



Ordinance Number 4540

Date Adopted

**03/19/2019**

**Subject:**

**VENTURA COUNTY ORDINANCE REGARDING  
ENCROACHMENTS ON COUNTY HIGHWAYS**

ORDINANCE NO. 4540

AN ORDINANCE AMENDING  
THE VENTURA COUNTY ORDINANCE CODE  
RELATING TO  
ENCROACHMENTS ON COUNTY HIGHWAYS

The Board of Supervisors of the County of Ventura, State of California, ordains as follows:

**Section I**

Division 12 of the Ventura County Ordinance Code is hereby repealed in its entirety.

**Section II**

Division 12 is added to the Ventura County Ordinance Code to read as follows:

## Contents

12000	Title and scope .....	7
12001	Purpose.....	7
12002	Authority .....	7
CHAPTER 1 – DEFINITIONS & CONSTRUCTION OF DIVISION.....		8
12100	Definitions .....	8
12101	Construction of Division .....	11
12102	Severability .....	11
CHAPTER 2 – GENERAL PROVISIONS .....		12
12200	Permit required .....	12
12201	Indemnification, defense, and hold-harmless condition .....	13
12202	Exemptions from permit requirements.....	13
12203	Powers of public official .....	14
12204	Permittee to comply.....	14
12205	Reference to other ordinances.....	14
12206	Road closure, interference with highway use .....	14
12207	Work performed with or without permit and without proper notification.....	14
12208	Encroachment removal .....	15
12209	Encroachment removal without replacement .....	15
12210	Records of installations or as-builts .....	16
12211	Inspection .....	16
12212	Work in accordance with plans, specifications, and permit conditions.....	16
12213	Changes to scope of encroachment work.....	16
12214	Permit available .....	16
12215	Permit terms, conditions, renewal, and expiration.....	17
12216	Certificate of acceptance.....	17
12217	Selling in the right-of-way.....	17
12218	Filming within the right-of-way .....	17
12219	Adopt-a-road permit .....	20
12220	Special Events .....	21
12221	Speed humps and speed cushions .....	22
CHAPTER 3 – ENCROACHMENT WORK STANDARDS.....		24
12300	Encroachment work standards.....	24

12301	Interference with right-of-way .....	24
12302	Notice of start of encroachment work.....	24
12303	Location.....	24
12304	Design.....	26
12305	Traffic Control.....	27
12306	Excavation in the right-of-way.....	28
12307	Repair and restoration of the right-of-way .....	28
12308	Driveway approach permits .....	29
12309	Storage of equipment and materials .....	30
12310	Emergency excavations .....	30
12311	Survey monuments .....	31
12312	Preservation of drainage.....	31
12313	Repaving by Department .....	31
12314	Clean up after completion .....	31
12315	Underground existing utilities.....	31
12316	No interference with others.....	32
12317	Relocation, modification, or removal where right-of-way is improved .....	32
12318	Protect existing facilities .....	32
12319	Requirements for landscaping .....	33
12320	Permit for flag hole .....	34
12321	Other standards .....	34
CHAPTER 4 – APPLICATION REQUIREMENTS .....		35
12400	Applicant requirements .....	35
12401	Permit application.....	35
12402	Noncompliance .....	37
12403	Agreement to relocate .....	37
12404	Encroachment is not a hazard.....	37
CHAPTER 5 – PERMIT ISSUANCE .....		38
12500	Administrative permits .....	38
12501	Additional Requirements .....	39
12502	Long-term and permanent encroachments by adjacent property owners .....	39
12503	Relocation of existing improvements .....	40
12504	Permits non-transferable .....	40
12505	Findings for approval of the permit .....	40

12506	Timeline for permit issuance.....	40
12507	Denial of permits.....	40
12508	Revocation of permits.....	41
12509	Decision of the Director.....	41
CHAPTER 6 – PERMIT FEES AND DEPOSITS .....		42
12600	General.....	42
12601	Issuance, inspection, and engineering review fees.....	42
12602	Deposit of fees.....	42
12603	Fee exemptions.....	42
12604	Public welfare fee waiver.....	43
12605	Schedule of fees; double fees.....	43
12606	Permittee to pay for all costs.....	43
12607	Deposit required.....	44
12608	Return of deposit.....	44
12609	Billing.....	44
CHAPTER 7 – MAINTENANCE AND REPAIR OF SIDEWALKS.....		45
12700	Superintendent of Streets.....	45
12701	Responsibilities.....	45
12702	Liability for injuries to the public.....	45
CHAPTER 8 – WIRELESS TELECOMMUNICATION FACILITIES-PUBLIC RIGHT-OF-WAY (“WTF–PROW Ordinance”) .....		46
12800	Purpose.....	46
12801	Construction of this Chapter.....	46
12802	Definitions.....	46
12803	Exemptions.....	48
12804	Permittee requirements.....	48
12805	Permit standards.....	49
12806	Performance standards.....	53
12807	Application requirements.....	56
12808	Permit term, renewal, and expiration.....	58
12809	Community notification.....	59
12810	Expert review.....	62
12811	Findings for approval of the permit.....	62
12812	Decision of the Director.....	62

12813	Appeal of decision.....	63
12814	Permit completion .....	64
12815	Nonconforming facilities.....	64
12816	Violations and revocation .....	64
12817	Abandonment or discontinuation of use.....	65
12818	Safety and monitoring standards.....	65
12819	Notification of change of ownership or operator.....	66
12820	Prospectivity and applicability .....	66
<b>CHAPTER 9 – TRANSPORTATION PERMITS .....</b>		<b>67</b>
12900	Issuance of transportation permits.....	67
12901	Eligibility.....	67
12902	No interference with public utility or County property.....	67
12903	Exceeding permitted capacity.....	67
12904	Movement in convoy .....	67
12905	Possession of permit.....	67
12906	Reducible loads .....	67
12907	Combined loads .....	68
12908	Moving in inclement weather.....	68
12909	Verification required .....	68
12910	Permittee agreement and liabilities .....	69
12911	Accident reporting .....	69
12912	Repair of damage.....	69
12913	May require planking or other methods.....	69
12914	Requires relocation permit .....	70
12915	Overweight approval.....	70
12916	Permit affix on load.....	70
12917	Inspection by Commissioner.....	70
12918	Permit may be withheld or conditioned.....	70
12919	Evidence of clearance .....	71
<b>CHAPTER 10 – APPEAL AND VIOLATION .....</b>		<b>72</b>
121000	Appeal of decision.....	72
121001	Violation .....	72
121002	Successive applications.....	73

## **DIVISION 12 – HIGHWAY ENCROACHMENTS**

### **12000 Title and scope**

This Division may be cited as the “Encroachment Ordinance.” The provisions of this Division operate as a supplement to all applicable California statutes concerning encroachments on county highways.

The Ventura County Public Works Agency’s Transportation Department is responsible for maintaining County highways to preserve their operational safety, integrity, and function. It is in the public interest for utility facilities and other encroachments to be accommodated in the right-of-way of County highways, when such use and occupancy do not interfere with the free and safe flow of traffic or otherwise impair the roadway or its appearance, and do not conflict with the provisions of federal, state or local laws. Utilities and other encroachments that cross or otherwise occupy County highway right-of-way can affect the safe operation, maintenance, and appearance of the highway. It is therefore necessary that such use and occupancy be authorized and reasonably regulated to promote the County’s responsibility to the public.

### **12001 Purpose**

The purpose and intent of this ordinance are to:

- (a) Provide a uniform and comprehensive set of standards for accommodating utility facilities and other encroachments within the County road right-of-way; preserve and reserve road right-of-way to maximize public access; and minimize possible interference and impairment to the roadway, its structures, appearance, operation, and maintenance.
- (b) Encourage economic development; preserve aesthetic and other community values; prevent proliferation of facilities and equipment in the right-of-way by encouraging the completing of major installations before the Department’s road rehabilitation projects; and removal of unused facilities.
- (c) Ensure that all installations are designed and constructed to minimize potential adverse effects upon the public welfare; allow emergency access during construction; and enable installations to be maintained in perpetuity.

### **12002 Authority**

This Division is adopted under the authority granted by Streets and Highways Code, Division 2, and Vehicle Code, Division 15, to regulate encroachments on County highways.

## CHAPTER 1 – DEFINITIONS & CONSTRUCTION OF DIVISION

### 12100 Definitions

The following definitions govern construction of this Division unless the particular provision or the context clearly requires otherwise. Words used in the present tense include the future tense and words used in the singular include the plural unless the particular provision or the context clearly requires otherwise.

- (a) Applicant. A person who has applied for a permit under this Division and meets the requirements of section 12400.
- (b) Actual cost. The amount determined by applying the provisions of the fees schedule.
- (c) Base course. That portion of the highway structural section located between the pavement and the native compacted material.
- (d) Chapter. A chapter of this Division, unless some other ordinance, division, or statute is cited.
- (e) Commissioner. The Road Commissioner of the County of Ventura or his or her designee.
- (f) County. The County of Ventura, State of California.
- (g) Department. The Transportation Department of the County Public Works Agency.
- (h) Director. The Director of the Department.
- (i) Driveway approach. That portion of the road right-of-way between the property line and curb, or between the property line and the pavement if no curb exists, where vehicles enter or leave the road onto adjacent property.
- (j) Emergency. A condition that poses an imminent threat to life or property, e.g., water line break, sewer or gas line leak, down power poles, excessive waste of a resource, inability to deliver utilities to adjacent residences, etc.
- (k) Encroachment. Any structure, object, or condition of any kind or character placed or created on, in, along, under, over, or across any County road right-of-way, street, sidewalk, or dirt or graded shoulder, including, but not limited to, any excavation, obstruction, speed humps, speed cushions, tower, pole, pole line, pipe, fence, wire, cable, conduit, stand, building or transport of an extralegal load.
- (l) Encroachment work. The work of constructing, placing, installing, repairing, or maintaining an encroachment in the right-of-way.
- (m) Extralegal load. Has the same meaning as that in Vehicle Code section 320.5.
- (n) Fees schedule. The then-current schedule of fees and charges adopted by resolution of the Board

of Supervisors.

- (o) **Filming.** The use, for commercial purposes, of a photographic or audio recording device, whether digital or otherwise, to record moving or still pictures or sound, including all associated parking, base camp, meal, and other related activity. "Commercial purposes" includes, but is not limited to, work by a student on a project as a part of that student's education at any school or training program, whether public or private.
- (p) **Moratorium road.** A county roadway that has received any pavement treatments:
  - (1) Greater than one half inch ( $\frac{1}{2}$ " ) in thickness within the last five (5) years; or
  - (2) One half inch ( $\frac{1}{2}$ " ) or less in thickness, within the last three (3) years, excluding slurry seal.
- (q) **Moving contractor.** Any person who for that person or for another moves or causes to be moved any load over, upon, along, or across any highway.
- (r) **Must, May.** "Must" is mandatory. "May" is permissive.
- (s) **Notification zone.** Notification zones as defined below are minimum requirements. The Director, at the Director's sole discretion, may extend the notification zone where the impacts extend outside the notification zone.
  - (1) For a permit for an encroachment not involving filming, a special event, or a wireless telecommunications facility: A zone comprised of all properties identified in the last equalized County assessment roll that lie either wholly or partially within the region centered on the centerline of the right-of-way that is three hundred feet (300') wide, measured perpendicular to the centerline of the right-of-way, and that includes the construction area of the proposed encroachment work and extends two hundred and fifty feet (250') along the centerline of the right-of-way beyond the beginning and end of the construction area of the proposed encroachment work.
  - (2) For a permit for an encroachment involving filming or a special event: A zone comprised of all properties from which any visible, audible, or other effect of the filming (including, but not limited to, parking, economic effect, traffic, and privacy) will be perceptible and all properties that are either on the same block as the filming activity or within one thousand feet (1,000') of the filming activity, whichever is less.
  - (3) For a permit for an encroachment involving a wireless telecommunications facility: A zone comprised of the region centered on the proposed wireless telecommunications facility measuring five hundred feet (500') long, measured along the centerline of the right-of-way, and three hundred feet (300') wide, measured perpendicular to the right-of-way.
- (t) **Pavement.** The hard surface of the right-of-way composed of various size aggregates mixed with Portland cement or asphaltic compounds.
- (u) **Permit.** A personal, revocable, non-exclusive license to place or create an encroachment in the

right-of-way, issued by the Commissioner; also referred to as an encroachment permit.

- (v) Permittee. A person who has been issued a permit under this Division.
- (w) Person. Any natural person, firm, partnership, joint venture, association, corporation, company, estate, trust, business trust, district, city, or county including the County, and all departments, agencies, and bureaus of any person, except the Operations and Maintenance Division of the Department.
- (x) Pole. A public-utility pole, streetlight pole, or traffic-signal standard.
- (y) Public. Any person, as defined in this Division, other than the Operations and Maintenance Division of the Department, including the United States and the State of California.
- (z) Roadway, road, highway, right-of-way, road easement. A County highway, as defined by Streets and Highways Code section 25, including any public highway, public street, public way, or public place in the unincorporated territory of the County, that is owned by the County or that has been dedicated to the public for the purpose of travel and that has been accepted into the County road system by the Board of Supervisors or by a person with duly delegated authority. The term includes all or any part of the entire width of the right-of-way, and the area above and below the right-of-way, whether or not used for highway purposes, including, but not limited to, the pavement, traveled way, sidewalk, and shoulder.
- (aa) Section. A section of this Division unless some other ordinance, division, or statute is expressly cited.
- (bb) Sidewalk. Has the same meaning as that in Streets and Highways Code section 5600, but also includes a paved walkway and its associated structures between the traveled way and the edge of the right-of-way, including, where that walkway exists, any park, parkway, or other unpaved area between the traveled way and the edge of the right-of-way, and any curb, bulkhead, retaining wall, or other work for the protection of any of these structures.
- (cc) Special event. An organized activity, conducted in the right-of-way, that affects normal traffic flow, for the purpose of recreation, fundraising, or competition, including, but not limited to, running, bicycling, automobile, and motorcycle events; parades; demonstrations; parties; gatherings; and assemblies.
- (dd) Special permit vehicle. A vehicle or combination of vehicles, whether laden or unladen, for which the Vehicle Code authorizes or requires issuance of a special permit.
- (ee) Trailer. Has the same meaning as that in Vehicle Code section 630.
- (ff) Transportation permit. A permit for movement of an extralegal load.
- (gg) Traveled way. That portion of the right-of-way intended primarily for vehicular traffic. Excludes the sidewalk and shoulder. Where curbs exist, the traveled way is that area between the curbs.
- (hh) Unreasonable interference. Any use of the right-of-way that disrupts or interferes with its use by

the County, the general public, or other persons authorized to use or be present upon the right-of-way, when there exists an alternative that would result in less disruption or interference. Unreasonable interference includes any use of the right-of-way that permanently disrupts vehicular or pedestrian traffic; any interference with public utilities; and any other activity that will present a hazard to public health, safety, or welfare.

- (ii) Utility. An entity that is certified by the California Public Utilities Commission or other regulatory body to provide or install any facilities for the delivery or transmission of telecommunications, wireless communications, electricity, oil, gas, water, sewer, internet, or other similar data transfer service, including any city, county, district, or other governmental agency so certified, to the extent allowed by law. For the purpose of this Chapter, "utility" also includes companies providing cable television services.
- (jj) Vehicle. Has the same meaning as that in Vehicle Code section 670.
- (kk) Vehicle height. That dimension of a vehicle, including any load carried by that vehicle, measured vertically from a level surface upon which the vehicle stands to the highest protrusion of that vehicle or its load.
- (ll) Vehicle width. The greatest dimension of a vehicle, including any load carried by that vehicle, measured at right angles to the anterior-posterior axis of the vehicle.

#### **12101 Construction of Division**

This Division does not preempt the provisions of the Coastal Zoning Ordinance. Any applicant proposing to do any act described in section 12200 in the Coastal Zone must, before applying for a permit under this Division, first obtain any permit required by the Coastal Zoning Ordinance. In the event of any conflict between any provision of this Division and a provision of the Coastal Zoning Ordinance, the provision of the Coastal Zoning Ordinance must prevail.

#### **12102 Severability**

If any provision or clause of this Division or its application to any person or circumstance is found to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity will not affect other provisions, clauses, or applications, and to this end the provisions and clauses of this ordinance are declared to be severable.

