

Criteria and Guidance for Creative Crosswalks

INTRODUCTION

Background

Standard crosswalk design at stop-controlled locations requires two white horizontal bars that cross the street, with the space between the white bars void of any surface treatment. This void area is merely the black asphalt-pavement surface.

Purpose of Setting Criteria and Guidance for Creative Crosswalks

To establish creative crosswalk criteria and guidelines that conform to current state and federal guidance and rules (see

That the permittee relinquishes all intellectual-property rights and moral rights (*droit moral*) in the creative crosswalk, including but not limited to all such rights under the California Art Preservation Act; under the federal Visual Artists Rights Act of 1991; or under any other local, state, federal, or international laws that confer such rights, whether in effect on the date the permit is issued or enacted thereafter.

Relevant State and Federal Rules

The relevant state and federal rules below for details) and a permitting process for the installation of creative crosswalks.

This document sets forth design guidelines and criteria for creative crosswalks that will enhance the visual quality of the City's streetscapes. Because the sole purpose of such crosswalks is aesthetic, this criteria and guidance prohibits creative crosswalks that communicate messages of any kind. Accordingly, by establishing this process, the City is not and does not intend to designate creative crosswalks as public forums. To the extent a creative crosswalk is determined to be communicative, it is to be understood as the City's speech rather than the permittee's speech.

The City Manager or their designee has the authority to make further changes or updates to these Criteria and Guidance for Creative Crosswalks.

Review Process

Eligible Applicant

An applicant must be an organization, such as a business or neighborhood association that accepts responsibility for design, installation, maintenance, removal of a creative crosswalk, and is able to secure a permit for the creative crosswalk (encroachment permit and revocable permit). Applications submitted by individuals shall not be accepted. Applicants must agree to comply with all permit requirements, including maintaining

liability insurance as evidenced by an acceptable certificate of insurance. Applicants are encouraged to have community support for proposed projects.

Location Requirements

- The proposed creative crosswalk must be:
 1. At a location where there is an existing marked crosswalk; or
 2. At an unmarked crosswalk location that meets the City of Sacramento's standards for installation of a marked crosswalk. If the proposed location is an unmarked crosswalk, the applicant may request installation of a marked crosswalk.If the City determines the location is appropriate for a marked crosswalk, the City will install the marked crosswalk in accordance with the City's standards, with the applicant responsible for the costs to install the marked crosswalk. If the City considers the location appropriate for a marked crosswalk and the location is within an [Environmental Justice area](#), the City will pay for the installation of only the marked crosswalk. The City of Sacramento is not responsible for the installation or repair of creative crosswalks. The applicant is responsible for creative crosswalk installation and/or repair of creative crosswalks.
- The proposed creative crosswalk must be at a location where a vehicle is currently required, by a stop sign or traffic signal, to stop.
- The proposed creative crosswalk must be at a location that has a posted speed limit not exceeding 30 mph and has a maximum of two through lanes.
- Creative crosswalks are prohibited on multilane one-way streets due to "multiple threat" crash risk.
- The surface of the location of the proposed creative crosswalk must be asphalt rather than concrete. (Materials will not bond or be as durable when placed on concrete.) The location's existing asphalt pavement must be in good condition as materials will not bond if the pavement is in poor condition. Public Works Department shall inspect the pavement condition for adequacy of a thermoplastic paint or street-grade paint used in creative crosswalk artwork (See Materials and Paint Type). If the Public Works Department finds the pavement in poor condition, the department will work with the applicant to find a different location that meets requirements of the criteria, guidance, and permitting process and has pavement in good condition. The City's Traffic Engineer shall review each creative crosswalk location to determine if it is on a corridor scheduled for near-term street maintenance (slurry, overlay, etc.). Proposed creative crosswalks at locations scheduled for near-term street maintenance may be held in abeyance until maintenance is completed.
- Approval of the location of a creative crosswalk is at the discretion of the City's Traffic Engineer.

Design Standards

- Crosswalks must contain two white transverse (horizontal) lines and comply with the most-current California Manual on Uniform Traffic Control Devices (CA MUTCD) crosswalk standards ([Section 3B.18](#) Crosswalk Markings). Creative crosswalks must be within the two horizontal lines.
- Transverse crosswalk lines must be white except in school zones, where they must be yellow. See Materials and Paint Type below for allowable materials.

