

## Road Right of Way Encroachments

### County of Santa Barbara, City of Santa Barbara and Caltrans Procedures

#### Santa Barbara County Chapter 28 Roads DEFINITIONS

**Road Right-of-Way.** That area of land on which the road is built and that land on each side of the road for the specified distance covered by county road easements or by county owned land acquired for road purposes and within the county maintained road system. Definition per Ord 2624

#### Article I. Excavations and Encroachments

**Excavation.** Any opening in the surface of the road right-of-way made in any manner whatsoever, except an opening into a lawful structure below the surface of the road, the top of which is flush with the adjoining surface and so constructed as to permit frequent openings without injury or damage to the road. (Ord. 1491)

#### PERMIT REQUIREMENTS

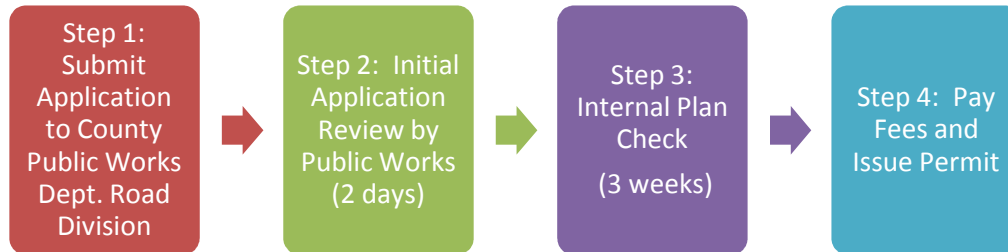
**Sec. 28-3. Permit—Required; exceptions.** No person shall do or cause to be done any of the following enumerated things without first obtaining a permit therefore and complying with all conditions thereof and all provisions of this article:

- (a) Excavate or fill in an excavation within a road right-of-way
- (b) Install, maintain, cut into, repair or remove any sidewalks, curbs, gutters or road surfacing; or install, repair or remove any facilities or substructures in, on, over, or under any road right-of-way. This section shall not apply to telephone or power poles, associated anchors and guy wires located behind existing curbs, in alleys, or where no curb is provided. Any present right which exists prior to the date upon which the portion of the road affected becomes a public country road, shall not be impaired, diminished or affected in any way by the permit requirements of this and other sections of this article.

**Sec. 28-105. Prohibited disposal of vegetation.** No person shall place, deposit, dump or maintain any vegetation on any public road right-of-way in a manner which constitutes a traffic nuisance or obstructs the free use of the right-of-way; or in a manner which causes or increases any hazard upon, or detracts from the safe use of any public road right-of-way. No person who is the owner or person in possession of any lot which contains or is adjacent to any public right-of-way shall maintain, deposit, permit or suffer the placement of, any vegetation in a manner which obstructs the free use of the right-of-way; or in a manner which constitutes a traffic nuisance; or in a manner which causes or increases any hazard upon, or detracts from the safe use of, any public road right-of-way. (Ord. No. 3703)

**Sec. 28-106.** Traffic nuisance declared. The presence of any vegetation on or along a public road right-of-way which threatens to impair or which impairs the safe use of the public right-of-way or which interferes with the safe separation of all appropriate uses of the right-of-way shall constitute a traffic nuisance within the meaning of this article. (Ord No. 3703)

## **ROAD ENCROACHMENT PERMIT PROCEDURES:** Santa Barbara County Public Works Department



Note: Applications require 3 sets of plan describing the proposed encroachment. Plans must include the following information:

- Private property line, County Road Right-of-Way line, dimensions of pavement and sidewalk, dimensions of the encroachment from the edge of pavement, and back edge of sidewalk (if any).
- Address/location of encroachment, north arrow and scale.
- Location of all existing facilities and landscaping located in County Road Right-of-Way (e.g., mail boxes, walls, fences, trees, utility poles/vaults/boxes, drainage facilities and hardscape). If excavation is involved, show the trench details including depth, width and length. Show typical section, dimension and setback from the edge of pavement.
- Landscaping plans require the type of irrigation system to be installed and the species, quantities, and spacing of the vegetation to be planted.

## FEES

Typical Fees for residential encroachment permit (dated 12/15/08)

Encroachment Permit Issuance	\$68
Residential Driveway	\$411
Other Minor Encroachments (i.e., hardscape, landscape, mailboxes, signs, etc.) (Limit: one inspection trip)	\$296
Fence (Masonry, Wood, Chain Link, etc.) (each 1,000 linear ft)	\$296
Retaining Wall < 3 feet (per 100 linear ft)	\$206

## Santa Barbara County Encroachment Permit Policies (Approved in April 2008)

*The County of Santa Barbara Road's Commissioner hereby approved and sets the following policies; for conflicting requirement, the most stringent shall govern:*

### General:

1. All encroachments shall be in conformance with applicable portions of the Comprehensive Plan, including the Local Coastal and community plans, as well as with current ADA requirements.
2. The Commissioner may take into account factors, such as aesthetics, in reviewing all encroachment permits. Above grade facilities shall be set back as far as possible and provide landscape or other approved screening to minimize the visual effect of the encroachment.