## CHAPTER 2 – GENERAL PROVISIONS

### 12200 Permit required

- (a) Except as otherwise provided in this Division, it is unlawful for any person to do any of the following without first obtaining a permit from the Commissioner:
- (1) Make or cause to be made any encroachment, including any excavation, in any highway;
  - (2) Place, change, or renew an existing encroachment in any highway;
  - (3) Place, construct, or repair any curb, gutter, sidewalk, driveway approach, pavement, base course, retaining wall, storm drain, culvert, pipe, conduit, cable, or other work of similar nature in, over, along, across, or through any highway;
  - (4) Construct, reconstruct, or repair any highway light or highway lighting system in any highway;
  - (5) Construct, reconstruct, repair, or maintain any overhead structure or other appurtenant facility in any highway;
  - (6) Place or leave any impediment to the use of any highway;
  - (7) Erect or maintain any post, sign, banner, pole, fence, guard rail, wall, loading platform, or any other structure on, in, along, over, under, or across the right-of-way;
  - (8) Plant or remove any tree, shrub, or other growing thing, trim any tree, or construct any landscaping, within the right-of-way, except for the planting or removal of a lawn or similar low-lying ground cover not otherwise prohibited by law, outside the traveled way, drainage ditch, gutter, or other improvement within the right-of-way;
  - (9) Use the right-of-way for filming;
  - (10) Use the right-of-way for an event or activity that impacts normal traffic flow, including, but not limited to, special events;
  - (11) Use the right-of-way in any manner for purposes of seismological exploration;
  - (12) Conduct land-surveying or traffic-counting operations in such a way that it is necessary to excavate within a right-of-way or in any way interfere with the normal flow of traffic on a highway;
  - (13) Cause water (other than water from natural sources) to flow onto or upon any highway or roadside drainage facility, where the water is contained within the improved section of the highway or drainage facility by any curb, berm, or ditch, or increase or change drainage flows onto or upon a highway or roadside facility;
  - (14) Move or cause to be moved on, over, along, or across any highway, any extralegal load or special permit vehicle;

- (15) Place, construct, reconstruct, or repair any wireless telecommunications facility within the right-of-way; or
  - (16) Collect litter or debris from the right-of-way, except for trash collection by a County-authorized provider of waste-hauling services or minor retrieval of litter or debris incidental to other authorized activities within the right-of-way.
- (b) Any person who does any of the acts specified in this section, without first having obtained a permit, is guilty of a misdemeanor and is liable to the County for all expenses and damages caused by the act.
  - (c) This subdivision does not apply if any agreement with the Department exists for the construction, reconstruction, or maintenance of the specific installation.

### **12201 Indemnification, defense, and hold-harmless condition**

Every permit issued under this Division must require the permittee to, and every permittee, regardless of the existence of any such requirement in the permit, must, defend, indemnify, and hold harmless the County of Ventura and its Board of Supervisors, officers, and employees, to the maximum extent permitted by law, from any loss or liability or damage, including expenses and costs, for property damage, personal injury, or death sustained by any person as a result of the encroachment or activity for which the permit was issued.

### **12202 Exemptions from permit requirements**

The following uses of the right-of-way are not subject to the provisions of this Division except as provided in this section:

- (a) Activity by an officer or employee of the Department in the discharge of his or her official duties.
- (b) Work performed under contract with the Department.
- (c) Landscape work performed by the property owner adjacent to the owner's property when the drainage of the road right-of-way is not impacted when the following conditions are met:
  - (1) Planting vegetation where the maximum height of a fully-grown plant is less than one foot (1') in height.
  - (2) Installing minor encroachments at grade within the parkway between an existing curb and sidewalk.
- (d) Installation of an approved US Postal Service (USPS) mailbox. Location and construction of all mailboxes must conform to the rules and regulations of the USPS and the following minimum requirements:
  - (1) The roadside face of a mailbox must be set back a minimum of one foot (1') from the face of the curb, or if no curb exists, from the edge of the pavement or gutter. Where mountable

curbs are present, the roadside face of the mailbox must be set back one foot (1') from the back of the mountable curb.

- (2) Whenever possible, the roadside face of the mailbox must be set back at least five feet (5') from the edge of the pavement.
  - (3) Under no circumstances may a mailbox obstruct the use of any sidewalk.
- (e) The placement of trash receptacles for collection by the County's authorized hauler for routine pick-up, during the seventy-two (72) hours surrounding the designated pick-up time.

### **12203 Powers of public official**

Whenever this Division grants a power to, or imposes a duty on, a public officer, that power may be exercised, and the duty may be performed, by a deputy of that officer or by a person duly authorized by that officer according to law, unless this Division expressly provides otherwise.

### **12204 Permittee to comply**

A permittee must comply, and must do everything necessary and proper to secure compliance by all of its officers, agents, and employees, with every order, decision, direction, condition, or rule specified on the permit or in an attachment to the permit, or made by the Commissioner on any other matter relating to or affecting the permittee's use of the highway, except when the permittee is a public utility regulated by the California Public Utilities Commission and such order, decision, direction, condition, or rule directly conflicts with any applicable order, decision, direction, condition, or rule prescribed by the California Public Utilities Commission.

### **12205 Reference to other ordinances**

Whenever reference is made to any portion of this Division or any other ordinance or statute, such reference applies to all amendments and additions made to that ordinance or statute. This Division applies regardless of, and in addition to, the Ventura County General Plan and Area Plans, and the Coastal and Non-Coastal Zoning Ordinances.

### **12206 Road closure, interference with highway use**

A permittee must plan and execute an encroachment in such a manner that the encroachment will not unreasonably interfere with the safe and convenient travel of the general public. Unless authorized in the permit, no permittee may close a public highway or deny to the general public the use of the public highway. An exception for filming and special events may be allowed as specified in section 12218 and section 12219.

### **12207 Work performed with or without permit and without proper notification**

- (a) Any person who performs any of the acts described in section 12200 must comply with all provisions of this Division and is liable for payment of any fees or costs prescribed by this Division, whether or not that person obtains a permit.

- (b) Any person who has begun any of the acts described in section 12200 without first obtaining a permit, when directed by the Director to stop, must stop any such act until the person obtains a permit or is otherwise authorized by the Director to proceed. Any person who fails to comply with the Director's direction to stop the work is guilty of a misdemeanor and will be subject to all fees described in section 12605.
- (c) If the Commissioner finds any person performing any of the acts described in section 12200 without a permit, the Commissioner may issue a permit on that person's behalf. The permittee will be subject to all fees and costs specified by the fees schedule.
- (d) Where a permittee has begun activity under a permit without making the notification required by the permit, the Department may deny acceptance of any work performed and remove any work completed. The Department may also require the permittee to provide verification of materials used and any testing or verification necessary to ensure compliance with all permit conditions. The permittee is liable to the Department for all costs of inspection and administrative work made necessary by the permittee's failure to make the required notification.
- (e) Where any provision of this Division requires a permittee to do or refrain from doing any act, or imposes any obligation or liability on a permittee, that provision applies equally to any person who has performed any act described in section 12200 without having first obtained a permit.

#### **12208 Encroachment removal**

- (a) The Commissioner may immediately remove, or require the removal or relocation of, any encroachment, lawful or unlawful, that:
  - (1) Obstructs or prevents the use of a County highway by the public;
  - (2) Consists of refuse;
  - (3) Is a traffic hazard;
  - (4) Is an advertising sign or device and is removable under section 1480.5, subdivision (d), of the Streets and Highways Code; or
  - (5) Is detrimental to the public health, safety, or welfare.
- (b) Removal and relocation of encroachments under this section are governed by the procedure provided in, and the permittee is liable for all penalties and damages described in, section 1480 et seq. of the Streets and Highways Code.

#### **12209 Encroachment removal without replacement**

When an encroachment is removed and not replaced, the permittee must remove the entire encroachment from the right-of-way and restore the right-of-way to meet standards specified elsewhere in this Division, unless the Commissioner authorizes otherwise, in writing. Pipes may be abandoned in place with prior written approval from the Commissioner. When abandoned in place, pipes must be

tested and filled by a method approved by the Commissioner or as required by the franchise agreement.

#### **12210 Records of installations or as-builts**

Every person owning, using, controlling, or having an interest in any pipe, conduit, duct, or tunnel under the surface of any right-of-way for supplying or conveying gas, electricity, communication facilities, water, steam, oil, or for any other purpose, must file with the Department within sixty (60) days after installation or abandonment a corrected set of maps or atlas sheets or as-builts drawn to a scale of not more than two hundred feet (200') to one inch (1"), showing the complete installation of all such pipe, conduit, duct, or tunnel. A public utility that periodically submits maps and atlas sheets will be deemed to comply with this section.

#### **12211 Inspection**

- (a) No person may obstruct the Commissioner, or his or her duly authorized representative, in making any inspection, taking any sample, or making any test, where that inspection, sample, or test is necessary to enforce any provision of this Division or the Streets and Highways Code.
- (b) The permittee must pay the costs of any inspector employed by the Commissioner to determine whether work is being done in compliance with the permit, in accordance with the fees schedule. This section applies to all permittees, including any city, county, district, or other local public agency.
- (c) The Commissioner may require a permittee to provide notice to the Department before the permitted activity begins, to enable any needed inspection. When required by the terms of the permit, the permittee must, no later than two (2) working days before beginning the permitted activity, notify the Public Works inspector listed on the permit of the date when permitted activity will begin.

#### **12212 Work in accordance with plans, specifications, and permit conditions**

All work under a permit must be performed in accordance with project-specific plans and specifications, including any plans and specifications referred to in or made part of the permit and any revisions to those plans or specifications, and with any special requirements or specifications made a part of the permit. In case of a conflict between two different specifications, the most stringent specification will apply.

#### **12213 Changes to scope of encroachment work**

No changes may be made to the scope of permitted encroachment work unless authorized in writing by the Commissioner.

#### **12214 Permit available**

The permittee must make the permit available for inspection by the Commissioner or his or her designee, or by any peace officer or other person having responsibility for safety or maintenance of the highway, immediately on request. Each permit for moving under Chapter 9 must be in or on the vehicle or

combination of vehicles to which it refers.

#### **12215 Permit terms, conditions, renewal, and expiration**

- (a) A permittee may not modify, repair, replace, or remove any permitted encroachment unless the permittee applies for and obtains a separate permit, or the work is exempt from the need for a permit as described in section 12202.
- (b) Except where the permit has been issued for a long-term encroachment, as described by section 12502, each permit must specify the dates and times during which the permitted activity may take place. The permit will expire on the expiration date specified on the permit, unless the Commissioner, in writing, grants an extension.
- (c) All requests for a permit extension must be made in writing on the approved form, signed by the permittee or the permittee's duly authorized representative, and submitted at least two (2) days before the permit's expiration date.

#### **12216 Certificate of acceptance**

If the Commissioner, by survey, inspection, or both, ascertains that the permitted work has been completed according to the requirements of the permit and of this Division, the Commissioner must issue, if requested to do so by the permittee, a certificate of acceptance containing a statement of the location, nature, and extent of the work performed under the permit.

#### **12217 Selling in the right-of-way**

Parking any vehicle, or placing any structure, wholly or partly within any right-of-way for the purpose of selling, or selling from, the vehicle or structure is prohibited. Any person who violates this section is guilty of a misdemeanor and is liable to the County for all expenses and damages caused by that parking or placement.

#### **12218 Filming within the right-of-way**

- (a) All filming activities must be conducted in accordance with the California Film Commission's "Filmmaker's Code of Professional Responsibility" and as follows:
  - (1) A person filming in a residential or business district must make proper notification, no later than three (3) business days before beginning the filming activity, to the owner or occupant of each property within the notification zone defined in section 12100(s)(2). The notification must include all of the following:
    - (A) The name of the person conducting the filming.
    - (B) The name of the production or work being filmed.
    - (C) The name and telephone number of an individual who, on behalf of the person conducting the filming, will be available during business hours to respond to questions

from the public.

- (D) The type of production.
  - (E) The type of activity that will take place.
  - (F) The duration of the activity.
- (2) Production vehicles arriving on location in or near a residential neighborhood may not enter the area before the time specified in the permit, must park one by one, and must turn off engines as soon as possible. Cast and crew must observe designated parking areas.
  - (3) No one associated with the filming activity may enter any other property without permission from the owner or occupant of that property.
  - (4) All persons associated with the filming activity must remain within the boundaries of the property that has been permitted for filming.
  - (5) Moving or towing of any parked vehicle within the limits of filming as described on the permit is prohibited without the express permission of the County or the owner of the vehicle.
  - (6) Cast and crew meals must be confined to the area designated in the permit; all catering, craft service, construction, prep and strike day activities, and personal trash must be removed from the location at the end of the permit period.
  - (7) Removing, trimming, or cutting vegetation or trees is prohibited unless authorized in the permit by the owner of the property.
  - (8) All signs erected or removed for filming purposes must be removed or replaced upon completion of the use of that location unless otherwise specified in the permit.
  - (9) Noise levels must be maintained at as low a level as possible.
  - (10) All persons associated with the filming activity must observe designated smoking areas and extinguish cigarettes and other smoking materials properly.
  - (11) No person associated with the filming activity may bring any guest or pet to the location, unless authorized in the permit.
  - (12) All sets and props must be removed at the end of the permit period.
  - (13) The person conducting the filming will at all times comply and ensure compliance by all associated persons with the provisions of the permit.
  - (14) All persons associated with the filming activity must refrain from using lewd or offensive language within the hearing of the general public

- (b) The filming activity must not result in damage to the right-of-way or to surrounding properties. All affected areas must be restored to their original condition when filming is completed.
- (c) Filming activities may be permitted, provided they do not:
  - (1) Exceed more than three (3) consecutive days in the same area.
  - (2) Occur between ten p.m. and seven a.m.
  - (3) Cause traffic delays of more than three (3) minutes on public roads.
  - (4) Result in noise levels exceeding that which is normal for the area and surrounding properties or result in types of noise emanating from such sources as gunfire, explosions, aircraft, or other loud sources, which are not normal for the area in question, unless the nearest residence is located more than two thousand feet (2000') from the noise source.
  - (5) Result in levels of light and glare exceeding that which is normal for the area.
  - (6) Exceed criteria established in the Zoning Ordinance for the area.
- (d) Ventura County Planning Department approval is required for any filming activity that requires a road closure or that exceeds the thresholds listed in subdivisions (c)(1), (2), (4), (5), or (6) of this section.
- (e) Any filming activity that requires a road closure or that exceeds the thresholds listed in subdivision (c)(3) of this section may be approved when the applicant can provide signed consent statements from the owners of properties within the notification zone, in a form acceptable to the Director, as follows:
  - (1) The number of consent statements must equal or exceed sixty-seven percent (67%) of the total number of properties within the notification zone.
  - (2) Each consent statement must attest to the owner's specific consent that the activities described in the consent statement may take place.
  - (3) Consent statements will be counted as follows:
    - (A) Only one consent statement per dwelling unit per parcel will be counted, regardless of the number of occupants of a dwelling unit or number of dwelling units on the parcel;
    - (B) Before the applicant begins the consent process, the Director must first review the names and addresses of all owners of properties within the notification zone and the language of the consent statement. The applicant must submit to the Department verification that the applicant has contacted one hundred percent (100%) of the owners of properties within the notification zone.
    - (C) Where a parcel within the notification zone is empty and not used for any purpose, the Director may exclude that parcel from the consent statement count.

- (f) The applicant must provide a base camp location outside the right-of-way for all equipment, vehicles, and other structures associated with the filming activity, including but not limited to cast trailers, catering trucks, restroom facilities, equipment trucks, props, and personal vehicles. The number of vehicles and personnel on the right-of-way must not exceed those immediately necessary for filming at the filming site and must be parked off the traveled way, in a closure area, or as may otherwise be expressly allowed in the permit.
- (g) Notification of occupants and property owners beyond those required by [section 12100\(s\)\(2\)](#) may be required as determined by the Director.

### 12219 **Adopt-a-road permit**

- (a) The Commissioner may issue an annual adopt-a-road permit to authorize a person to sponsor a road for the purpose of providing roadside clean-up on a designated portion of a County highway.
- (b) An adopt-a-road permittee must remove litter and other debris from the right-of-way at least once every one-hundred and eighty (180) days, or as the Commissioner may otherwise direct, and may not perform landscaping, planting, pruning, painting, construction, demolition, or alteration of any kind.
- (c) The Commissioner may provide equipment for the permittee's use, including, but not limited to, hard hats, safety vests, gloves, protective eye wear, and trash bags.
- (d) The Commissioner may include in an adopt-a-road permit any condition reasonably related to the safety of participants and the public, including but not limited to: requirements for safety training and the use of safety equipment; restrictions on the hours, locations, and methods of adopt-a-road work; requirements regarding supervision of persons conducting work in the right-of-way; and restrictions regarding the ages, numbers, and supervision of minors conducting work in the right-of-way.
- (e) The Commissioner may include in an adopt-a-road permit any condition reasonably necessary to assist the Commissioner in supervising work performed under the permit, including but not limited to: requirements that the permittee make notifications regarding the timing, extent, and supervision of work; requirements that the permittee report certain items and incidents found or occurring as a result of adopt-a-road work; and requirements that the permittee conduct work in a specified manner.
- (f) The Commissioner may, as part of any adopt-a-road permit, install up to two (2) road sponsorship signs on a sponsored segment of roadway, solely for the purposes of identifying the sponsor and promoting the adopt-a-road program. The Commissioner may specify the location, content, and design of all sponsorship signs consistent with these purposes. Each sponsorship sign will constitute government speech by the County; is neither a public forum, a limited public forum, nor a non-public forum; and neither the sponsorship of the roadway nor the sponsorship signs constitute a forum for advertisement, solicitation, or public discourse.
- (g) Every adopt-a-road permit must include the conditions required by [section 12201](#).

- (h) Every adopt-a-road permit is a temporary, personal, revocable, non-exclusive license. The Commissioner or the permittee may cancel the permit at any time for any reason.

