. In addition to the existing terms and conditions of such permit or agreement, the following conditions shall also apply:

A. Location

Transit benches or shelters when placed within the County rights-of-way, shall be subject to the approval of DPW and shall only be placed at authorized transit stops.

B. Design and Material of Benches and Shelters

The design of benches and shelters shall be in conformance with the standards of DPW and adopted community design standards/ guidelines. Details and specifications, identifying the dimensions and materials, of any bench or shelter shall be submitted with the application and shall be subject to the approval of DPW. In approving the design and placement of transit benches and shelters, DPW shall consider the needs of the local transit provider. Verification of design approval by the local transit provider may also be required by DPW. Prior to issuing an encroachment permit, DPW shall consider the recommendation of any applicable Community Planning Group and/or Community

COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject

Regulations, Placement of Transit Benches and Shelters in
County Rights of Way

**Policy
Number**

J-31

Page

2 of 4

Design Review Board. The applicant shall obtain written responses from these groups prior to applying for an encroachment permit.

C. Identification

The permittee shall place and maintain on every bench, shelter, waste receptacle or other equipment installed pursuant to the Policy, an identification marker giving the Permittee's current name, address and telephone number and the permit number.

D. Maintenance

The permittee shall at all times keep and maintain each and all benches or shelters in a good state of repair and in a neat, clean and sanitary condition to the satisfaction of the Director, Department of Public Works. Each piece of equipment shall be checked and cleaned or repaired as required on a weekly basis. In the event of the permittee's failure to maintain any permitted equipment in the above manner, DPW may revoke the encroachment permit by giving thirty (30) days notice in writing to the permittee. If the facility remains in the right-of-way at the end of the thirty day period, it may be removed by County forces and destroyed at the expense of the former permittee.

E. Insurance

The permittee shall file a Certificate of Insurance with DPW. This certificate must be in a form approved by the California Insurance Commissioner. Said insurance must be issued by a company authorized to transact business in the State of California. Said insurance shall insure and be for the benefit of the County of San Diego and shall indemnify the County for any loss, damage or liability, whether real or alleged, suffered by the County by reason of the existence or maintenance of transit passenger facilities in County rights-of-way. Said insurance shall name the County of San Diego as additional insured and shall agree to defend and indemnify the County against loss or liability. Said insurance must be maintained during the life of the permit and must include the following policies:

1. Commercial General Liability insurance written on an occurrence basis for bodily injury (including death) and property damage which provides total limits of not less than two million five hundred thousand dollars (\$2,500,00.00) combined single limit per occurrence. Coverage shall include:

- a. Premises and operations;
- b. Contractual liability expressly including liability assumed under this agreement, with deletion of the exclusion as to performance of operations within the vicinity of any railroad bridge, trestle, track, roadbed, tunnel, underpass and cross-way;
- c. Personal injury liability;
- d. Independent contractors;

COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject

Regulations, Placement of Transit Benches and Shelters in
County Rights of Way

**Policy
Number**

J-31

Page

3 of 4

e. Cross liability clause providing that the insurance applies separately to each insured except with respect to the limits of liability.

f. Such insurance shall include the following endorsements, copies of which shall be provided:

- (1) Inclusion of COUNTY, its officers, agents and employees as additional insureds as respects activities, services or operations under this agreement;
- (2) Stipulation that the insurance is primary insurance and that no insurance or self-insurance of the COUNTY will be called upon to contribute to a loss.

2. Commercial automobile liability insurance for bodily injury (including death and property damage) which provides total limits of not less than two million five hundred thousand dollars (\$2,500,000.00) combined single limit per accident applicable to all owned, non-owned and hired vehicles.

3. Statutory worker's compensation coverage including a broad form, all states endorsement; employer's liability insurance for not less than one million dollars (\$1,000,000.00) each accident for all individuals engaged in services or operations to implement this agreement, including an insurer's waiver of subrogation in favor of COUNTY, their directors, officers, representatives, agents and employees.

F. Limitation on Advertising

Transit bench advertising shall not exceed six (6) feet in width or two (2) feet in height. Transit shelter advertising shall be limited to a maximum of two (2) signs, not to exceed four (4) feet in width or six (6) feet in height.

The permittee may use authorized transit passenger facilities for the purpose of placing advertising thereon.

Transit bench advertising, however, is prohibited in any location where a private community organization as a permittee in accordance with this policy provides non-advertising transit benches at authorized transit stops to meet the needs of the community as defined by the Director of DPW.

G. Revocation of Transit Bench Permits for Non-Advertising Replacement

In the event that a private community organization notifies the Director of Public Works in writing that it wishes to provide a non-advertising transit bench where an advertising transit bench exists, the County upon a finding pursuant to Section 55.165 of the County Code that such revocation is in the public interest, may revoke the permit of the existing advertising bench by giving thirty (30) days notice in writing to the permittee. If the transit bench has not been removed within this period, it may be removed by County forces and destroyed.

COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject

Regulations, Placement of Transit Benches and Shelters in
County Rights of Way

**Policy
Number**

J-31

Page

4 of 4

H. Revocation of Transit Shelter Permits

The Director of Public Works may revoke a permit issued hereunder at any time, upon 30 days written notice to the permittee. Upon the giving of such notice, the permittee shall remove the bench or shelter within the time period stated in the notice, leaving the site in a safe and clean condition and repairing any damage to the site caused by the installation or removal of the bench or shelter. If the bench or shelter has not been removed within the time specified, the County may remove and destroy it. The provisions of any agreement entered into between the County and a transit provider shall prevail over the provisions of this paragraph to the extent of any difference in their provisions.

I. Policy Limitation

This policy permits the placement of advertising in the County rights-of-way in connection with the location of transit passenger facilities. This policy does not supersede adopted zones or ordinances regulating other placements of signs and advertising in County rights-of-way.

Sunset Date

This policy will be reviewed for continuance by 12-31-20.

Board Action

07-24-79 (42)
05-04-82 (20)
09-14-82 (63)
07-26-88 (43)
12-12-89 (49)
05-22-90 (80)
03-06-02
05-15-02 (03)
06-23-04 (12)
12-09-08 (33)
09-25-12 (11)
12-04-13 (13)

CAO Reference

1. Department of Public Works
2. Department of Planning and Development Services