

# Some Street Diversions Legal, City Attorney Says

A traffic diverter on California Street near the Laurel Street intersection will become legal as soon as it's made into a permanent structure, according to the city attorney's office.

The California Street diverter has become the controversial keystone of the city's Livable Streets plan and on June 15 was ordered to be made into a permanent structure on a 4-3 vote of the council.

The vote held a proviso that nothing be done until the city attorney checked out the state Supreme Court's decision that declared the Berkeley street barricades illegal.

Tuesday, City Attorney Rod Atchison presented the council with an opinion written by Neal Anderson of his office. The court decision, according to Anderson's statement, means that temporary traffic diverters and barricades are illegal, however a city still has a right to "construct" streets in a way to control traffic.

In the decision, the court held that a city's rights are only those allowed by the Vehicle Code and that its powers are not

unlimited in blocking, or diverting, traffic on streets that are being used.

It found that the Berkeley barricades were not "improvements" and part of the streets' structures, but "devices" placed on the street solely to control traffic.

Anderson said the code allows cities to close streets which they find are no longer needed for vehicular traffic, to install "official traffic control devices" and to construct and maintain streets.

Atchison advised the council that as soon as the California Street diverter is made permanent, it should be within the legal findings of the Berkeley decision.

Councilmember John Laird, one of the four who approved the diverter in the early part of the year and then making it permanent in June, said the city should move ahead on California Street and also make the Trescony Street diverter permanent.

He said the Trescony Street diverter had won acceptance in the neighborhood.

That was not the case with the California Street diverter and it still has a lot of opposition.