## 12220 Special Events

The Commissioner may issue an annual or a single permit to authorize a person to conduct a special event in the right-of-way. Special event activities held in the right-of-way are subject to the following requirements:

- (a) A permittee conducting a special event in a residential or business district must make proper notification, no later than five (5) business days before beginning the event, to the owner of each property within the notification zone defined in section 12100(s)(1). The notification must include all of the following:
  - (1) The name of the event. The name and telephone number of an individual who, on behalf of the person conducting the event, will be available during business hours to respond to questions from the public.
  - (2) The type of event. The type of activity that will take place and the number of participants and staff involved.
  - (3) The duration of the activity.
- (b) Vehicles related to the special event including vehicles of the participants arriving on location in or near a residential neighborhood may not enter the area before the time specified in the permit, must park one by one, and must turn off engines as soon as possible. Those parking in the right-of-way must comply with all signs designating parking areas.
- (c) Special event activities may be permitted, provided they do not:
  - (1) Exceed more than three (3) consecutive days in the same area.
  - (2) Occur outside of daylight hours.
  - (3) Cause traffic delays of more than three (3) minutes on public roads.
  - (4) Exceed criteria established in the Zoning Ordinance for the area.
- (d) Special event activities that exceed the thresholds listed in section 12220(c), or that require a road closure, may be approved when the applicant can provide signed consent statements from the owners of properties within the notification zone, in a form acceptable to the Director, as follows:
  - (1) The number of consent statements must equal or exceed sixty-seven percent (67%) of the total number of properties within the notification zone.
  - (2) Each consent statement must attest to the owner's specific consent that the activities described in the consent statement may take place.

- (3) Consent statements will be counted as follows:
- (A) Only one consent statement per dwelling unit per parcel will be counted, regardless of the number of occupants of a dwelling unit or number of dwelling units on the parcel;
  - (B) Before the applicant begins the consent process, the Director must first review the names and addresses of all owners or occupants of properties within the notification zone and the language of the consent statement. The applicant must submit to the Department verification that the applicant has contacted one hundred percent (100%) of the owners or occupants of properties within the notification zone have been contacted.
  - (C) Where a parcel within the notification zone is empty and not used for any purpose, the Director may exclude that parcel from the consent statement count.
- (e) The applicant must provide parking for event participants and spectators outside the right-of-way. When permitted, vehicles parked in the road right-of-way must be parked off the traveled way, in a closure area, or as otherwise expressly allowed in the permit.
- (f) Notification of occupants and property owners beyond those required by section 12100(s)(1) may be required as determined by the Director.

#### **12221 Speed humps and speed cushions**

- (a) The Commissioner may authorize a person to construct a speed hump or speed cushion in the paved right-of-way of a highway. The construction must comply with the most current applicable County Road Standards and Caltrans standards. Any person authorized to construct must obtain a permit.

Approval of the construction is subject to the following requirements:

- (1) Height of hump or cushion must not exceed three inches. Board of Supervisors approval is required for heights greater than three inches.
- (2) Warning signs must be placed prior to the first hump or cushion at a location to be reviewed and approved by the Commissioner.
- (3) Pavement markings must be placed prior to and on the hump or cushion.
- (4) The following warrants must be met for approval of the construction.
  - (A) The road must be a residential road, local road, or residential district as defined by the County Road Standards and California Vehicle Code.
  - (B) The density of the district is (A) no fewer than 13 dwellings or business structures on one side of the street in one quarter mile or (B) no fewer than 16 dwellings or business

structures on both sides of the street in one quarter mile. All dwellings or structures to be counted must be no less than 75 feet from the curb face or edge of pavement.

- (C) The speed limit of the road must be 25 miles per hour or less.
  - (D) A speed survey must show that 67% of motorists exceed the 25 miles per hour speed limit.
  - (E) The road must have no more than two traffic lanes and a paved width of no less than 40 feet.
  - (F) The daily traffic volume of the road must be no less than 1,000 vehicles in a 24-hour period.
  - (G) The speed hump or cushion must be installed in a safe location as determined by the Commissioner. No hump or cushion may be placed where severe horizontal or vertical curves exist, where sight distance is limited, or where the street (longitudinal) slope would be considered excessive. No hump or cushion may be placed where such placement would cause undue traffic congestion on nearby streets.
- (5) Sixty-seven percent (67%) or more of affected property owners as determined by the Commissioner must concur with and sign a petition whose content and language have been reviewed and approved by the Commissioner. When a property owner or owners request the installation, those property owners that concur with and sign the petition must finance the construction. When the request for the hump or cushion originates with the Commissioner or his or her designee, the County will finance the construction of the hump or cushion. Regardless of financing, the property owners affected by the construction must approve the installation.
- (6) The County Traffic Engineer, Ventura County Fire Protection District, Sheriff's Office, and California Highway Patrol must review and approve the construction of a proposed location of the hump or cushion within 20 calendar days of notification by the Commissioner, or as stated in the most applicable County Road Standard Plate.
- (b) Notwithstanding the foregoing, the Board of Supervisors upon recommendation of the Commissioner, based on professional engineering judgment, may authorize a person to construct a speed hump or speed cushion in the paved portion of the right-of-way without compliance with one or more of the requirements of subdivision (a)(4), above.

## **CHAPTER 3 – ENCROACHMENT WORK STANDARDS**

### **12300 Encroachment work standards**

All work in the right-of-way must be designed and constructed in accordance with sound engineering principles and accepted standards, including but not limited to the County Road Standards, the Standard Plans for Public Works Construction and Standard Specifications for Public Works Construction, Caltrans standard plans and specifications, the California Manual on Uniform Traffic Control Devices, the National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater Permit, other applicable County ordinances and other portions of standards applicable to the size, type, and location of the encroachments made.

### **12301 Interference with right-of-way**

No part of the encroachment or encroachment work may permanently alter vehicular circulation or parking within the right-of-way or impede vehicular or pedestrian access or visibility along the right-of-way. No permittee may locate or maintain an encroachment in a manner that causes unreasonable interference. The permittee must move any encroachment, upon request of the Commissioner, at the permittee's cost, if the Commissioner finds the facility to interfere with the right-of-way as described in this section.

### **12302 Notice of start of encroachment work**

- (a) Before commencing any encroachment work authorized by any permit, the permittee must notify the Commissioner of the time of commencing work and, if different from the information provided in the permit, the name, address, telephone number and license number of the contractor who will perform the work.
- (b) The permittee must provide notice to the inspector's phone number listed on the permit. Notification may be via phone call, e-mail, or text to the inspector a minimum of two (2) working days before the start of work. The notification must include the permit number, location, and contact information of the person at the job site.

### **12303 Location**

No encroachment of any nature may impede or obstruct the right-of-way, deny any person the use of the right-of-way, or impair the sight distance for safe pedestrian or vehicular traffic.

- (a) Encroachments must be located to minimize later adjustments to accommodate planned future improvements to the roadways and to minimize interference with roadway traffic during repair or maintenance of the utility lines.
- (b) Encroachment work for new construction including pavement widening, sidewalk, curb and gutter, and drainage must be located such that the improvement is integrated seamlessly with the existing improvements in the area.

- (c) Any pipeline that crosses the roadway must do so at ninety (90) degrees to the centerline of the roadway when feasible, or as approved by the Commissioner.
- (d) Where manholes are an essential part of utility installation, the manhole installations must be designed and located outside the wheel path of vehicles and to cause the least interference to other utilities in the roadway and future road improvements. Exemptions may be granted by the Commissioner on a case-by-case basis if the installations are designed and constructed to minimize the detrimental effects on all road users.
- (e) No above-ground utility lines may be located in the right-of-way where there presently are no overhead utility facilities, streetlight poles, or traffic-signal standards unless the California Public Utilities Commission has authorized the applicant to install such facilities and the applicant has demonstrated that no other viable option exists.
- (f) All equipment accessory structures must be located as close to the right-of-way boundary or as far from the traveled way as possible and must meet the minimum set-back of ten feet (10') from the edge of the pavement where feasible. No above-ground equipment or other encroachments may be placed within five feet (5') of the edge of the pavement.
- (g) No new above-ground equipment may exceed five feet (5') in height, unless the applicant demonstrates that an otherwise applicable law or regulation requires a greater height, in which case the installation may not exceed the minimum height achievable by application of that law or regulation. Reflective markers must be placed on all above-ground equipment.
- (h) The maximum height of a utility pole is that imposed by the Ventura County General Plan or applicable Area Plan.
- (i) All encroachments located above any sidewalk or pedestrian or bicycle path must have a minimum vertical clearance of eight feet (8') and may not block access to the sidewalk. Encroachments above the traveled way must have a minimum vertical clearance of sixteen feet (16').
- (j) Equipment mounted on poles, including, but not limited to, that on streetlight or traffic-signal standards, must consist of small equipment components that are compatible in structure, scale, function, and proportion to the streetlights, traffic signals or utility pole on which the equipment is mounted.
- (k) Underground vaults must employ flush-to-grade access portals, and covers for manholes and access portals must be rated for vehicular loading.
- (l) Installations on County-owned or -controlled streetlights or other public facilities will be subject to all applicable administrative and rental fees as defined in the fee schedule.
- (m) Utility lines may not be installed within roadside ditches, catch basin areas, or any storm water culvert.
- (n) In reviewing any permit application, the Commissioner must give full consideration to sound

engineering principles, safety of the roadway, overall economic impacts, protection of the integrity and scenic appearance of the roadway, and maintenance operations.

- (o) When the location or position of an encroachment impairs visibility to vehicular traffic, the Commissioner may require that the encroachment be painted or equipped with reflectors or other aids to visibility prescribed or authorized by the California Public Utilities Commission, or the Commissioner may require the encroachment to be relocated at the sole expense of the permittee.
- (p) When requested in writing, the Commissioner may consider waiving the location requirements in this section. No waiver shall be implemented without review and approval in writing from the Commissioner.

#### 12304      **Design**

- (a) The permittee is responsible for the design of the encroachment to be installed within the right-of-way.
- (b) For encroachments that will be accepted for maintenance by the Department, the Department must review and approve the plans and specifications for the work before any permit may be issued.
- (c) Minimum cover requirements
  - (1) The minimum cover over any pipe or conduit installed under any highway must be thirty inches (30") of material measured vertically from the existing or proposed flow line of the nearest gutter to the top of the pipe or conduit.
  - (2) If a gutter flow line is not established as described in the preceding subdivision, the minimum cover over any pipe or conduit installed under any highway must be thirty inches (30") of material measured from the surface of the nearest outermost edge of the traveled way to the top of the pipe or conduit.
  - (3) In parkways and sidewalks where there are existing curbs and gutters, or where curbs and gutters are under construction, utilities may maintain a minimum sixteen inches (16") of cover starting one foot (1') back of the curb line.
  - (4) The Commissioner may permit the installation of pipes or conduits at lesser depths than specified in this section, where the required cover cannot be provided or where the Commissioner determines that special construction techniques will be employed that will preclude the need for greater depth and will produce a more beneficial installation.
- (d) For utility encroachments not maintained by the Department, the Department will be responsible only for the review and approval of the work with respect to location, construction materials, procedure, and time and manner of attachment or placement. All utility installations must meet recommended or required industry standards and must be made of durable material, relatively free of servicing and maintenance, and at a minimum meet the following standards and

regulations, including any later revisions thereto:

- (1) Electric power and communication standards must conform to the National Electrical Code.
- (2) Natural gas line standards must conform to the Federal Energy Regulatory Commission requirements.
- (3) Water lines must conform to the regulations of the State Water Resources Control Board, the Los Angeles Regional Water Quality Control Board, Division of Drinking Water or any other regulatory body with jurisdiction over the water lines. Water line construction must conform to standards and specifications of the American Water Works Association.
- (4) Sewer lines must conform to the regulations of the State Water Resources Control Board, the Los Angeles Regional Water Quality Control Board, Division of Drinking Water for separation requirements with water lines or any other regulatory body with jurisdiction over the sewer lines. Sewer line construction must conform to standards and specifications of the latest edition of the Standard Specifications for Public Works Construction (Greenbook).
- (5) Pressure pipelines must conform to the applicable section of American National Standards Institute (ANSI), Title 49 of the Code of Federal Regulations, Subtitle B, Parts 100–177, and other applicable industry standards.
- (6) Liquid petroleum pipeline must conform to the applicable recommended practice of the American Petroleum Institute for pipeline crossings under railroads and highways.
- (7) Any pipeline containing hazardous materials must conform to the rules and regulations of the U.S. Department of Transportation governing the transportation of such materials. No sewage or other contaminated material may drain into any storm drain structure or ditch.
- (8) Where required by other laws, the permittee must install and maintain all encroachment work in compliance with the requirements of the Uniform Building Code and other applicable codes and all other restrictions specified in this Chapter.

#### **12305 Traffic Control**

- (a) For all work in the right-of-way, the permittee must provide traffic control and is responsible for the design and placement of all traffic control devices, which must be employed in accordance with the California Manual on Uniform Traffic Control Devices (CAMUTCD).
- (b) The permittee may use the standard layout of traffic control plans in the CAMUTCD when the standard layout will suffice, given the site conditions, as determined by the Commissioner. Traffic control plans stamped by a civil or traffic engineer may be required for locations where the standard layout does not suffice for the site conditions. All safety devices must conform to the requirements of the CAMUTCD and the Vehicle Code, to the extent they are applicable.
- (c) No omission on the part of the Commissioner to specify in the permit which safety devices must

be provided by, or which preventive action is required of, the permittee will excuse the permittee from complying with all laws, regulations, and ordinances relating to the protection of persons or property under the circumstances. If the Commissioner finds that suitable safeguards are not being provided, the Commissioner may provide, maintain, and relocate such safety devices, or take such action, as the Commissioner deems necessary. The permittee is responsible for payment of all costs incurred by the Commissioner in providing suitable safeguards under this subdivision, in accordance with the fees schedule.

#### **12306      Excavation in the right-of-way**

- (a) Excavation in the right-of-way must meet all California Division of Occupational Safety and Health (OSHA) safety standards and regulations for distance maintained from traffic, shoring, confined space, and any other requirements that may apply. For excavations deeper than five feet (5'), the applicant must provide the inspector a copy of the shoring submittal a minimum of two (2) working days before excavation. A competent person, as defined by OSHA, must be present on site at all times when the shoring is in place during work hours.
- (b) In any trenching operation, the amount of open trench may not exceed one (1) day's work ahead of the trench work unless otherwise authorized in writing by the Commissioner. Excavations must remain shored until the trench is backfilled.
- (c) At the end of each workday, all open excavations within the right-of-way must be temporarily restored with traffic-rated steel plates or backfilled to a smooth, level grade, free of humps or depressions, satisfactory for public use and acceptable to the County. When backfilled, the temporary restoration surface within the traveled way, sidewalk, and driveways must be a minimum thickness of two inches (2") of temporary asphalt. When the speed limit of the roadway is greater than 35 mph, recessed non-skid steel plates, pinned and welded, are required to cover open excavations. Steel plates must not remain in the roadway for more than three (3) days. Any waiver for this requirement must be approved by the inspector in writing.
- (d) Utility services and other small diameter conduits may be bored beneath a paved surface. With justification in writing, other methods, including, but not limited to, tunneling, ramming, and directional drilling, may be approved in writing by the Commissioner.

#### **12307      Repair and restoration of the right-of-way**

- (a) Upon completion of the encroachment work authorized by a permit, the permittee must restore the right-of-way, including any bridge or other structure thereon, by replacing, repairing, or rebuilding it in accordance with the specifications or any special requirement, to at least its original condition before the encroachment work was commenced. After the work permitted is commenced, the work must be prosecuted with due diligence until completed, and in a manner not to unreasonably obstruct the highway.
- (b) In the event that the permittee fails to act promptly to repair or restore the right-of-way as required by this section or should the nature of any damage to the right-of-way require restoration before the permittee can be notified or can respond to notification, the

Commissioner may, at his or her option, make the necessary repair or restoration and invoice the permittee. The permittee must promptly reimburse the Commissioner for any costs so invoiced.

- (c) Road restoration, including, but not limited to, backfilling, compaction, and paving, must be in accordance with the County Road Standards, both as to material and method. Backfilling must commence within 48 hours after work in a trench is completed.
- (d) The permittee must remove all obstructions, materials, and debris upon the right-of-way and perform any other work necessary to restore the right-of-way to a safe and usable condition, as directed by the Commissioner.
- (e) Excavations on moratorium roads are subject to special repair procedures, including, but not limited to, full lane width overlay or Type II slurry treatment of the lane in which the excavation is made, or as determined at the time of permit issuance. In those instances where the permittee's excavation is within an area of highway to be reconstructed by the Department and the resurfacing of the excavation is an integral part of the general County improvement, the Commissioner may waive part of the pavement restoration.
- (f) Where excavation occurs within paved areas, the Commissioner may require temporary paving to be installed within 24 hours after the excavated area is backfilled.
- (g) The permittee must repair, at its sole cost and expense, any damage (including, but not limited to, subsidence, cracking, erosion, collapse, weakening, or loss of lateral support) to County streets, sidewalks, walks, curbs, gutters, drainage systems, trees, parkways, utility lines and systems, underground utility lines and systems, or sewer lines and systems, that results from any activity performed in connection with the encroachment work.
- (h) The permittee must repair or replace all road striping, road symbols, raised pavement markers, object markers, signs, traffic loop detectors, other physical attributes and markings in the right-of-way that are damaged, removed, or obliterated as a result of the permittee's work. The permittee must use thermoplastic paint for restriping unless otherwise approved in writing. At locations where striping for the stop bar is damaged or removed, the permittee must replace the stop bar by the end of the same day. Repairs and replacements must be equal to or better than the original improvements and must match them in quality, finish, and dimensions.
- (i) When any part of an excavation is less than thirty inches (30") from the edge of the pavement, pavement repair must extend to the edge of the pavement.
- (j) During the permit period, the permittee must continually maintain the permitted work, trenches, backfill, paving, and all other road facilities affected by the permit.
- (k) Shoulders must be restored and treated with like materials. Repairs made in the right-of-way must not interfere with the existing drainage or flow line in the area.