- Creative crosswalks must not impair the visibility of the transverse crosswalk lines and must not be reflective.
- The design of creative crosswalks must be solely for aesthetic purposes. Creative crosswalks must not convey any political, religious, commercial, or other messages. In addition, designs must not contain logos, text, advertising, offensive symbols, three-dimensional graphics, or geometric shapes (such as triangles and octagons) that could be confused with a standard traffic-control device or legend.
- Designs that could potentially distract a driver or could be confused with traffic signs or traffic-pavement legends are prohibited.
- The design shall contribute to the visual quality of the streetscape—for example, by using a limited palette of colors and simple graphic images to avoid visual clutter, taking into account the needs of persons with color deficiencies or partial sight (see, for example, [United States Access Board](#)'s website for further information).
- If more than one crosswalk at an intersection is proposed as a creative crosswalk, the design of all such crosswalks must create a unified aesthetic at the intersection.
- Creative crosswalks must not extend to sidewalks, curbs, or gutters.
- Examples of acceptable creative-crosswalk designs and materials include brick lattice patterns, paving bricks, paving stones, setts, cobbles, and other resources designed to simulate such paving ([MUTCD Official Ruling 3\(09\)-24\(I\) – Application of Colored Pavement](#)).
- All elements of pattern and color for creative crosswalks must be uniform, consistent, repetitive, and expected so as not to be a source of distraction. (MUTCD Official Ruling 3(09)-24(I) – Application of Colored Pavement).

Materials and Paint Type

- Creative crosswalks must use a non-reflective street-grade or thermoplastic paint, which provides a non-slip surface for pedestrians, bicyclists, and those who use wheelchairs or other assistive-mobility devices.
- Street-grade paint is typically an acrylic water-based emulsion pavement color coating. Typically, during application of acrylic asphalt paint and for a period of at least 24 hours after application, temperatures must be above 50°F or higher and should not be applied in rain or when rain is in the forecast. Thermoplastic paint is a durable heat-applied material often used for pavement markings. Typically, during application of thermoplastic paint, the surface temperature must be 50°F or higher and the surface must be clean, dry, and free of debris.
- Creative crosswalks must be installed in warm weather conditions in order to achieve appropriate pavement adherence.
- Materials must be reviewed and approved by the City's Traffic Engineer prior to permittee installation of the creative crosswalk.

Permitting Requirements

Each applicant must submit a completed application for a Minor Encroachment Permit and a Revocable Permit. These applications can be found online [here](#). An application for a permit may, at the City's Traffic Engineer's discretion, be forwarded to the City Council for approval.

- After receiving a completed application, the City's Traffic Engineer shall determine whether a proposed creative crosswalk complies with requirements of the criteria, guidance, and permitting process, the California Manual on Uniform Traffic Control

Devices (CA MUTCD), and applicable standards promulgated by the Federal Highway Administration (FHWA). After this determination, the City's Office of Art and Culture shall provide a Clearance Letter, if requested and warranted, to the applicant during the permit-application process. After receipt of the Clearance letter, the Public Works Department shall review the application. If approved, the applicant becomes the permittee.

- For City-funded creative-crosswalk projects, the permittee must present the creative-crosswalk design to the Arts, Culture, and Creative Economy Commission (ACCE). However, because of limitations in the CA MUTCD and the FHWA standards, the City Traffic Engineer will have final approval over the creative-crosswalk design and colors.
- Creative-crosswalk installation and maintenance are not typical City services. Each applicant is responsible for all costs associated with the permit-application process. Each permittee is responsible for all costs of materials, permits, maintenance related to the creative crosswalk and, when the permit for the creative crosswalk expires or is terminated, for all costs of removing the creative crosswalk and restoring the affected pavement.