### Clear Zone and Pedestrian access:

3. Road Encroachment Permits shall not be issued unless the Permittee agrees to assure a clear zone from the curb face and/or edge of pavement to the proposed encroachment. The clear zone is necessary to maintain an adequate safety zone that will provide adequate sight distance, adequate access, and safety for pedestrians, bicyclists, and equestrians, when applicable, along County roadways.

### Retaining Walls, Block Walls, Garden Walls, Fences, etc.:

4. Shall be set back a minimum distance from the curb face or edge of pavement as follows:
  - Up to and including a 25 mph posted speed: 7 feet minimum,
  - Over 25 mph posted speed: 10 feet minimum.

5. May require conditions including additional setbacks beyond the above minimums, at intersections, curves, driveways, or where determined necessary for sight distance, safety issues, including Fixed Object Criteria and to provide for pedestrian, bicyclist.

#### **Landscaping and Irrigation:**

6. For landscaping, a clear zone, set back from the curb face or edge of pavement shall be established as follows:
  - Up to and including a 25 mph posted speed: 7 feet
  - Over 25 mph posted speed: 10 feet
7. Landscaping shall be designed to provide sight distance clearance, pedestrian access; as well as bicyclist and equestrian access when applicable(new or future).
8. Street trees shall be selected only from the Board of Supervisors Approved street tree list and root barriers installed within the drip line.
9. Irrigation shall be drip and emitter and not spray type irrigation to avoid overspray pavement/sidewalk.

#### **Other Fixed Objects:**

10. Mailboxes shall be constructed and/or located to meet County of Santa Barbara Engineering Standards' criteria for Fixed Objects and US Post Office standards. Road Shoulder construction and encroachments shall provide room for a mail truck to pull out of the travel lane wherever possible.
11. Fixed Objects (i.e., rocks, new proposed trees) shall be required to be set back based on current engineering standards from the edge of pavement not less than the following, providing adequate recovery zone for the traveling public:
  - Up to and including 25 mph – 7 feet minimum
  - Over 25 mph – 10 feet minimum
12. Fixed objects shall be designed to provide sight distance clearance, pedestrian access; as well as bicyclist equestrian access when applicable (existing, new or future0.

#### **Entry Gates:**

13. Where gates for vehicular entry are included as part of the encroachment, the clear zone shall be adequate to store a vehicle waiting to enter the site without overhanging onto the paved roadway/shoulder. A minimum of 25 feet from edge of pavement to the gate shall be provided.

## Road Right-of-Way Encroachment Policies from County Community Plans

### Toro Canyon Community Plan

**DevStd PRT-TC-2.6:** Consistent with the Agricultural Element, all opportunities for public trails within the general corridors identified on the Parks, Recreation and Trails (PRT) map shall be protected, preserved and provided for during review and upon approval of development and/or permits requiring discretionary approval. County Public Works shall consult with the County Park Department prior to issuing any encroachment permits for on-road development such as driveways along road shoulders with current or proposed trails.

**Policy CIRC-TC-8:** Encroachment permits for structures, fences, walls, landscaping, and other such objects may be issued where the placement of such objects would neither compromise public safety nor conflict with applicable county or Caltrans sight distance standards.

### Draft Santa Ynez Community Plan

Policy CIRC-SYV-7 same as CIRC-TC-8 above

**Action PRT-SYV-1.9:** The County should investigate all obstructions to dedicated on- and offroad public trails and property and take appropriate action to remove any such obstructions. County Public Works shall consult with the County Park Department prior to issuing any encroachment permits for on-road development such as driveways along road shoulders with existing or proposed trails.

### Summerland Community Plan

**Action PRT-S-2.3:** Designated trail corridors shall be kept clear from encroachment by new uses or development, to the extent reasonably feasible.

**Policy CIRC-S-17:** New encroachment of structures, fences, walls, landscaping, etc. into existing road rights-of-way shall not be permitted.

## **City of Santa Barbara Encroachment Procedures and Fees**

Per phone conversation with Don Irelan, City of Santa Barbara Public Works Engineering Division, 9/28/09

City of Santa Barbara discourages structures, retaining walls, gates, fences etc. in the public right-of-way. If encroachments are unavoidable due to narrow streets with wide right-of-way, encroachments could be approved provided they are in character with the neighborhood, subject to comments from other City Departments via the City's internal permit routing system, and they would be revocable for the City's future use if needed (see Municipal Code below). No noticing is required. Generally, they would not approve something that would be denied if it were a Public Works project.

Public Works Director handles and approves minor encroachments (those that are easily removed or altered) including walls, fences, gates etc. Encroachment permits are not needed for "flat" work (i.e., landscaping, driveways, sidewalks).