#### 12308 **Driveway approach permits**

- (a) Driveway approaches must be constructed of Portland cement concrete where a cement

concrete curb exists. All other driveway approaches may be constructed of asphalt concrete or other material approved in writing by the Commissioner.

- (b) A driveway approach in the right-of-way may not be used as a parking space. No driveway approach may be constructed or maintained where a fence, building, natural grade, or any other obstacle will prevent a vehicle from being stored entirely off the public right-of-way after entering such driveway approach, unless otherwise approved in writing by the Commissioner.
- (c) The minimum intervening distance between the side slopes or returns of adjacent driveway approaches serving the same lot or parcel must be as specified in the County Road Standards. In the case of adjacent driveway approaches serving two (2) adjoining lots or parcels, the intervening distance between the side slopes or returns must be at least two feet (2'); otherwise a common or continuous driveway approach will be required.

#### **12309 Storage of equipment and materials**

- (a) All equipment, supplies, and materials placed in the right-of-way must be located to maximize the safety of the area.
- (b) The permittee must provide and maintain such safety devices as are necessary to protect the public, including, but not limited to, lights, barricades, signs, and watchmen.
- (c) All materials excavated from trenching or other encroachment operations in the right-of-way must be piled compactly, kept trim, and maintained in such a manner as not to endanger either the workers or the general public and to cause as little inconvenience as possible to those using the right-of-way or adjacent property. In areas where proper storage of material cannot be maintained, the Commissioner may require that the permittee remove the material from the work area.
- (d) Equipment and materials must be removed from the right-of-way during non-working hours. If needed and where feasible, the permittee may submit a plan to identify the location for storage during non-work hours for written approval by the Commissioner. Equipment stored in the right-of-way must be kept a minimum of ten feet (10') from the edge of pavement and properly signed and delineated.

#### **12310 Emergency excavations**

- (a) Nothing in this Division prohibits any person who, under the authority of any statute, ordinance, or permit, maintains any pipe, cable, or conduit in any highway, from making an emergency excavation in the right-of-way, if necessary to do so to perform immediate work on that pipe, cable, or conduit for the preservation of life or property, if the person making such excavation provides notification to the County and applies for a permit as described by this section.
- (b) Emergency excavation work requires notification as follows:
  - (1) If the work requires a road closure or if any Department facility such as pavement or structure is severely compromised, notification must be given to the Department (at 805-

654-2055 during work hours, and at 805-650-4099 during non-working hours) within two (2) hours of assessing the work as an emergency.

- (c) If the work does not require a road closure or if no Department facilities are severely compromised, notification must be given to the Department (at (805) 654-2055 during work hours, and at 805-650-4099 during non-working hours) within four (4) hours of assessing the work as an emergency.
- (d) In all cases, an encroachment permit application must be submitted for review by the conclusion of business the working day following the emergency or be subject to the fees specified in section 12605.

### **12311 Survey monuments**

No person may remove or disturb a monument set for the purpose of preserving survey points, lines, or elevation without first obtaining written permission from the Commissioner. Replacement of a removed or disturbed monument must be done by a registered civil engineer or a licensed land surveyor at the expense of the permittee.

### **12312 Preservation of drainage**

If the encroachment work alters the established drainage, the permittee must provide for adequate drainage in a manner approved in writing by the Commissioner.

### **12313 Repaving by Department**

With the permittee's concurrence or as an emergency measure, the Commissioner may order the paving by Department forces of any excavation. The permittee must reimburse the Commissioner for any such paving in accordance with the fees schedule.

### **12314 Clean up after completion**

Immediately after completion of the work, the permittee must clean up and remove all materials, earth, and debris of any kind. When any pole, guy-stub, timber, post, or other similar structure is removed and not replaced, its entire length must be removed from the ground and the hole backfilled and compacted. If the permittee fails to complete any of the work required by this section within 24 hours after having been notified to do so by the Commissioner, the work may be done by the Commissioner and the permittee charged in accordance with the fees schedule.

### **12315 Underground existing utilities**

All lines for the transmission and distribution of standard television or audio signals must be placed underground in all instances, except where the applicant provides satisfactory proof of permission to use existing pole lines or where the Commissioner finds that the remoteness of the area or other conditions render underground installation impractical or infeasible.

**12316 No interference with others**

The Commissioner may impose other permit conditions as the Commissioner may find necessary to prevent interference with users of the highway and with holders of other permits.

**12317 Relocation, modification, or removal where right-of-way is improved**

- (a) If any County improvement to the right-of-way necessitates the relocation, modification, or removal of an encroachment, the permittee must relocate, modify, or remove the encroachment at the permittee's sole expense (except as provided by law).
- (b) The required modification, removal, or relocation of the encroachment must be completed within ninety (90) days of notification by the County unless exigencies dictate a shorter period for modification, removal, or relocation, and the permittee is so notified. The Commissioner may approve a longer period upon request, where the permittee can justify the longer period in writing.
- (c) When relocation is required, the Commissioner must give the permittee a written demand specifying that the encroachment must be relocated within the right-of-way to a satisfactory location provided by the Commissioner, within a reasonable time as determined by the Commissioner.
- (d) If the permittee fails to comply with such a demand, the Commissioner may relocate the encroachment at the expense of the permittee in accordance with the fees schedule. In determining what is a reasonable time under this section, the Commissioner must take into consideration the nature of the encroachment, the urgency of the need for its removal, the cost of its removal, the difficulty of its removal, the value of the intact property to the owner, and other facts peculiar to the particular situation.
- (e) The provisions of this section apply to all permittees, including public agencies and public utilities having authority to occupy County rights-of-way pursuant to a franchise, statutory franchise, or express provision of a state statute. However, this section does not apply to said public agencies and public utilities if such improvement of the highway right-of-way is required due to the construction of a state freeway.

**12318 Protect existing facilities**

- (a) The permittee must support and protect all wires, cables, pipes, conduits, conduit encasements, support structures of conduits, poles, above-ground equipment, and other apparatus, both aerial and underground, by a method satisfactory to the owner. The owner has the right to support or protect any of its facilities at the sole expense of the permittee. In case any of said wires, cables, pipes, conduits, poles, or apparatus should be damaged, they must be repaired at the permittee's expense.
- (b) The permittee must investigate and be aware of all existing facilities lawfully within the right-of-way that are within the limits of the permittee's project. The permittee must not interfere with, alter, remove, or encroach upon any existing public or private facility without the consent of its

owner. If it becomes necessary to relocate an existing facility, this must be done at the permittee's expense to the satisfaction of the facility's owner.

### **12319 Requirements for landscaping**

- (a) The applicant for a permit to plant trees or other plants in the right-of-way must show in the application or by sketch the proposed location and kind of plants to be planted. Selection of tree types must be made from the Department's recommended tree list. An application seeking to plant trees not in the recommended tree list must be supported with an arborist report detailing the impact of specific tree roots and canopy to the pavement and other road improvements in the area. After issuance of the permit, the permittee may not change either the location or plant kind without prior written approval of the Commissioner.
- (b) A permit is not required to plant or maintain a lawn or similar low-lying ground cover not prohibited by law within the right-of-way, subject to the following:
  - (1) The lawn or similar ground cover may not, without a permit, extend into the traveled way, sidewalk or any drainage ditch, gutter, or other improved facility.
  - (2) The planted area may be used by any member of the public for pedestrian or other lawful purposes.
  - (3) The Department may use the planted area for any purpose consistent with the Department's management of the right-of-way.
  - (4) The Department may issue a permit to any applicant to encroach on the planted area under this Division. Any permittee who damages the lawn or similar ground cover in the course of an authorized encroachment will be responsible for its replacement unless the permit specifically states otherwise.
- (c) A permit issued for the trimming of any tree must require that the shapeliness of the tree be preserved. A permit will be issued for the removal of a tree only when the applicant demonstrates a necessity for removal. When a tree is removed, the entire stump must be removed at least one foot (1') below the existing or proposed sub-grade unless otherwise specified in the permit, and the hole backfilled and compacted. All debris from trimming or removal must be removed from the site and the right-of-way restored to its former condition. The permittee is solely responsible for complying with state and federal law regarding protection of nesting birds and other species.
- (d) The Commissioner may refuse to issue a permit authorizing the planting of trees or other plants in the right-of-way when, in the Commissioner's opinion, the location, the nature of growth, or the kind of tree, shrub, or other plant will be deleterious to the public highway, will unduly disturb the right-of-way, or will in any way impede construction or maintenance of facilities.
- (e) No tree, hedge, shrub, or other planting may be planted or maintained in a right-of-way, including on any sidewalk or shoulder, in such a manner that impedes or obstructs the right-of-way, denies any person the use of the right-of-way, or impairs the sight distance for safe pedestrian or vehicular traffic.

- (f) The permittee must maintain all landscaping, structures, and other encroachments in a neat and orderly condition. If the encroachment is not so maintained, the Commissioner may direct the permittee to remove the encroachment and restore the right-of-way to its former condition at the expense of the permittee.

**12320 Permit for flag hole**

- (a) The Commissioner may grant a permit to drill a hole not exceeding four inches (4") in diameter in a public sidewalk or in that portion of a public highway not used for vehicular traffic for the purpose of inserting a flagpole therein upon which the flag of the United States, the flag of the State of California, or the flag of the County of Ventura is displayed.
- (b) When the flag hole is no longer being used to support the flagpole of the flag of the United States, State of California, or County of Ventura, the permittee or the permittee's successor or assign must completely plug the hole with wood, metal, plastic, or concrete, so that the plug remains level with the surrounding surface or must refill the hole and restore the right-of-way to a condition equivalent to that in which it was before the drilling of the hole.

**12321 Other standards**

- (a) For any installation of equipment on an existing pole, the applicant must provide evidence that the pole has adequate structural capacity to carry the additional loading from the proposed installation.
- (b) All construction and operation activities must comply with the noise regulations of Division 6, Chapter 2, Article 11 (beginning with section 6299-1) of the Ventura County Ordinance Code.
- (c) All equipment cabinets visible to the public must be treated with a graffiti-resistant coating. All graffiti on any component of the equipment must be removed promptly in accordance with County regulations. The operator must remove any graffiti on any facility in the public right-of-way within forty-eight (48) hours of receiving notification of the graffiti's existence.
- (d) When testing high-pressure utility pipe, emergency measures must be in place before testing.

## CHAPTER 4 – APPLICATION REQUIREMENTS

### 12400 Applicant requirements

Every permit issued under this Division for activity, work, or placement of an encroachment in, along, on, over, across, or under the right-of-way is granted subject to the right of the County or of any other person entitled thereto to use that part of the right-of-way for any purpose for which it may lawfully be used. Proof of the applicant's right to use the highway for the purposes set forth in the application must be filed with the Commissioner. The Commissioner will issue permits in a manner consistent with applicable laws regarding the physical use and occupation of the right-of-way. Permits for temporary encroachments in the right-of-way may be granted to any person, upon the applicant's showing proof of compliance with the insurance requirements in [section 12401\(c\)\(5\)](#). Applications for permanent encroachments will be considered only from applicants who have met all the conditions and requirements of this Chapter and who possess and provide valid and current evidence of one of the following grants of authority to occupy the public right-of-way:

- (a) A certificate of public convenience and necessity issued by the California Public Utilities Commission;
- (b) A valid franchise agreement with the County or an exemption from the requirements of a franchise agreement;
- (c) Proof that the applicant holds a statutory franchise or other statutory authority for occupying the right-of-way; or
- (d) Proof that the applicant is the owner of the underlying property or that owner's authorized designee.

### 12401 Permit application

- (a) A permit application is required for each location of encroachment work, except where the applicant holds an administrative permit issued under [section 12500](#), or is exempt from permitting requirements under [section 12202](#). Applications for permits regarding wireless telecommunications facilities are also subject to the requirements of Chapter 8.
- (b) By applying for, and, where payment is required, paying or agreeing to pay for a permit, the permittee agrees to be bound by all the terms and conditions set forth in the permit and in this Division.
- (c) All requests to perform encroachment work wholly or partially in the right-of-way must be made in writing on forms provided by the Department, must be signed by the applicant or a duly authorized representative of the applicant, and must be submitted as required to the Department, accompanied by the items listed below, as applicable:
  - (1) A plan or sketch showing all of the following:
    - (A) The location of the proposed encroachment work in reference to the right-of-way and

the edge of the pavement;

- (B) The dimensions, specifications, and characteristics of the proposed encroachment, any excavation, and any road improvement, including, but not limited to, any sidewalk, curb, gutter, major vegetation, driveway approaches, and berms; and
  - (C) An accurate location of the proposed encroachment, with reference to the nearest intersection or other permanent landmark; the street address of the location of the proposed encroachment; and the type, depth, and length of all proposed excavations, equipment and appurtenances.
- (2) A cross section of the roadway with all existing and proposed utilities and encroachments shown.
  - (3) A traffic control plan that complies with the California Manual on Uniform Traffic Control Devices as necessary for the proposed encroachment. The Commissioner may ask for site-specific traffic control plans prepared by a licensed civil engineer when deemed necessary.
  - (4) An estimate of the cost to repair damage to the highway caused by the proposed excavation and encroachment.
  - (5) Certificates of insurance and endorsements with the County of Ventura as a certificate holder. The permittee must maintain in full force and effect throughout the term of the permit an adequate insurance policy or policies, including motor vehicle insurance, which fully protects the County from claims and suits for personal injury, death, and property damage. The insurance must be issued to afford coverage for the permittee and in the amount or amounts as determined by County Risk Management.
  - (6) License and contact information of any contractor who will be performing work in the right-of-way. All work in the right-of-way must be performed by the applicant, the applicant's staff or a licensed contractor whose license authorizes the type of work proposed unless approved in writing by the Commissioner.
  - (7) Where the proposed encroachment includes any new water or sewer service, a letter from the water or sewer service provider indicating that it will serve the proposed connection.
  - (8) Any additional information deemed necessary by the Director to evaluate the application and the effects of the proposed encroachment on the existing infrastructure and design of the public right-of-way, including, but not limited to, material specifications, the method of construction, and copies of other required permits.
- (d) If, in the opinion of the Director, the work proposed to be done requires scaled plans or the setting of stakes, or both, the Director may require the application be accompanied by the necessary plans, which plans must be prepared by a competent engineer in sufficient detail to review the impact of the encroachment on the right-of-way and to construct the encroachment. The Commissioner may waive the requirement for scaled plans.

- (e) Each application must specify the estimated time necessary to complete the encroachment work, including the start date and completion date of the proposed encroachment work, based on a reasonable estimate of the time required to complete the work.
- (f) The Director may make such changes or additions in any permit application as in the Commissioner's opinion are necessary for the protection of the highways, for the prevention of undue interference with traffic, and for the safety of persons using such highways, including but not limited to changes to the location, depth, dimensions, character, and number of excavations, changes to any encroachments built or placed, and changes to other permits issued under this Division.

**12402 Noncompliance**

- (a) Where the applicant is regulated by the California Public Utilities Commission, or otherwise has a franchise or statutory right to encroach on the right-of-way, and compliance with this Division is not feasible or would effectively prohibit the applicant from providing or installing a service or facility that the applicant otherwise has a legal right to provide or install, then the permittee must provide evidence as requested by the Commissioner sufficient to support a finding of infeasibility and demonstrating the need for any proposed deviation.
- (b) Where topographical or traffic conditions are such that a deviation from the provisions of section 12305(a) is necessary for the promotion of traffic safety, and the Commissioner so finds, the Commissioner may permit such a deviation to the extent which he or she finds necessary.

**12403 Agreement to relocate**

Every permittee must, as a condition for every permit, agree in writing that if the encroachment for which a permit is issued interferes with the future surface use of the highway by the general public, then the applicant and the applicant's successors or assigns will at the expense of the applicant, successors or assigns remove or relocate the encroachment to a location satisfactory to the Commissioner. This section does not apply in any case when the applicant has an easement superior to the right-of-way easement at the time of application and furnishes evidence when required of such superior easement.

**12404 Encroachment is not a hazard**

The Director may require that evidence be submitted with the application to satisfy the Commissioner that the proposed structure or encroachment will not create a foreseeable hazard of any kind.