Waiver of Artist's Rights

- A creative crosswalk installed under this policy is not intended to be and is not *public art* under Sacramento City Code chapter 2.84; a *work of fine art* under the California Art Preservation Act (Civil Code § 987); or a *work of visual art* under the federal Visual Artists Rights Act of 1991 (17 U.S.C. §§ 106A & 113(d)).
- The City will not issue a creative-crosswalk permit to an applicant until the applicant has obtained from each individual who will design or install the creative crosswalk, and has submitted to the City, a signed writing, addressed to the City, in which the individual—
 1. waives all intellectual-property rights or moral rights (*droit moral*) the individual might have in the creative crosswalk, including but not limited to all such rights (a) under the California Art Preservation Act; (b) under the federal Visual Artists Rights Act of 1991; or (c) under any other local, state, federal, or international laws that confer such rights, whether in effect on the date the permit is issued or enacted thereafter; and
 2. agrees that the City, in its sole discretion and without providing any notice or compensation to the individual, may remove the creative crosswalk if:
 - a. the permittee fails to remove the creative crosswalk as this policy requires when the permit expires or is revoked;
 - b. state or federal law requires removal;
 - c. the City must remove the creative crosswalk to perform maintenance on the street; or
 - d. the City's Traffic Engineer determines that the creative crosswalk constitutes a hazard to pedestrian or vehicular traffic.

Maintenance

- Each permittee must maintain liability insurance that names the City as an additional insured so long as the creative crosswalk is in place and must provide the City with an acceptable certificate of insurance before installation of the creative crosswalk and before performing maintenance on the creative crosswalk.

- Each permittee must have a plan, approved by the City's Traffic Engineer, that provides for the continued maintenance of the creative crosswalk, including periodic paint touch-ups, and repainting.
- Each permittee must agree to the following in a signed writing approved as to form by the City Attorney:
 1. That the City will maintain transverse crosswalk lines and other traffic-control devices but assumes no responsibility for maintaining the creative crosswalk.
 2. That the City, telecommunication companies, utility companies, Underground Service Alert, and other entities that work within the public right-of-way on roadways are not responsible for damage to, or alteration of, the creative crosswalk and are not responsible for repairing damage to the creative crosswalk.
 3. That the City performs maintenance on its streets, such as overlays and slurry seals; that such maintenance may require the removal or covering of a creative crosswalk; and that the City will not reinstall the creative crosswalk, although the permittee may reinstall the creative crosswalk at permittee's cost.
 4. That the City may revoke the creative-crosswalk permit at any time by written notice to the permittee.
 5. That the permittee must promptly remove the creative crosswalk and restore the crosswalk to its condition before installation of the creative crosswalk, all at no cost to the City, upon receiving a revocation notice or the City's written request for removal, or when the creative-crosswalk permit expires.
 6. That the permittee relinquishes all intellectual-property rights and moral rights (*droit moral*) in the creative crosswalk, including but not limited to all such rights under the California Art Preservation Act; under the federal Visual Artists Rights Act of 1991; or under any other local, state, federal, or international laws that confer such rights, whether in effect on the date the permit is issued or enacted thereafter.

Relevant State and Federal Rules

The relevant state and federal rules as of the date of this policy are set out below. But these rules are subject to change without notice. Applicants should refer to the state and federal rules in effect at the time of application, and a permittee should refer to the state and federal rules in effect while the creative crosswalk is in place.

California Manual on Uniform Traffic Control Devices (CA MUTCD) 2014, Revision 5 (available [here](#))

Relevant sections:

- Section 3B.18 Crosswalk Markings Paragraph 01: Crosswalk markings provide guidance for pedestrians who are crossing roadways by defining and delineating paths on approaches to and within signalized intersections, and on approaches to other intersections where traffic stops.
- Section 3B.18 Crosswalk Markings Paragraph 08: Crosswalk lines should not be used indiscriminately.
- Section 3B.18 Crosswalk Markings Paragraph 17: Crosswalk markings should be located so that the curb ramps are within the extension of the crosswalk markings.

- Section 3B.18 Crosswalk Markings Paragraph 21: In general, crosswalks should not be marked at intersections unless they are intended to channelize pedestrians. Emphasis is placed on the use of marked crosswalks as a channelization device.
- Section 3G.01 Colored Pavements Paragraph 02: If non-retroreflective colored pavement, including bricks and other types of patterned surfaces, is used as a purely aesthetic treatment and is not intended to communicate a regulatory, warning, or guidance message to road users, the colored pavement is not considered to be a traffic control device, even if it is located between the lines of a crosswalk.
- Section 3G.01 Colored Pavements Paragraph 6: Colored pavement located between crosswalk lines should not use colors or patterns that degrade the contrast of white crosswalk lines or that might be mistaken by road users as a traffic control application.