City of Santa Barbara Municipal Code on Minor Encroachments

### **10.55.010 Issuance of Minor Encroachment Permits.**

The Director may issue a permit or consent to conduct, maintain or operate an encroachment to, in or upon any city street, roadway, sidewalk, parkway, parking area or facility or other City property for an encroachment which is intermittent, minor, revocable upon 90 days notice or less, or for a single event or use. The review and issuance of such permit or consent shall be subject to the restrictions of this Code and the Santa Barbara City Charter. The Director shall consult with affected City Departments and other affected agencies prior to issuance of such Minor Encroachment Permit. (Ord. 4751, 1992.)

### **10.55.020 Minor Encroachment Permits - Conditions.**

The Director may condition the issuance of a minor encroachment permit or consent to conduct, maintain or operate an encroachment with conditions or provisions for public safety, the protection of persons or property, the public convenience, the accommodation of public needs, adequate traffic control, crowd control, control over litter and noise, the cleanup and removal of all evidence of use, and such other provision or provisions as may appear to be in the public interest. (Ord. 4751, 1992.)

## **Fees**

### **B. Encroachment Permits**

For requests for issuance and recording of Encroachment Permits, leases, utility licenses and easements:

#### **1. Permanent**

##### **a. Existing Improvements pre-1980**

**\$1,670.00**

For existing improvements built prior to January 1, 1980 on City-owned land or easements; and for Minor Encroachment Permits pursuant to Santa Barbara Municipal Code Section 10.55, as determined appropriate at the discretion of the Public Works Director.

**b. Proposed**

**\$3,220.00**

For proposed improvements to be built on City-owned land or easements.

**c. Existing improvements post 1980**

**\$4,795.00**

For existing improvements built after January 1, 1980 on City-owned land or easements, other than lease extensions or renewals.

## **Caltrans Encroachment Policies**

Encroachment Permit Application Guide, January 2009

### **Definitions**

An encroachment is defined in the California Streets and Highways Code as:

“Any tower, pole, pole line, pipe, pipeline, fence, billboard, stand or building or any structure, object of any kind or character not particularly mentioned in this section, or special event which is in, under, or over any portion of the highway. “Special event” means any street festival, sidewalk sale, community-sponsored activity, or community-sponsored activity.” Anyone that wants to conduct an activity within State highway right-of-way, for example: If you own or buy property adjacent to State property and want to do improvements, whether to put up a fence or install a mailbox, or have an activity that may encroach onto the State’s property you may be required to obtain an encroachment permit.

An encroachment permit issued by Caltrans, or issued by an authorized local agency in certain circumstances, is permissive authority for the permittee to enter State highway right of way to construct approved facilities or conduct specified activities. An encroachment permit is a valid contract when accepted by the permittee. Acceptance is acknowledged when any of the specified acts or work is performed under the conditions of the permit.

An encroachment permit is not a property right. It authorizes only the permittee or the permittee's agent to perform work, and the permittee may not transfer or assign a permit to another party. A permit is not transferred with the property to a new owner at the time of sale. New property owners must apply for and obtain a new permit. This new permit should be issued for notice and records purposes only.

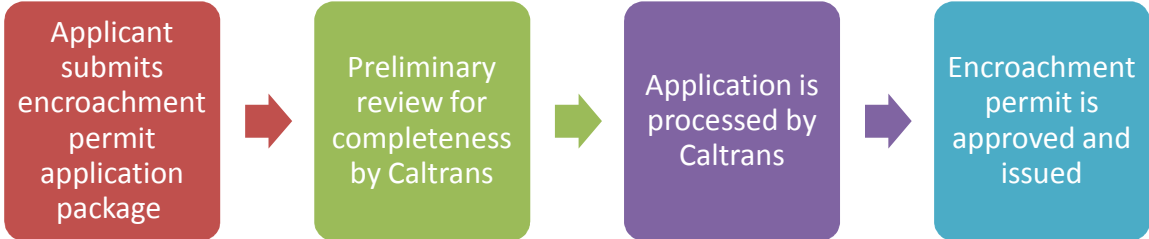
### **ACTIVITIES REQUIRING AN ENCROACHMENT PERMIT.**

Some of the activities requiring an Encroachment Permit include:

- Advertising Displays, holiday decorations, banners, or signs.
- Frontage improvements: sidewalk, curb and gutter, mailbox, fencing, driveways, new road intersections, drainage facilities and erosion control.

- Landscaping, planting or modifying vegetation.
- Miscellaneous activities: mowing, grading, excavations.
- Utility installations.

**ENCROACHMENT PERMIT APPLICATION APPROVAL PROCESS**



Review and processing by Caltrans within 60 days after receipt of application. There is an appeal process in the event an encroachment permit request is denied.

Fees: Encroachment permit costs include the actual time expended in the process of reviewing the proposed improvement or activity, processing and issuance of the permit, field work performed by Caltrans and actual time expended in the inspection of the proposed activity.

Fence: 6 hour minimum deposit

Mailbox: Exempt

Landscape: 6 hour minimum deposit