## CHAPTER 5 – PERMIT ISSUANCE

### 12500 Administrative permits

- (a) The Director may issue an administrative permit, renewable annually, to any city, special district organized under state law, or public utility for the purpose of accessing and making repairs to its existing facilities, pole work not including installation or replacement of a pole, or tree trimming and landscaping work in the right-of-way, subject to the permittee's compliance with all applicable provisions of this Division. The Commissioner may revoke any administrative permit, including any excavation rider permit, pole rider permit, and administrative tree trimming and landscape permit, if the permittee fails to comply with any of the provisions of this Division.
- (1) Applicants for administrative permits must maintain a billing account with the Department for monthly billing of permit fees.
  - (2) All work performed under an administrative permit must comply with all provisions of this section and meet all of the following requirements, except where the permittee has also been issued an excavation rider permit or a pole rider permit as allowed by subdivisions (b), (c), and (d) of this section, in which case the provisions of that permit will govern the excavation or pole replacement or installation authorized by that permit:
    - (A) Work must not include excavation;
    - (B) Work must not include a pole replacement;
    - (C) Work duration must be less than eight (8) hours and must occur during regular business hours; and
    - (D) Work must be performed on a roadway where the speed limit is either: twenty-five miles per hour (25 mph) or less posted or observed, where two-way traffic can be maintained at all times; or, if the speed limit is greater than twenty-five miles per hour (25 mph), when traffic control will not impact the traveled way or any bike lane.
- (b) A permittee holding an administrative permit must apply for a separate excavation rider permit or pole rider permit each time the permittee seeks to make an excavation or to replace or install a pole in the right-of-way.
- (c) The Director may issue an excavation rider permit to the holder of an administrative permit only for the purpose of authorizing either:
- (1) A utility trench not exceeding two feet (2') in width and sixty feet (60') in length, dug at a right angle to the centerline of the road, or
  - (2) An excavation not exceeding thirty (30) square feet in area.
- (d) The Director may issue a pole rider permit to the holder of an administrative permit only for the

purpose of authorizing the replacement of an existing pole or the installation of a new pole.

- (e) Administrative tree trimming and landscape permits, renewable annually, may be issued to any city, homeowner association, community facilities district, or assessment district, subject to compliance with all applicable provisions of this Division.

### **12501 Additional Requirements**

The Director may establish additional requirements for the work to be done under the permit, including, but not limited to, equipment to be used, type of backfill compaction, paving, traffic regulations, hours of work, flagmen, lights, inspection, and other similar requirements. The Director also may require whatever advance notice the Director deems proper for requests for inspection. The Commissioner may add these requirements and conditions by stamp, or attachments to the permit, or both, and when added the requirements and conditions become an integral part of the permit.

Permittees are required to coordinate the timing of work to avoid impacts to other permitted work or work scheduled by the Department in the same area. When there is conflict between work scheduled by the Department, the Commissioner, at the Commissioner's sole discretion, may reschedule the work.

### **12502 Long-term and permanent encroachments by adjacent property owners**

- (a) The Director has the authority to remove or require removal of all unpermitted encroachments in the right-of-way, regardless of how long the encroachment has been in place.
- (b) The Director may issue a permit for any previously unpermitted encroachment that the Director determines is a long-term encroachment. The Director may also issue a permit for any permanent encroachment.
- (c) Where a property owner has been issued a permit for a long-term encroachment or a permanent encroachment, as authorized by this section, the permit must require the property owner to, and the property owner must, record the encroachment permit, including the condition described in section 12201, with the County Recorder as an encumbrance on the parcel. Notwithstanding any provision of this Division to the contrary, a long-term encroachment permit and its conditions will run with the parcel and be binding on any successor owner of that parcel. If a permittee fails to record a long-term encroachment permit or permanent encroachment permit as required by this subdivision, that permit will automatically terminate upon any conveyance of the parcel.
- (d) A "long-term encroachment" means an encroachment immediately adjoining that parcel, where the encroachment has been in existence for so long, and is of such a nature, that the encroachment is not dangerous to users of the right-of-way.
- (e) A "permanent encroachment" means an encroachment, other than a utility, installed by the owner of either the servient parcel or the nearest adjacent parcel at the location of the encroachment, that is intended to remain in the right-of-way for an indefinite period.

### **12503 Relocation of existing improvements**

The Director may require the permittee to make proper arrangements for, and bear the cost of, the relocation of any structure, publicly owned facility, tree, or shrub, where such relocation is made necessary by the proposed work for which a permit is issued. The Director may elect to do the necessary relocation at the permittee's expense.

### **12504 Permits non-transferable**

Except as described in section 12502, a permit issued under the authority of this Division is personal to the permittee and nontransferable. Any attempt to transfer a permit voids the permit. Applicants as described in section 12400 are exempt from this requirement when the ownership of the utility is transferred to another applicant that meets the same requirements of section 12400.

### **12505 Findings for approval of the permit**

Before issuing any encroachment permit under this Division, the Director must make all of the following findings:

- (a) The proposed use is permitted in the right-of-way and complies with all applicable provisions of this Division unless waived by the Commissioner;
- (b) The proposed use will not constitute unreasonable interference with the use of the public right-of-way or existing improvements or utilities thereon;
- (c) The proposed encroachment will not physically or visually interfere with any vehicular, bicycle, or pedestrian use of streets, intersections, bicycle lanes, driveways, sidewalks, or walkways;
- (d) The proposed encroachment will comply with the Americans with Disabilities Act; and
- (e) The findings required by section 12400, where that section applies.

### **12506 Timeline for permit issuance**

Permits will be issued in accordance with the performance goals established by the Department's Permits section, as shown on the Department's website and otherwise available from the Department. Permits involving small repairs and minor work will be issued within two (2) to three (3) days of receiving a completed application. Permits with larger excavation or complicated work will be issued within two (2) to three (3) weeks of receiving a completed application. Issuance of permits for wireless telecommunication facilities will comply with federal law and the Permit Streamlining Act.

### **12507 Denial of permits**

The Director may refuse to issue a permit under the following conditions:

- (a) When the Director finds that it is not in the best interest of the general public to do so.
- (b) When the Director finds it will be detrimental to public health, safety, or welfare.
- (c) When the permit application or the proposed encroachment does not meet the requirements of

this Division.

- (d) When the Director finds the applicant has three (3) or more violations of permit conditions in the last twelve (12) months.

#### **12508 Revocation of permits**

- (a) The Director may revoke a permit for any of the following reasons:
  - (1) When permitted work is not started within the time specified, is not completed within the time specified, or is started but not diligently prosecuted to completion.
  - (2) The permittee's failure to comply with all of the requirements of the permit.
  - (3) The permittee's failure to comply with all of the requirements of this Division.
  - (4) The permittee's failure to adequately provide for the public safety.
  - (5) For other good cause.
- (b) Action taken under this section does not constitute a bar to criminal proceedings provided for in this Division.

#### **12509 Decision of the Director**

If the application is approved, the Director must issue a permit immediately after all fees are paid and all requirements in this Division have been met, including, but not limited to, all of the findings required by section 12505.

- (a) If the application is denied, the Director must issue a written denial to the applicant containing an explanation of the reasons for such denial, citing to substantial evidence contained in the written administrative record.
- (b) The decision of the Director will become final fifteen (15) days following the date of the decision unless an appeal to the Commissioner is filed.

## CHAPTER 6 – PERMIT FEES AND DEPOSITS

### 12600 General

Each applicant must pay an encroachment permit fee to cover the Department's direct and indirect costs for review of the application, issuance of the permit, and inspection of the encroachment work. The Commissioner may increase the fees when required as needed to meet all the Department's direct and indirect costs. Each fee rate must be established by the fees schedule.

### 12601 Issuance, inspection, and engineering review fees

Permit fees include an issuance fee, an inspection fee, and, when an engineering review of the encroachment work is required, an engineering review fee. All persons, except as otherwise provided in this Chapter, must pay the permit fees and all other costs and charges as established for the work described in this Division.

### 12602 Deposit of fees

When required, the Director may collect permit fees and charges for potential repairs under the provisions of this Division and deposit them in respective funds from which the corresponding disbursements can be made.

### 12603 Fee exemptions

(a) The following entities are exempt from paying the issuance fee:

- (1) The United States;
- (2) The State of California;
- (3) All departments and agencies of the County;
- (4) All municipal corporations;
- (5) All school districts; and
- (6) All special districts organized under state law.

(b) The Director may issue a permit without fees in any of the following circumstances:

- (1) Where the work to be done has been requested by the County in connection with proposed public works, when no inspection of the encroachment work is required.
- (2) Where the permit is for a long-term encroachment, as described in section 12502.
- (3) Where the work is done by entities listed in section 12603(a) for routine maintenance in the roadway, where there is no excavation in the roadway.

- (4) When a special event is hosted by a non-profit organization.
- (c) Permits issued for the following are exempt from permit fees:
  - (1) Sidewalk repairs;
  - (2) Tree or root removal associated with sidewalk repair;
  - (3) Tree or root removal necessitated by tree or root damage to existing improvements;
  - (4) Removal of dying or dead trees; and
  - (5) Trimming of trees.

**12604 Public welfare fee waiver**

If the Director determines that the waiver of any part of the fees is necessary to promote the safety and public welfare, the Director may in specific instances waive all fees and deposits.

**12605 Schedule of fees; double fees**

- (a) The fees and charges to be charged under this Division will be those in the fees schedule.
- (b) Where any person, without having first obtained a permit, does any act for which this Division requires a permit, the specified permit fees are doubled. Payment of such double fee does not relieve any person from any requirement of this Division or from any penalty prescribed by this Division.

**12606 Permittee to pay for all costs**

- (a) The permittee is liable for and must pay for all the County's costs related to the permit, including but not limited to the following:
  - (1) The permit issuance fee if that has not otherwise been paid;
  - (2) Engineering, which includes design review, survey, and tests;
  - (3) The cost of any inspection, transportation, or test made;
  - (4) The cost of repairing or restoring the highways and all appurtenant facilities to the same or equal condition that they were in before the permitted activities;
  - (5) The cost of furnishing or maintaining any traffic-control light, barricade, or warning device;
  - (6) The cost of alteration, removal, replacement, or repair to traffic signals and devices; the cost of removal of temporary or permanent traffic stripes; and any other expense for traffic control;

- (7) The cost of removing or remedying any hazardous condition;
  - (8) The cost of tree trimming; and
  - (9) Any other cost to the Department caused by the permittee's activity.
- (b) Whenever, in the provisions of this Division, any costs are to be charged to any permittee and no other method for the calculation of such costs is specified, such costs are the actual costs, including overhead and depreciation in accordance with current practice in charging for work performed for the public, and as defined in the current fees schedule.

**12607 Deposit required**

- (a) Unless exempted from this requirement by law or by the Director, each applicant must, before obtaining a permit, deposit with the Director a sum of money sufficient to reimburse the Department in accordance with the fees schedule for restoring the right-of-way to its original condition, or for correcting any condition occasioned by or arising out of any failure by the permittee to comply with any condition of the permit. Where the size and nature of the project warrant, the Director may require an additional deposit to indemnify and reimburse the Department for work done by or for the County in correcting traffic hazards, unsafe conditions, or any emergency condition occasioned by or arising out of the doing of any act under the permit.
- (b) A billing deposit may be in the form of a general deposit to be maintained as security for all the permits issued to an applicant. If an applicant maintains a general cash deposit, it will be with the understanding that the applicant will pay all invoices sent to the applicant by the Commissioner for work described in this Division.

**12608 Return of deposit**

Within ninety (90) days after all permitted work has been satisfactorily completed and all permit conditions fulfilled, the Director will refund to the permittee the remainder of any deposit.

**12609 Billing**

- (a) The Director may invoice the permittee for or deduct from the deposit or security made or maintained by the permittee all fees and costs chargeable under this Division.
- (b) If the permittee does not pay an invoice within thirty (30) days after it has been sent and the deposit or security is insufficient to pay the amount due, the Commissioner may enforce collection by legal means.
- (c) The Director may elect not to issue further permits to the permittee and may hold any deposits, guarantees, or bonds of the permittee as long as any invoice remains unpaid.

## **CHAPTER 7 – MAINTENANCE AND REPAIR OF SIDEWALKS**

### **12700 Superintendent of Streets**

The Director may exercise all powers conferred on the Superintendent of Streets by Streets and Highways Code section 5610 et seq.

### **12701 Responsibilities**

The maintenance and repair of sidewalks and the determination and collection of assessments for the cost and expenses of said maintenance and repair may be done in accordance with this section and the procedure provided in Streets and Highways Code section 5610 et seq.

- (a) The owners of lots or portions of lots adjacent to, fronting on, or underlying any portion of sidewalk including parking strips, sidewalks, curbs, and gutters, and persons in possession of such lots by virtue of any permit or right, must repair and maintain such sidewalk and pay the costs and expenses of any repair or maintenance.
- (b) For the purposes of this section, maintenance and repair of sidewalks includes, but is not limited to, maintenance and repair of surfaces, including grinding, removal, and replacement of the sidewalk; removal of weeds and debris; supervision and maintenance of signs; tree root pruning and installing root barriers; and trimming of shrubs and ground cover, so that the sidewalk area will remain in a condition that is not dangerous to property or to persons using the sidewalk in a reasonable manner and will be in a condition that will not interfere with the public convenience in the use of the sidewalk.
- (c) Notwithstanding the provisions of section 5614 of the Streets and Highways Code, the Superintendent of Streets may, in his or her discretion, and for sufficient cause, extend the period within which required maintenance and repair of sidewalk areas must commence by a period not to exceed ninety (90) days from the time the notice required by section 5614 is given.

### **12702 Liability for injuries to the public**

Any person required by section 12701 to maintain and repair the sidewalk area owes a duty to members of the public to keep and maintain the sidewalk area in a safe and non-dangerous condition. If, as a result of the failure of any person to maintain the sidewalk area in a safe and non-dangerous condition as required by section 12701, any person suffers injury or damages to person or property, the owner is liable to such person for the resulting damages or injury.

## **CHAPTER 8 – WIRELESS TELECOMMUNICATION FACILITIES-PUBLIC RIGHT-OF-WAY (“WTF–PROW Ordinance”)**

### **12800 Purpose**

The purpose and intent of this Chapter are to:

- (a) Provide a uniform and comprehensive set of standards for the development, siting, installation, and operation of wireless telecommunications facilities within the limited space of the available public right-of-way in the unincorporated areas of Ventura County, consistent with the Telecommunications Act of 1996 (Pub.L. No. 104-104 (1966) 110 Stat. 56) and federal law governing the development of wireless telecommunications facilities.
- (b) Encourage open competition and the provision of advanced and high-quality telecommunications services on the widest possible basis to the businesses, institutions, and residents of the County of Ventura.
- (c) Encourage economic development; preserve aesthetic and other community values; and prevent proliferation of above-ground wireless telecommunications equipment by encouraging collocation of wireless telecommunications facilities.
- (d) Ensure all wireless telecommunications facilities are developed in a way that minimizes potential adverse effects upon the public welfare and visual impacts upon the community through careful design, siting, landscaping, screening, and camouflage techniques so that they may be aesthetically and architecturally compatible with the existing natural or developed setting.
- (e) Protect and promote the public health, safety, convenience, and general welfare of the residents of the unincorporated areas of the County; and protect historical resources, property values, and the aesthetic appearance of the County.

### **12801 Construction of this Chapter**

All provisions of this Division apply to the placement, construction, reconstruction, or repair of any wireless telecommunications facility within the right-of-way and any permit or application for a permit for same, except as otherwise provided by this Division. In the event of any conflict between any provision of this Division and a provision of this Chapter, the provision of this Chapter prevails.

### **12802 Definitions**

The following definitions govern construction of this Chapter unless the particular provision or the context clearly requires otherwise. Words used in the present tense include the future tense, and words used in the singular include the plural, unless the particular provision or the context clearly requires otherwise.

- (a) **Antenna.** One or more rods, poles, panels, discs, dishes, or similar devices used to transmit, receive, or transmit and receive radio frequency signals or electromagnetic signals, including but not limited to an omni-directional antenna (whip), directional antenna (panel), and parabolic

antenna (dish), but excluding any pole or antenna mount.

- (b) Antenna mount. A structure attached to a pole, to which an antenna is attached.
- (c) Collocate, collocation. To install a wireless telecommunications facility as a small cell, cluster, or single installation.
- (d) Facility. Any property in the right-of-way used to provide service by any utility.
- (e) Installation type. The nature of the installation:
  - (1) Small cell. Installation of a wireless telecommunications facility with a maximum total volume of eight and one-fifth (8.2) cubic feet and one (1) pole-mounted antenna measuring no more than four feet (4') in height on an existing pole, whether as a single or cluster installation.
  - (2) Cluster. Installation of a wireless telecommunications facility on an existing pole, on which one or more wireless telecommunications facilities already exists.
  - (3) Single. Installation of a wireless telecommunications facility on an existing pole, on which no wireless telecommunications facility yet exists.
  - (4) New. Installation of a wireless telecommunications facility on a new pole installed by the permittee. A pole installed to replace a pre-existing pole in the same location is not a new installation, unless the replacement pole is of a larger diameter or taller than, the pole it replaces. The new pole may not be a lattice tower.
- (f) Residential area. The location of an installation, where one or more properties either wholly or partially within the notification zone is zoned for residential use.
- (g) Substantial increase in size. A proposed installation of a wireless telecommunications facility with any of the following characteristics:
  - (1) The proposed installation would increase the height of the existing pole by more than ten percent (10%), or by the height of one (1) additional antenna array;
  - (2) The proposed installation includes three (3) or more new antennas or will raise the total number of antennas to seven (7) or more;
  - (3) The proposed installation includes any antenna that is more than six inches (6") longer than the longest antenna at that location;
  - (4) The mounting of the proposed antenna would require the installation of an equipment vault, would require more than one new equipment cabinet, or would raise the total number of equipment cabinets to five (5) or more; or
  - (5) The mounting of the proposed antenna would involve excavation outside the right-of-way and any access or utility easements currently related to the site.