FHWA Interpretation Letter 3(09)-24(I) – Application of Colored Pavement Treatment in Crosswalks, August 15, 2013 (available [here](#)) Excerpts Relevant to Creative Crosswalks:

Colored Pavement in Crosswalks

In the late 1990s, the marketplace introduced and promoted aesthetic treatments for urban streetscape environments that included the opportunity to install a range of colors and a multitude of patterns. The most popular opportunity to implement these treatments was between the legally marked transverse lines of crosswalks. This was typically done as part of larger efforts by cities to enhance the aesthetics of an area . . .

The FHWA's position has always been and continues to be that subdued-colored aesthetic treatments between the legally marked transverse crosswalk lines are permissible provided that they are devoid of retroreflective properties and that they do not diminish the effectiveness of the legally required white transverse pavement markings used to establish the crosswalk. Examples of acceptable treatments include brick lattice patterns, paving bricks, paving stones, setts, cobbles, or other resources designed to simulate such paving. Acceptable colors for these materials would be red, rust, brown, burgundy, clay, tan or similar earth tone equivalents. All elements of pattern and color for these treatments are to be uniform, consistent, repetitive, and expected so as not to be a source of distraction. No element of the aesthetic interior treatment is to be random or unsystematic. No element of the aesthetic interior treatment can implement pictographs, symbols, multiple color arrangements, etc., or can otherwise attempt to communicate with any roadway user.

Patterns or colors that degrade the contrast of the white transverse pavement markings establishing the crosswalk are to be avoided. Attempts to intensify this contrast by increasing or thickening the width of the transverse pavement markings have been observed in the field. These attempts to increase contrast are perceived to be efforts to circumvent the contrast prerequisite so that an intentional noncompliant alternative of an aesthetic interior pattern or color can be used. Further techniques to install an empty buffer space between an aesthetic treatment and the interior edge of the white transverse crosswalk markings have also been observed in the field. This strategy is also perceived to be an attempt to circumvent FHWA's prior position on contrast. However, an empty buffer space between a subdued-colored, uniform-patterned aesthetic treatment can be implemented to enhance contrast

between the aesthetic treatment and the white transverse pavement markings. When used properly, buffer spaces can be an effective tool to disseminate a necessary contrast in order to visually enhance an otherwise difficult to discern white transverse crosswalk marking, provided that the aesthetic treatment conforms to the conditions in the preceding paragraph...

Conclusion

Chapter 3G of the 2009 MUTCD contains provisions regarding the use of colored pavements. If colored pavement is used to regulate, warn, or guide traffic or otherwise attempts to communicate with the roadway user, the colored pavement constitutes a traffic control device. Agencies cannot intentionally exclude elements of retroreflectivity as part of a systematic process to classify the color pavement as a purely aesthetic treatment in order to circumvent the provisions of Chapter 3G. Paragraph 3 of Section 3G.01 in the MUTCD limits the use of colored pavement used as a traffic control device to the colors yellow and white. Interim Approval IA-14 permits the use of green colored pavement for marked bicycle lanes. All other colors for use on highway pavement in the right-of-way are either disallowed or are experimental as described above unless the colored pavement is a purely aesthetic treatment and makes no discernible attempt to communicate with a roadway user.

Definitions

Applicant: The entity that applies for a creative-crosswalk permit in accordance with this policy.

Creative Crosswalk: The colors and design installed in compliance with this policy between the transverse white lines of a crosswalk.

Multiple Threat Crash Risk: A type of crash that occurs when a driver stops in one lane of a multilane road to permit pedestrians to cross and an oncoming vehicle (in the same direction) strikes the pedestrian who is crossing in front of the stopped vehicle.

Permittee: An entity that is granted a creative-crosswalk permit in accordance with this policy.

Traffic Engineer: The City's Traffic Engineer or their designee.