- (h) Wireless telecommunications facility. An unstaffed facility that transmits, receives, or transmits and receives radio or electromagnetic communication signals for one or more of the following: cellular phones, personal communication services (PCS), pagers, wireless internet (Wi-Fi), wireless systems, wireless utility meter systems, specialized mobile radio services (SMR), enhanced specialized mobile radio services (ESMR), or similar services that currently exist or that may be developed in the future. The facility may include one or more antennas, repeaters, radio transmitters, cables, accessory equipment items, equipment enclosures, air vents, poles, antenna mounts, air-conditioning units, fans, fire-suppression systems, emergency back-up generators or other back-up power sources, parking area, and other accessory development. This definition does not include Amateur Radio Stations as defined by the Federal Communications Commission in Part 97 of the Commission's Rules, TV transmission facilities, or radio transmission facilities.
- (i) Wireless telecommunications facility boundary. A series of points, each of which lies ten feet (10') from the edge of excavation or from the edge of the existing facility if there is no excavation, within the road right-of-way, measured at a right angle to the edge of excavation or to the edge of the existing facility. No part of the boundary may lie less than five feet (5') from the edge of pavement, measured at a right angle to the centerline of the roadway.

### **12803 Exemptions**

The following uses are not subject to the provisions of this Chapter except as provided in this section:

- (a) Temporary emergency use. Any applicant seeking installation of a wireless telecommunications facility needed during an emergency must apply to the Director for a temporary emergency-use permit no later than the business day following the installation. The Director has the authority to approve a temporary emergency-use permit without regard for the other provisions of this Chapter. A wireless telecommunications facility installed for temporary emergency use must be removed immediately after the conclusion of the emergency. The Director may remove, at the permittee's expense, any such facility that has not been removed immediately after the conclusion of the emergency.
- (b) Wireless telecommunications facilities located entirely on private property whose power supply extends into the public right-of-way. Such facilities may be subject to regulation by one or more other County agencies, including but not limited to the Planning Division of the Resource Management Agency.

### **12804 Permittee requirements**

The Director will issue permits in a manner consistent with applicable laws regarding the physical use and occupation of the public right-of-way. Applications will be considered only from applicants who have met all the conditions and requirements of this Chapter and who possess and provide valid and current evidence of one of the following grants of authority to occupy the public right-of-way:

- (a) A certificate of public convenience and necessity issued by the California Public Utilities Commission;
- (b) A state video-service franchise issued by the California Public Utilities Commission pursuant to

Public Utilities Code section 5885;

- (c) A license to provide personal wireless service issued by the Federal Communications Commission;
- (d) A telephone corporation encroachment permit agreement form signed by the applicant; or
- (e) A valid utility franchise issued by the County.

## 12805 **Permit standards**

The Director must use the following standards to evaluate each application for a permit:

- (a) Interference with right-of-way. No part of a wireless telecommunications facility may alter vehicular circulation or parking within the right-of-way or impede vehicular or pedestrian access or visibility along the right-of-way. No permittee may locate or maintain a wireless telecommunications facility in a manner that causes unreasonable interference. The permittee must move any facility, upon request of the Director, at the permittee's cost, if the Director finds the facility to interfere with the right-of-way as described in this subdivision.
- (b) Location. All wireless telecommunications facilities must be designed and located to eliminate or substantially reduce their visual and aesthetic impacts on the surrounding right-of-way and public vantage points. To accomplish this goal, all wireless telecommunications facilities must be located and designed as follows:
  - (1) Facility.
    - (A) All wireless telecommunications facilities must be located and installed as follows, in descending order of preference:
      1. As a small cell installation.
      2. As a cluster installation, in a manner that does not result in a substantial increase in size;
      3. As a single installation, in a manner that does not result in a substantial increase in size;
      4. As a cluster or single installation, in a manner that results in a substantial increase in size;
      5. As a new installation, without removing existing trees or reducing the size of any landscaping, and without modifying any existing County-maintained infrastructure within the right-of-way;
      6. As a new installation, within the parkway and requiring only minor alterations to existing landscaping or County-maintained infrastructure within the right-of-way.
    - (B) No wireless telecommunications facility pole, antenna, equipment, or related

infrastructure may be located in a center median unless there are existing streetlight poles or traffic signal standards in the median.

- (C) In a residential area, no wireless telecommunications facility may be located within the right-of-way within a three-hundred-foot (300') radius of any other wireless telecommunications facility within the right-of-way, except in the case of a cluster installation that does not result in a substantial increase in size. In no case may more than four (4) antennas be clustered on a single pole in a residential area.
  - (D) No wireless telecommunications facility may be located in the right-of-way where there presently are no overhead utility facilities, streetlight poles, or traffic signal standards unless the California Public Utilities Commission has authorized the applicant to install such facilities and the applicant has demonstrated that no other viable option exists.
  - (E) In areas where there are no existing overhead facilities except for streetlight poles or traffic-signal standards, the wireless telecommunications facility must match the existing streetlight poles or traffic-signal standards or be installed on an existing streetlight pole or traffic signal standard.
- (2) Equipment. All equipment accessory structures must be located as close to the right-of-way boundary as possible and must meet the minimum set-back of ten feet (10') from the edge of the pavement where feasible. No above-ground equipment may be placed within five feet (5') of the edge of pavement. New equipment may be placed adjacent to existing equipment, when placed in conjunction with installation on an existing pole or replacement of an existing pole at the same location. All equipment must be located as follows, in descending order of preference:
- (A) Mounted on the subject pole;
  - (B) In an existing ground-mounted (grade-level) equipment cabinet, with no expansion or additional cabinets to be added;
  - (C) Within a below-grade equipment vault;
  - (D) Within a new equipment enclosure mounted at grade. Any applicant proposing to mount equipment in a new grade-level enclosure must provide a written explanation describing why the above alternatives are not feasible.
- (c) Height.
- (1) No antenna on an existing County traffic signal standard may exceed the height of the traffic signal standard by more than five feet (5'), unless the Director finds that a greater height would promote the aesthetic or safety concerns of the County.
  - (2) No new installation may exceed by more than five feet (5') the average height of existing utility poles in the vicinity of the new pole, unless the applicant demonstrates that an

otherwise applicable law or regulation requires a greater height, in which case the installation may not exceed the minimum height achievable by application of that law or regulation. In case of uncertainty, the Director has the authority to determine the average height of existing utility poles in the vicinity.

- (3) Maximum height of the facility is that imposed by the Ventura County General Plan or applicable Area Plan.
- (4) All equipment located above any sidewalk or pedestrian or bicycle path must have a minimum vertical clearance of eight feet (8') for public safety reasons.

(d) Design.

- (1) Any new installation must be disguised to resemble a utility pole or streetlight to the maximum extent possible. All antennas, where feasible, must be screened behind a cylindrical screening device. All antennas and screening devices must be painted or finished to match the pole.
- (2) Panel antennas must be mounted to the pole or to an antenna mount so that they extend no more than six inches (6") horizontally from the pole or from the antenna mount, if used, and no antenna mount may extend more than five feet (5') horizontally from the pole, except where greater extension is required to comply with health and safety regulations.
- (3) Antenna installations on traffic-signal standards must be placed in a manner so that the size, appearance, and function of signal will not be considerably altered.
- (4) All screening elements, including, but not limited to, streetlights, decorative elements, signs, or clocks must be well maintained and kept in good working condition. Any screening element that appears to perform a function, including, but not limited to, lights and clocks, must actually perform the apparent function.
- (5) Equipment located above the surface grade in the right-of-way, including, but not limited to, that on streetlight or traffic-signal standards, must consist of small equipment components that are compatible in structure, scale, function, and proportion to the streetlights and traffic signals on which they are mounted. Equipment must be painted or otherwise finished to be visually compatible with lighting and signal equipment. Reflective markers must be placed on all above-ground equipment. Underground vaults must be rated for vehicular loading and employ flush-to-grade access portals.
- (6) Installations on County-owned or -controlled streetlights or other public facilities will be subject to all applicable administrative and rental fees as defined in the fee schedule.
- (7) Antennas clustered with an existing wireless telecommunications facility must use similar screening methods and camouflage design techniques and be mounted in the same manner as the approved or existing wireless telecommunications facility.

- (8) For any single or new installation, the applicant must prepare an analysis that identifies reasonable alternative locations and potential cluster installations in the right-of-way (if any exist). The County may obtain, from a Professional Engineer registered in the State of California, an independent verification of any radio frequency analysis required by this section at the applicant's expense.
  - (9) Facilities must be designed to be as visually unobtrusive as possible. All antennas, mast arms, equipment, and other facilities must be sized to minimize visual clutter. Facilities must be sited to avoid or minimize obstruction of views from public vantage points and otherwise minimize the negative aesthetic impacts to the right-of-way. Whenever possible, all equipment must have non-reflective and neutral-colored surfaces.
  - (10) Wireless telecommunications facilities may not be artificially lighted, except as required for security purposes, in which case, motion-sensor lighting must be used.
  - (11) Any pole over forty feet (40') in height must allow for collocation by other future or concurrent applicants for the installation of wireless telecommunications facilities. The applicant must demonstrate that the design of the pole and antenna support and the placement of ground mounted wireless telecommunications facilities will accommodate one or more other wireless telecommunications facilities. The owner of the pole and antenna support must certify that the antenna support is available for use by another future or concurrent applicant for the installation of wireless telecommunications facilities on a commercially reasonable and nondiscriminatory basis.
- (e) Other requirements.
- (1) Evidence of infeasibility. For any installation, if compliance with this section is not feasible or would effectively prohibit the applicant from providing services, then permittee must provide a radio frequency service analysis and other evidence as requested by the Director sufficient to support a finding that compliance with this section is not feasible or would effectively prohibit the applicant from providing services and demonstrating the need for any proposed alternative.
  - (2) Street trees. The County may require that the applicant plant and maintain trees within the right-of-way, adjacent to the wireless telecommunications facility, if the applicant's equipment occupies space at street level. All trees planted in the right-of-way must be selected from the list provided by the Director for recommended species and must be installed and maintained by an independent landscape contractor, to the satisfaction of the Director.
  - (3) Permittee must install and maintain all wireless telecommunications facilities in compliance with the requirements of the Uniform Building Code, National Electrical Code, County noise ordinances, other applicable codes, and all other restrictions specified in this Chapter.
- (f) Signs.

- (1) There may be no advertising or signage on any portion of a wireless telecommunications facility, except that required by this Chapter or other law, or as otherwise may be required by the County.
- (2) Each wireless telecommunications facility site must be identified by a permanent plaque or marker, installed in a manner that can be reasonably viewed and understood by a person standing at that location, that is no larger than four inches (4") by six inches (6") and that clearly states the mailing address, e-mail address, and twenty-four (24) hour local or toll-free telephone number for reaching a live contact person, for both the permittee and the agent responsible for the maintenance of the wireless telecommunications facility. Emergency contact information must be included for immediate response. Such information must be updated in the event of a change in the permittee, the agent responsible for maintenance of the wireless telecommunications facility, or both.

### **12806 Performance standards**

All wireless telecommunications facilities in the public right-of-way will be subject to the following performance standards:

- (a) **Lighting.** Wireless telecommunications facilities may not be lighted or marked unless required by the Federal Communications Commission, the Federal Aviation Administration, the California Public Utilities Commission, or other applicable federal or state law.
- (b) **Licensing.** The applicant or operator must file, receive, and maintain all necessary licenses and registrations from the Federal Communications Commission, the California Public Utilities Commission, and any other applicable regulatory body before beginning operation of the wireless telecommunications facility. The applicant must supply the Director with evidence of these licenses and registrations before approval of a final inspection. If any required license is ever revoked, the operator must inform the Director of the revocation within ten (10) days of receiving notice of such revocation. Revocation of a required license is grounds for revocation of the permit, as described in section 12816.
- (c) **Other permits required.** The applicant must obtain all permits required by other County agencies or ordinances, if any, including, but not limited to, a building permit and an electrical permit, and must build in accordance with the approved plans.
- (d) **Services and installations.** All services and installations required for the wireless telecommunications facility must be identified in the primary permit application package and permitted concurrently. All utilities must be installed in a joint trench unless otherwise approved by the Director.
- (e) **Maintenance.** Wireless telecommunications facilities must be maintained by the permittee in a manner that implements all of the applicable requirements of this Chapter.
- (f) **Graffiti.** All equipment cabinets visible to the public must be treated with a graffiti resistant coating. All graffiti on any component of the wireless telecommunications facility must be removed promptly in accordance with County regulations. The operator must remove any graffiti

on any facility in the public right-of-way within forty-eight (48) hours of receiving notification of the graffiti's existence.

- (g) Supervision of Director. All work and entry upon, over, under, or along the public right-of-way performed in connection with the installation, maintenance, or removal of a wireless telecommunications facility must be conducted under the supervision of the Director; must be performed in a good and skillful manner; must comply with all applicable County rules, regulations, and standards; and must not permanently adversely alter the right-of-way.
- (h) Noise. All construction and operation activities must comply with the noise regulations of Division 6, Chapter 2, Article 11 (beginning with section 6299-1) of the Ventura County Ordinance Code.
- (i) Use of backup power sources. The use of a diesel generator or other backup power source must comply with Division 6, Chapter 2, Article 11 (beginning with section 6299-1) of the Ventura County Ordinance Code. The use of a backup power source must be limited to actual power-outage events and any operation necessary for testing and maintenance. Permanent or continuous use of backup power sources is prohibited.
- (j) Structural capacity. For any proposed installation on an existing pole, the applicant must provide evidence that the pole has adequate structural capacity to carry the additional loading from the proposed installation.
- (k) Radiofrequency report. Upon request of the Director, within forty-five (45) days of commencement of operations, the applicant for the wireless communications facility must provide (at the applicant's expense) the Director with a report, prepared by a qualified expert, certifying that the actual Radiofrequency radiation (RFR) and Electromagnetic field (EMF) emissions of the operating facility, measured at the property line or nearest point of public access and in the direction of maximum radiation from each antenna, fall within the applicable Federal Communications Commission standards for safe human exposure to such forms of non-ionizing electromagnetic radiation when operating at full strength and capacity. This report must include emissions from all facilities, if any, located on the same pole. The applicant must subsequently provide such report to the Director, upon request of the Director, within forty-five (45) days following any change in design, number of antennas, operation, or other significant change in circumstances, or when such a report is otherwise required by the Federal Communications Commission, to the satisfaction of the Director, who may consult an outside consultant at the permittee's expense.
- (l) Interference. No wireless telecommunications facility may interfere with any emergency communication system at any time.
- (m) Compliance with regulations. Each wireless telecommunications facility must comply with all local, state, and federal regulatory requirements.
- (n) Landscaping. The permittee must maintain, in good and healthy condition, at all times, all landscaping attendant to the wireless telecommunications facility, including landscaping of the public right-of-way. Any dead or dying landscaping must be promptly replaced or rehabilitated.

- (o) Repair of public right-of-way. The permittee must repair, at its sole cost and expense, any damage (including, but not limited to, subsidence, cracking, erosion, collapse, weakening, or loss of lateral support) to County streets, sidewalks, walks, curbs, gutters, trees, parkways, utility lines and systems, underground utility lines and systems, or sewer lines and systems, that results from any activity performed in connection with the permittee's installation, operation, or maintenance of a wireless telecommunications facility. In the event the permittee fails to complete said repair within the number of days stated on a written notice from the Director, the Director may cause said repair to be completed and invoice the permittee for all costs incurred by the County as a result of such repair. The permittee must promptly pay any costs so invoiced.
- (p) Replacement of equipment. During the term of a permit, a permittee may not replace equipment that is part of a permitted wireless telecommunications facility unless all of the following conditions are met:
  - (1) The replacement equipment would be of a similar size and appearance as the previously permitted equipment;
  - (2) The permittee must apply for a miscellaneous construction or use permit from the Director before replacing or adding any equipment;
  - (3) The Director has notified the permittee in writing that the Director has determined that the proposed replacement equipment complies with the requirements of this Chapter; and
  - (4) The permittee has obtained all required permits.
- (q) Indemnification. Every permittee must defend, indemnify, and hold harmless the County of Ventura and its Board of Supervisors, officers, and employees, to the maximum extent permitted by law, from any loss or liability or damage, including expenses and costs, for property damage, personal injury, or death sustained by any person as a result of the installation, use, or maintenance of the permittee's facility that is subject to this Chapter.
- (r) Insurance. The permittee must obtain, pay for, and maintain, in full force and effect throughout the term of the permit, an insurance policy or policies that fully protects the County from claims and suits for personal injury, death, and property damage. The insurance must be issued in the amount or amounts as County Risk Management determines. The insurance must afford coverage for the permittee or wireless provider's use, operation, activity, vehicles, equipment, facility, representatives, agents, and employees, as determined by Risk Management.
- (s) Modification, removal, or relocation. The permittee must modify, remove, or relocate its wireless telecommunications facility, or portion thereof, without cost or expense to the County, if and when made necessary by any abandonment, relinquishment, change of grade, alignment or width of any street, sidewalk or other public facility, including the construction, maintenance, or operation of any other County underground or above-ground facilities including, but not limited to, sewers, storm drains, conduits, gas, water, electric or other utility systems, or pipes owned by County or any other public agency. Said modification, removal, or relocation of a wireless telecommunications facility must be completed within ninety (90) days of notification by the County unless exigencies dictate a shorter period for removal or relocation. In the event a

wireless telecommunications facility is not modified, removed, or relocated within said period of time, the County may cause the same to be done at the sole expense of the permittee. Further, in the event of an emergency, the County may modify, remove, or relocate wireless telecommunications facilities without prior notice to applicant provided applicant is notified within a reasonable period thereafter.

- (t) The Director may develop and from time-to-time modify an application form embodying the minimum requirements specified above.

### **12807 Application requirements**

All applications for wireless telecommunications facilities to be located wholly or partly within the public right-of-way must be submitted to the Director and be accompanied by the items listed under the applicable category below.

- (a) Basic review. For any small cell installation and for any collocation in a non-residential area that will not result in a substantial increase in size, all of the following:
  - (1) A traffic control plan that complies with the California Manual on Uniform Traffic Control Devices, as necessary for installation of the wireless telecommunications facility.
  - (2) Certificates of insurance and endorsements with the County as an additional certificate holder, evidencing the required coverage as stated in section 12806.
  - (3) Evidence of all necessary licenses and registrations from the Federal Communications Commission, the California Public Utilities Commission, and any other applicable regulatory body. If any such license or registration is not available at the time of application, it must be provided before approval of the final inspection.
  - (4) Evidence of all necessary building and other permits required for the installation. If any such permit is not available at the time of application, it must be provided before approval of the final inspection.
  - (5) If required by section 12805, an analysis that identifies reasonable alternative locations and potential cluster installations in the right-of-way.
- (b) Intermediate review. For any collocation in a residential area that will not result in a substantial increase in size, except a small cell installation, all of the items required under subdivision (a) and all of the following:
  - (1) An accurate visual impact analysis showing the maximum silhouette, view shed analysis, color and finish palette, and proposed screening for the wireless telecommunications facility. This analysis must include a detailed photograph of the exact location of all proposed wireless telecommunications facility antennas, equipment, and related infrastructure within the public right-of-way. The analysis must also include photo simulations and other information as necessary to determine visual impact of the wireless telecommunications facility. A map depicting where the photos were taken must also be

included. The analysis must include a written description of efforts to blend the wireless telecommunications facility with the surrounding area.

- (2) Additional photographs must also be provided to document the existing setting of the wireless telecommunications facility within one hundred fifty feet (150') to the north, south, east, and west of the proposed facility with a corresponding location map key documenting where each photograph was taken.
  - (3) A report prepared by a qualified, independent engineer, certifying that the RFR and EMF emissions of the proposed wireless telecommunications facility will not exceed the applicable Federal Communications Commission standards for safe human exposure to such forms of non-ionizing electromagnetic radiation when operating at full strength and capacity. This report must include emissions from all existing and proposed facilities at the same site.
- (c) Full review. For any new installation or any collocation that will result in a substantial increase in size, all of the items required under subdivisions (a) and (b) and all of the following:
- (1) A scaled site plan depicting an area within a three hundred foot (300') radius from the center of the proposed wireless telecommunications facility and showing the proposed wireless telecommunications facility antennas, equipment, related infrastructure, all existing utilities, the right-of-way boundary, wireless telecommunications facility boundary, road improvements, all ingress and egress to nearby streets, major vegetation, required grading, existing and proposed elevations, easements, and other significant features of the site.
  - (2) A fully dimensioned and scaled plan that illustrates the following information within one hundred fifty feet (150') of the proposed wireless telecommunications facility:
    - (A) The distances between all new and existing wireless telecommunications equipment and all other infrastructure within the public right-of-way such as, but not limited to, other existing telecommunications equipment, utility poles, light poles, fire hydrants, bus stops, traffic signals, and above- and below-ground utility equipment vaults;
    - (B) The location and distance from the wireless telecommunications facility of adjoining property lines and easement boundaries abutting the public right-of-way, curbs, driveway approaches, easements, walls, existing utility substructures, and parkway trees;
    - (C) The immediate adjacent land uses and building locations;
    - (D) The location of all existing sidewalks and parkway landscape planters;
    - (E) All conduit locations between the wireless telecommunications facility antennas and the infrastructure necessary to operate the antennas.

- (3) A report prepared by a qualified, independent engineer, certifying that the RFR and EMF emissions of the proposed wireless telecommunications facility will not exceed the applicable Federal Communications Commission standards for safe human exposure to such forms of non-ionizing electromagnetic radiation when operating at full strength and capacity. This report must include emissions from all existing and proposed facilities at the same site.
- (4) For any proposed installation requiring evidence of infeasibility under the location standards of section 12805(e)(1), the evidence of infeasibility required by that subdivision.
- (d) For any installation type, any additional information deemed necessary by the Director to evaluate the proposed wireless telecommunications facility and the effect of its construction on the existing infrastructure and design of the public right-of-way.
- (e) The following table summarizes the requirements for each of the categories in subdivisions (a) through (d) above. In the event of any conflict between the language in subdivisions (a) through (d) and the following table, subdivisions (a) through (d) control.

	Traffic control plan	Scaled site plan	Fully dimensioned plan	Visual impact analysis	RFR & EMF report	Certificate of insurance	Licenses/registration/ certification from FCC & CPUC	Building /other permits	Authorization to hire expert	Alternative locations analysis	Evidence of infeasibility as needed	Additional information as needed
<b>New Installation (Full Review)</b>	■	■	■	■	■	■	■	■	■	■	■	■
<b>Small Cell Installation (Basic Review)</b>	■					■	■	■	■	■	■	■
<b>Collocation</b>												
<b>With substantial increase in size (Full Review)</b>	■	■	■	■	■	■	■	■	■	■	■	■
<b>Without substantial increase in size</b>												
Residential area (Intermediate Review)	■			■	■	■	■	■	■	■	■	■
Non-residential area (Basic Review)	■					■	■	■	■	■	■	■

**12808 Permit term, renewal, and expiration**

- (a) Unless otherwise required by Government Code section 65964(b), and as that section may be later amended, a permit issued under this Chapter will be valid for ten (10) years from its date of issuance.
- (b) Before the expiration of the time period set forth in the permit, the permittee may apply for an extension of the permit for a term of ten (10) years. Any such extension will be subject to review of the Director considering the following factors: (1) conformance with all conditions of approval of the permit as it was originally issued; (2) operation of the facility in its intended manner; and (3) conformance with all applicable laws, regulations, and standards, including those relating to

radio frequency emissions and toxic or hazardous materials. The permittee must apply for any extension of the permit no later than ninety (90) calendar days before the permit's date of expiration and must pay applicable fees on or before the permit's date of expiration.

- (c) All permit applications, whether for a new permit or any extension, including extensions of permits for wireless telecommunications facilities constructed before the effective date of this Chapter, must comply with all application requirements set forth in this Chapter.
- (d) Extension of any permit issued before the effective date of this Chapter will be approved only if the subject site is in full compliance with the provisions of this Chapter.
- (e) If the permit for an existing wireless telecommunications facility has expired, applications for cluster installations at that site, as well as after-the-fact extensions of permits for the existing wireless telecommunications facilities, will be subject to all standards and procedures for installation of wireless telecommunications facilities in the public right-of-way, as set forth in this Chapter.

#### **12809 Community notification**

- (a) Pre-approval notification. For any new installation, any collocation in a residential area, or any collocation that will result in a substantial increase in size, except a small cell installation or any installation in the coastal zone, the applicant must notify the community as follows:
  - (1) After an application for a permit has been submitted and determined to be complete, and within fourteen (14) calendar days after being notified that a location is preliminarily approved, the applicant, at the applicant's sole cost and expense, must provide a written notification to all of the following:
    - (A) The owners of all properties either wholly or partially within the notification zone, as identified in the last equalized county assessment roll;
    - (B) The municipal advisory council and all neighborhood or homeowners' associations for properties either wholly or partially within the notification zone, as identified in the data maintained in the Geographic Information System of the Resource Management Agency;
    - (C) Any party that has requested notice of applications for the installation of such facilities; and
    - (D) Any additional person or party the County specifies, based upon the specific location and character of the proposed wireless telecommunications facility.
  - (2) No wireless telecommunications facility encroachment permit may be issued until after the applicant has observed a thirty (30) calendar-day notification period. This period begins when the applicant has sent the last of the written notifications required by this section.
  - (3) The written notification required by this subdivision must include all of the following:

- (A) A brief description of the proposed wireless telecommunications facility;
  - (B) A map indicating the proposed installation site;
  - (C) Information describing the wireless telecommunications facility encroachment permit review process;
  - (D) The name and telephone number of a person who, on behalf of the applicant, will be available during business hours to respond to questions from the public; and
  - (E) A notice that, during the notification period, interested persons may contact the Department to review documents related to the proposed location of the facility and express any comments or concerns related to the application.
- (4) On the same date as the applicant sends the first of the written notifications required by this subdivision, the applicant must post, at the site where the wireless telecommunications facility is proposed for installation, a notification that complies with all of the following conditions:
- (A) The notification must measure at least three feet (3') in height and four feet (4') in width and be manufactured of a durable, weather-proof material;
  - (B) The notification must include all of the following, with all lettering consisting of type no smaller than 48 points, printed in a durable, weather-proof manner:
    - 1. A brief description of the proposed wireless telecommunications facility;
    - 2. A map indicating the proposed installation site;
    - 3. Information describing the wireless telecommunications facility encroachment permit review process;
    - 4. The name and telephone number of a person who, on behalf of the applicant, will be available during business hours to respond to questions from the public; and
    - 5. A notice that, during the notification period, interested persons may contact the Department to review documents related to the proposed location of the facility and express any comments or concerns related to the application.
  - (C) The applicant must remove the posted notification at the completion of the notification period.
- (5) At the completion of the notification period and before the wireless telecommunications facility encroachment permit may be issued, the applicant must submit to the Director a summary of all comments received and the full text of all comments received.

- (b) Pre-construction notification. For all installation types, the applicant must notify the community as follows:
- (1) After issuance of the wireless telecommunications facility encroachment permit and no later than two (2) weeks before installation, the applicant, at the applicant's sole cost and expense, must provide written notification to all of the following:
    - (A) The owners of all properties either wholly or partially within the notification zone;
    - (B) The municipal advisory council and all neighborhood or homeowners' associations for properties either wholly or partially within the notification zone;
    - (C) Any party that has requested notice of applications for the installation of such facilities; and
    - (D) Any additional person or party the County specifies, based upon the specific location and character of the proposed wireless telecommunications facility.
  - (2) The written notification required by this subdivision must include all of the following:
    - (A) A brief description of the proposed wireless telecommunications facility;
    - (B) A map indicating the proposed installation site;
    - (C) The name and telephone number of a person who, on behalf of the applicant, will be available during business hours to respond to questions from the public; and
    - (D) The dates on which the installation is expected to begin and end.
  - (3) On the same date as the applicant sends the first of the written notifications required by this subdivision, the applicant must post, at the site where the wireless telecommunications facility is to be installed, a notification that complies with all of the following conditions:
    - (A) The notification must measure at least three feet (3') in height and four feet (4') in width and be manufactured of a durable, weather-proof material;
    - (B) The notification must include all of the following, with all lettering consisting of type no smaller than 48 points, printed in a durable, weather-proof manner:
      1. A brief description of the proposed wireless telecommunications facility;
      2. A map indicating the proposed installation site;
      3. The name and telephone number of a person who, on behalf of the applicant, will be available during business hours to respond to questions from the public; and

4. The dates on which the installation is expected to begin and end.
- (C) The applicant must remove the posted notification when installation of the wireless telecommunications facility is completed.

#### **12810 Expert review**

For any new installation, any collocation in a residential area except a small cell installation, or any collocation in a non-residential area that will result in a substantial increase in the size of the pole, the applicant must provide the County with written authorization for the County to hire an independent, qualified consultant to evaluate technical and other aspects of the application. This authorization must include a written agreement by the applicant to advance or promptly reimburse the County for all reasonable costs associated with such consultation. Such consultation is intended to be a site-specific review of the technical aspects of the proposed wireless telecommunications facility and may address any or all of the requirements of this Chapter. All costs associated with the expert review process must be paid by the applicant.

#### **12811 Findings for approval of the permit**

Before issuing any encroachment permit under this Chapter, the Director must make all of the following findings:

- (a) All notification requirements have been met;
- (b) The proposed use is permitted in the public right-of-way and complies with all applicable provisions of this Chapter;
- (c) The proposed wireless telecommunications facility will not interfere with the use of the public right-of-way or existing improvements or utilities thereon;
- (d) The proposed wireless telecommunications facility will not physically or visually interfere with any or all vehicular, bicycle, or pedestrian use of streets, intersections, bicycle lanes, driveways, sidewalks, or walkways;
- (e) The proposed wireless telecommunications facility and its site will comply with the Americans with Disabilities Act; and
- (f) If the proposed wireless telecommunications facility will not be installed in compliance with section 12805, that installation in compliance with section 12805 is not feasible or would effectively prohibit the applicant from providing services.

#### **12812 Decision of the Director**

- (a) If the application is approved, the Director will notify the applicant of the approval and issue the permit immediately after all fees are paid.
  - (1) For any small cell installation and for any collocation in a non-residential area that will not result in a substantial increase in size, the Director must issue a permit when all

requirements in this Chapter have been met, including, but not limited to, all of the findings required by [section 12811](#).

- (2) For all other installation types, the Director may hold a public hearing, at the applicant's cost and expense, for the purpose of receiving public comments relevant to the findings required by [section 12811](#) related to such facility.
- (b) If the application is denied, the Director must issue a written denial to the applicant containing an explanation of reasons for such denial, citing to substantial evidence contained in the written administrative record.
  - (c) The decision of the Director will become final fifteen (15) days following the date of the decision unless an appeal to the Commissioner is filed.

### **12813 Appeal of decision**

- (a) A decision by the Director to grant or deny an application for a wireless telecommunications facility encroachment permit may be appealed by the applicant or the owner of any property within the notification zone only if the decision is not in compliance with this Chapter.
- (b) An appeal of the Director's decision must be filed with the Commissioner within ten (10) days from the date of the Director's decision.
- (c) The appeal must be in the form of a written notice signed by the appealing party, must state clearly and in detail how the Director's decision does not comply with this Chapter, and must be accompanied by the following, as applicable:
  - (1) In the case of an appeal filed by the applicant, a copy of the application for a permit as filed with the Director and a written description of any other items submitted in support of the application.
  - (2) In the case of an appeal filed by the owner of property within the notification zone, evidence showing that the appellant owns property within the notification zone.
- (d) The Commissioner must review the notice of appeal for sufficiency, as follows.
  - (1) If the notice of appeal complies with this section, the Commissioner must, within fifteen (15) days after the notice is filed, set a date for a hearing and notify the appellant, the applicant, and the Director of that date.
  - (2) If the notice of appeal fails to comply with this section, the Commissioner must summarily deny the appeal without hearing. The Commissioner's decision to summarily deny an appeal must be in writing, must explain the reasons for the decision, and must cite to substantial evidence contained in the written administrative record. The Commissioner must notify the appellant, the applicant, and the Director of the denial within fifteen (15) days after the notice of appeal is filed. The Commissioner's decision to summarily deny an appeal is final.

- (e) At the hearing, the appealing party must establish to the satisfaction of the Commissioner that the decision of the Director is not in compliance with this Chapter. The Director may present the grounds for the decision being appealed.
- (f) The Commissioner must issue his or her decision on the appeal within fifteen (15) days after the hearing. The decision must be in writing, must explain the reasons for the decision, and must cite to substantial evidence contained in the written administrative record.
- (g) The decision of the Commissioner is final and may not be appealed.

#### **12814 Permit completion**

At the end of construction, use of the wireless telecommunications facility may not commence unless and until the Director has approved the as-built work as being compliant with all laws, ordinances, regulations, and conditions of the wireless telecommunications facility encroachment permit.

#### **12815 Nonconforming facilities**

Any wireless telecommunications facility that is lawfully constructed, erected, or approved before November 9, 2013, in compliance with all applicable laws, and which facility does not conform to the requirements of this Chapter will be accepted and allowed as a legal nonconforming facility for a 10-year period beginning on the original effective date of this Chapter. Legal nonconforming facilities must comply at all times with the laws, ordinances, and regulations in effect at the time the application was determined to be complete, and any applicable federal and state laws as they may be amended or enacted and must at all times comply with any conditions of approval. At the end of the 10-year period or prior to improving the facility, if earlier, the permittee must apply for a permit to bring the facility to existing standards.

#### **12816 Violations and revocation**

- (a) The Director may, subject first to ninety (90) days' written notice and an opportunity to cure, revoke, modify, or suspend any permit on any one or more of the following grounds:
  - (1) The permit was obtained by fraud or misrepresentation;
  - (2) The permit is being, or within the recent past has been, exercised contrary to the terms or conditions of the permit's approval or in violation of any statute, ordinance, law or regulation;
  - (3) The permittee has suffered the revocation of a license required for operation of a wireless telecommunications facility, as described in section 12806; or
  - (4) The use permitted by the permit is being, or within the recent past has been, exercised so as to be detrimental to the public health, welfare, or safety, or so as to constitute a public nuisance.
- (b) In the event of revocation and, if requested in writing by the Director, the permittee must remove

its wireless telecommunications facility at its own expense and restore all property to the condition that existed prior to the installation of the wireless telecommunications facility, as required by section 12817, or as otherwise required by the Director.

**12817 Abandonment or discontinuation of use**

- (a) Any permittee or operator who intends to or does abandon or discontinue use of a wireless telecommunications facility for any reason must do all of the following:
- (1) Except where discontinuance is due to the Director's termination of a permit as described in section 12816, on or before the sixtieth (60th) day before the final day of use, notify the Director in writing, specifying the date of the intended abandonment or discontinuance and the applicable encroachment permit number; and
  - (2) Within one hundred and eighty (180) days of the abandonment or discontinuance, at the permittee's sole expense, remove any wireless telecommunications facility and all its associated equipment in compliance with all applicable health and safety requirements and restore the site to the condition that existed before installation of the wireless telecommunications facility, or as otherwise required by the Director.
- (b) At any time after one hundred and eighty (180) days following the abandonment or discontinuation, without further notice to the permittee, the Director may remove and store the wireless telecommunications facility, repair any damage to the premises caused by such removal, and restore the premises as the Director deems appropriate. The permittee, and all prior owners and operators of the wireless telecommunications facility, will be jointly and severally liable for the entire cost of such removal, repair, restoration, and storage, and must remit payment to the County promptly after demand for payment is made. The County may, instead of storing the removed wireless telecommunications facility, convert it to the County's use, sell it, or dispose of it in any manner deemed appropriate by the County.

**12818 Safety and monitoring standards**

- (a) At all times, the permittee must ensure that its wireless telecommunications facilities comply with the most current regulatory and operational standards including, but not limited to, radio frequency emissions standards adopted by the Federal Communications Commission and antenna height standards adopted by the Federal Aviation Administration. The permittee must obtain and maintain the most current information from the Federal Communications Commission regarding allowable radio frequency emissions and all other applicable regulations and standards.
- (b) The permittee must file with the Director a written compliance report that complies with the following:
- (1) The report must contain a statement whether the permittee is or is not in compliance with the above regulations and standards;

- (2) The report must advise the Director of any regulatory changes that require modifications to the wireless telecommunications facilities and of the measures taken by the permittee to comply with such regulatory changes; and
- (3) The report must be filed:
  - (A) Before the commencement of the installation of the wireless telecommunications facility;
  - (B) Upon any significant increase in the effective radiated power.
  - (C) At any time upon request of the Director, in the Director's sole discretion.
- (c) The compliance reports will be subject to review and approval by the County. At the Director's sole discretion, a qualified independent registered engineer, selected by the County, may be retained to review said reports for compliance with Federal Communications Commission regulations. All costs associated with the County's review of these reports will be the responsibility of the permittee, which must promptly reimburse the County for the cost of the review upon demand.

**12819 Notification of change of ownership or operator**

The permittee may not assign or transfer any right or interest in its wireless telecommunications facility encroachment permit without the prior written consent of the Director. Any such assignment or transfer, without prior written consent of the Director, will invalidate the permit and extinguish all rights or interests granted or created by the permit.

**12820 Prospectivity and applicability**

The Board of Supervisors intends that the requirements of this Chapter be prospective and apply only to permits or extensions issued on or after the original effective date of this Chapter, as follows:

- (a) New permits. This Chapter applies to any permit issued on or after November 9, 2013, regardless of when application was first made. Any pending application for an encroachment permit pursuant to this Division for the placement or installation of a wireless telecommunications facility, that is not issued before November 9, 2013, is subject to the requirements of this Chapter.
- (b) Extensions. This Chapter applies to any permit extension issued on or after November 9, 2013, regardless of when the initial permit was issued and regardless of when the application for an extension was made. No permit issued under any other provision of this Division will be renewed or extended upon its expiration unless the subject wireless telecommunications facility meets all requirements of this Chapter. Any pending application for a renewal or extension of an encroachment permit pursuant to this Division for the placement or installation of a wireless telecommunications facility, that is not final on November 9, 2013, is subject to the requirements of this Chapter.
- (c) Notwithstanding the other subdivisions of this section, any legal nonconforming facility governed by section 12815 may continue in operation for the period described in section 12815.

## **CHAPTER 9 – TRANSPORTATION PERMITS**

### **12900 Issuance of transportation permits**

The Director may issue a transportation permit under the provisions of this Chapter.

### **12901 Eligibility**

To be eligible for a transportation permit, a person must be knowledgeable of and in compliance with all applicable California conditions, requirements, and laws for the use of the County roadway system and in particular movement of extralegal loads.

### **12902 No interference with public utility or County property**

It is unlawful for any person moving an extralegal load on, over, or across any County highway, to damage, collide with, or otherwise interfere in any manner whatsoever with, any property of any public utility or County property.

### **12903 Exceeding permitted capacity**

- (a) It is unlawful for any permittee to move an extralegal load along or across any highway, when the height, width, or weight of said load exceeds the height, width, or weight stated in the permit.
- (b) When any person has violated subdivision (a) of this section and caused property damage, the Director may revoke any transportation permit previously issued to that person and withhold from that person any other transportation permit until the person produces evidence satisfactory to the Director that each additional load to be moved complies with all dimensions and weights as shown on the application.

### **12904 Movement in convoy**

It is unlawful for any person to move an extralegal load in a convoy unless that person has been issued a transportation permit authorizing movement in convoy. A convoy is a group of three (3) or more vehicles.

### **12905 Possession of permit**

Every person issued a transportation permit must carry the permit in the vehicle to which it refers at all times while the vehicle is on any County highway.

### **12906 Reducible loads**

A transportation permit is void and is automatically revoked if:

- (a) The permitted dimensions and weight of the permitted load can be reduced to legal limits by repositioning or practical removal of a part, portion, or unit; or
- (b) The permitted load can be repositioned to stay within legal axle or axle group weights authorized

in Vehicle Code section 35551 or 35551.5.

- (c) The permitted load consists of over height items transported on a conventional flat deck trailer, unless the deck is needed to support a long fragile load or a long load that would cause unbalanced axle group weights.

#### **12907 Combined loads**

- (a) Other items may be moved with a permitted extralegal load, provided the other items, when combined with the permitted load, do not cause the total load to exceed the dimensions of the vehicle or permitted load, whichever is greater, and the loaded vehicle is of legal axle and gross weights.
- (b) A self-propelled vehicle bearing an extralegal load may tow another vehicle that does not itself require a transportation permit, only if all of the following conditions are met:
  - (1) The towed vehicle does not transfer weight to the towing vehicle;
  - (2) The combined length of the two (2) vehicles does not exceed sixty-five feet (65');
  - (3) The towing vehicle is not close-coupled to the towed vehicle; and
  - (4) The gross weight of the towed vehicles does not exceed twenty thousand (20,000) pounds.

#### **12908 Moving in inclement weather**

- (a) It is unlawful for any person, regardless of the existence of a transportation permit, to move an extralegal load under any of the following circumstances:
  - (1) In snow, fog, rain, or wind when visibility is restricted to less than one thousand feet (1,000');
  - (2) When road surfaces are hazardous due to rain, ice, snow, or frost;
  - (3) When use of tire chains is mandatory;
  - (4) When the extralegal load consists of manufactured housing; or
  - (5) The velocity of the wind is such that it causes the vehicle being towed to whip or swerve from side-to-side or fail to follow substantially in the path of the towing vehicle.
- (b) Any accident occurring during the wind or weather conditions described in this section will constitute prima facie evidence of a violation of this section.

#### **12909 Verification required**

- (a) It is unlawful for any person to move any extralegal load, regardless of the existence of a transportation permit, without first having checked the load and vehicle and verifying that it is

within the limits as set forth on the permit and, at all times during the movement, verifying that the route actually being traveled is the route authorized by the permit.

- (b) The vehicle and load authorized under any transportation permit are subject to inspection at any time by representatives of the County.

#### **12910 Permittee agreement and liabilities**

- (a) Acceptance of a transportation permit constitutes an agreement by the permittee to observe and comply with all of the general and specific conditions on the face of the permit and its accompaniments and constitutes an acknowledgment that the permittee has read and understands the provisions of this Chapter.
- (b) The permittee of a transportation permit is responsible for all liability for injury to, or death of, any person, or damage to any property that may occur through any act or omission of either the permittee or the Department arising out of the issuance or use of the permit. In the event any claim, suit, or action is brought against the County or any of its officers, employees, or agents, by reason of or in connection with any act or omission by the permittee in connection with the permitted activity, the permittee must defend, indemnify, and hold harmless the County and its officers, employees, and agents from such claim, suit, or action.

#### **12911 Accident reporting**

The permittee must report to the Department any accident occurring while operating under a transportation permit that is required to be reported to the Department of Motor Vehicles under Vehicle Code section 16000. A copy of the permit and accident report must be mailed to Public Works Agency Transportation Department, 800 S. Victoria Avenue, Ventura, CA 93009 #1620, within thirty (30) days of the date of the accident. Failure to mail these copies will be considered cause for revocation of any outstanding permit and denial of future permits.

#### **12912 Repair of damage**

The permittee is responsible for any damage to highway appurtenances or structures resulting from the permittee's movement of an extralegal load. Cost of any repair done under the direction of the Commissioner must be borne by the permittee. In the event of damage to County facilities such as bridges, traffic signals, light standards, or other appurtenances, the permittee must file a written report with the Department within seventy-two (72) hours after such damage has been done. Failure to make this report will be considered cause for revocation of any outstanding permit and denial of future permits, pending a satisfactory arrangement with the Department for repair or replacement of the damaged facility.

#### **12913 May require planking or other methods**

When so required by the Commissioner, a permittee must place under each dolly or wheel used in moving a building or structure, or under each wheel of a vehicle, boards or planks of adequate width and strength to carry the load without being broken, to serve as a runway for such dolly or wheel during

such moving along or across any portion of any highway that has a surface other than natural soil. The moving contractor must prevent such dolly or wheel from ever revolving on or resting on such surface except upon such board, plank, or runway.

**12914 Requires relocation permit**

In all cases where the Ventura County Building Code requires a relocation permit for the movement of any building or structure, the Director may not grant a transportation permit to allow movement of that building or structure until the applicant furnishes to the Director evidence that such a relocation permit has been issued for that building or structure.

**12915 Overweight approval**

The Director may not issue a transportation permit to move any load when the weight of the load, plus the weight of the vehicle or other equipment, exceeds the weight permitted by Vehicle Code sections 35500–35796, except that if it appears to the Commissioner that the size, shape, or physical characteristics of the load or portion of the load to be moved makes it impossible or impracticable to keep within such weight limits, the Director may issue a permit to move a load on a vehicle, every wheel of which is equipped with pneumatic tires, where the Director has determined that such movement will not cause injury to the highways, bridges, or appurtenances.

**12916 Permit affix on load**

When authorized by a transportation permit, or any permit issued by California Department of Transportation (Caltrans), to move an extralegal load, the permittee must comply with all generally applicable laws regulating travel over a public highway and all posted signs or notices that restrict or control travel on a public highway, including but not limited to those that limit the speed or direction of travel, the weight that may be placed on a structure, or the width or height that may be moved on, over, or across a highway, unless the permit specifically exempts the permittee from such compliance.

**12917 Inspection by Commissioner**

The Director may require that the moving of any extralegal load or vehicle be conducted under the supervision of any inspector to be appointed by the Commissioner, with reimbursement to the Director as provided in the fees schedule.

**12918 Permit may be withheld or conditioned**

- (a) The Director may withhold a transportation permit when, in the Director's sole determination, the Director finds that it is not in the best interest of the general public to do so, or that it will be detrimental to public health, safety, or welfare.
- (b) If a transportation permit is issued, the Director may do any of the following, at the Director's discretion:
  - (1) Limit the number of trips;

- (2) Establish seasonal or other time limitations within which the vehicle or vehicles described in the permit may be operated on the highways indicated;
- (3) Limit or prescribe conditions of operation of the vehicle or vehicles described in the permit, when necessary to assure against undue interference with traffic or damage to the road foundations, surfaces, or structures; and
- (4) Require the undertaking of other security measures as may be deemed necessary to protect the highways and bridges from injury, or to prevent injury resulting from the operation of the vehicle or vehicles described in the permit.

**12919 Evidence of clearance**

- (a) Before issuing a transportation permit for the movement of a vehicle or object with a rolling height of over sixteen feet (16'), the Director must require evidence or notice of approval of height clearance from the utilities having overhead lines crossing the proposed route.
- (b) Utilities may give notice of approval by telephone.

## CHAPTER 10 – APPEAL AND VIOLATION

### 121000 Appeal of decision

- (a) A decision by the Director to grant or deny an application for an encroachment permit may be appealed by the applicant only if the decision is not in compliance with this Division.
- (b) An appeal of the Director's decision must be filed with the Commissioner within ten (10) days from the date of the Director's decision.
- (c) The appeal must be in the form of a written notice signed by the applicant, must state clearly and in detail how the Director's decision does not comply with this Division, and must be accompanied by a copy of the application for a permit as filed with the Director and a written description of any other items submitted in support of the application.
- (d) The Commissioner must review the notice of appeal for sufficiency, as follows.
  - (1) If the notice of appeal complies with this section, the Commissioner must, within fifteen (15) days after the notice is filed, set a date for a hearing and notify the applicant and the Director of that date.
  - (2) If the notice of appeal fails to comply with this section, the Commissioner must summarily deny the appeal without hearing. The Commissioner's decision to summarily deny an appeal must be in writing, must explain the reasons for the decision, and must cite to substantial evidence contained in the written administrative record. The Commissioner must notify the applicant and the Director of the denial within fifteen (15) days after the notice of appeal is filed. The Commissioner's decision to summarily deny an appeal is final.
  - (3) At the hearing, the applicant must establish to the satisfaction of the Commissioner that the decision of the Director is not in compliance with this Division. The Director may present the grounds for the decision being appealed.
  - (4) The Commissioner must issue his or her decision on the appeal within fifteen (15) days after the hearing. The decision must be in writing, must explain the reasons for the decision, and must cite to substantial evidence contained in the written administrative record.
  - (5) The decision of the Commissioner is final and may not be appealed.

### 121001 Violation

- (a) Every person who does any act declared by this Division to be unlawful, or having a permit, fails or refuses to comply with any applicable provision of this Division or with any condition of the permit, or performs work contrary to any of the general or special requirements or specifications of the permit, is guilty of a misdemeanor, and is guilty of a separate offense for every day during any part of which such violation occurs.
- (b) The Director may, subject first to ninety (90) days' written notice to the permittee and an

opportunity to cure, revoke, modify, or suspend any permit on any one or more of the following grounds:

- (1) The permit was obtained by fraud or misrepresentation;
- (2) The permit is being, or within the recent past has been, exercised contrary to the terms or conditions of the permit's approval or in violation of any statute, ordinance, law, or regulation; or
- (3) The use permitted by the permit is being, or within the recent past has been, exercised so as to be detrimental to the public health, welfare, or safety, or so as to constitute a public nuisance.

#### **121002 Successive applications**

No applicant whose permit application has been denied in whole or in part may apply for another permit for an encroachment or other activity at the same location within six (6) months from the date of such denial except upon proof of changed conditions or by permission of the Director.

### **Section III**

**DATE OF ORDINANCE.** This ordinance will take effect and be in full force and effect thirty (30) days after its passage. Before the expiration of fifteen (15) days after passage of this ordinance, a summary of this ordinance must be published once with the names of the members of the Board of Supervisors voting for and against the ordinance in the Ventura County Star, a newspaper of general circulation published in the County of Ventura, State of California.

PASSED AND ADOPTED this 19 day of March, 2019, by the following vote:

AYES: Supervisors Parks, Long, Huber, Zaragoza and Bennett  
NOES: none  
ABSENT: none



CHAIR

BOARD OF SUPERVISORS  
COUNTY OF VENTURA

ATTEST:  
Michael Powers, Clerk  
of the Board of Supervisors,  
County of Ventura, State of  
California

By Lou Jones  
Deputy Clerk of the Board

