

March 12, 2019

Boards of Supervisors
County of Ventura
800 South Victoria Avenue
Ventura, CA 93009

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Subject: **Public Hearing for the Introduction and First Reading of an Ordinance Repealing and Reenacting Division 12 of the Ventura County Ordinance Code Governing Encroachments Within the County Road Rights-of-Way; Declare Ordinance Categorically Exempt Under the California Environmental Quality Act; All Supervisorial Districts.**

Recommendations:

1. Open a public hearing, introduce, read in title only, and waive further reading of the attached proposed Ordinance to repeal and reenact Division 12 of the Ventura County Ordinance Code;
2. Schedule a second reading and final adoption of the Ordinance for March 19, 2019;
3. Authorize the Clerk of the Board to publish the summary of the Ordinance prepared by County Counsel at least five (5) days before March 19, 2019, and to post the summary and Ordinance in accordance with subdivision (b) of Section 25124 of the Government Code; and
4. Declare the ordinance categorically exempt under the California Environmental Quality Act (CEQA).

Fiscal/Mandates Impact:

There are no additional County costs associated with this Board action.

Discussion:

The Ventura County Public Works Agency Transportation Department (PWATD) is responsible for maintaining the County Road Network to preserve operational safety, integrity, and function. It is in the public interest for utilities and other activities to be

EXHIBIT 1



accommodated in the right-of-way of County roads, 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. These uses of the right-of-way constitute encroachments under state law and are unlawful unless properly permitted by the County. Utilities and other encroachments that cross or otherwise occupy County road right-of-way can affect the safe operation, maintenance, and appearance of the road. It is therefore necessary that such use and occupancy be authorized and reasonably regulated, by ordinance, to promote the County's responsibility to the public.

The current Ordinance (Division 12 of the Ventura County Ordinance Code) was first approved by your Board in 1968. Over the last 50 years, the only modifications made were to add two chapters, Chapter 7, on Maintenance and Repair of Sidewalks in 2006 (Ordinance 4355), and Chapter 8, on Wireless Telecommunications Facilities in 2013 (Ordinance 4454). The draft Ordinance attached is a complete update to the current Ordinance. A summary of the Ordinance is included as Exhibit 1.

The purposes of the Ordinance include providing a uniform and comprehensive set of standards for accommodating utility facilities and other encroachments within the County road right-of-way; preserving and reserving road right-of-way to maximize public access; minimizing possible interference and impairment to the roadway, its structures, appearance, operation, and maintenance; and regulating the movement of oversized or extralegal loads. The requirements in the Ordinance ensure that all installations are designed and constructed to minimize potential adverse effects upon the public welfare, to allow emergency access during construction, to allow oversize or extralegal loads to travel safely on county infrastructure and to enable them to be maintained in perpetuity.

One of the main administrative changes is the reorganization of the Ordinance. The proposed Ordinance is reorganized into 10 chapters (up from eight) and adds a number of new definitions. Most of the proposed revisions are minor changes to improve clarity and legibility and do not materially change the requirements for an encroachment permit in most cases. Several of the changes are based on existing practices implemented to streamline the permitting process. Due to the number of changes and the reorganization of the Ordinance, it was not feasible to provide a strikeout version. Instead, a detailed summary of changes is included as Exhibit 2. The following are some of the more significant changes:

- Property owners will no longer need a permit for temporary placement of a trash receptacle or minor landscaping.
- Property owners will not need a permit for installation of mailboxes if minimum standards are met.
- Property owners will no longer be required to maintain or repair the curb or gutter in front of their properties (a requirement PWATD has not generally enforced).
- Wireless providers will now be required to provide a radiofrequency report and an electromagnetic report for certain installations in residential areas (previously required only for certain other installations).



- Individuals and organizations will now be able to “adopt” a road to provide roadside trash cleanup and be recognized with a sign.
- Property owners with longstanding but minor encroachments will now be able to obtain a no-fee permit. The County will enjoy indemnification for the encroachment and the permit will apply to future property owners.
- The County’s options against encroachers who fail to get a permit will be clarified.
- Provisions governing permits for commercial photography, filmmaking, audio recording, and special events (e.g., parades, races, demonstrations, assemblies, etc.) will be expanded and clarified.
- Existing policy regarding speed humps and speed cushions will now be codified.
- Standards for work in the right-of-way will be expanded and clarified, including new requirements for encroachment locations and design, excavations, restoration of the right-of-way, and storage of equipment and materials.
- New requirements governing relocation of encroachments, when needed, will be added.
- Requirements for landscaping work will be added.
- Utility companies with administrative permits, previously called annual permits, will be now be able to do certain types of encroachment work without a separate permit, previously called a blanket permit.
- Fees, exemptions from fees, and authority for waiver of fees will be added.
- A load hauler with a transportation permit will now be required to report an accident to PWA as well as the Department of Motor Vehicles.
- Provisions governing violations and appeals of PWA decisions will be expanded and clarified.

On October 26, 2018, the draft updated Ordinance was made available for review for a 30-day period on the PWA website. In addition, copies of the draft Ordinance and a link to the current Ordinance were mailed to the major utility companies, select cities, Ventura County Coalition of Labor, Agriculture and Business (CoLAB) and permit processing companies asking for their input. Due to the Hill and Woolsey Fires, the public review period was extended an additional two weeks to December 16, 2018 to allow reviewers to submit their comments.

A total of 73 comments were received from Southern California Edison (SCE), Calleguas Municipal Water District (CMWD), AT&T, City of Camarillo and staff from Supervisor Bennett’s office. PWATD staff met with Edison to discuss the comments. Comments received from other entities were responded to over the phone or by email. PWATD made a few additional changes for clarification after the public review period was completed. A summary of comments received and response to comments along with PWATD changes is included as Exhibit 3.

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



Adoption of the Ordinance is categorically exempt from CEQA under CEQA Guidelines sections 15300.2, 15301, 15302, 15303, 15304, 15308, and 15061(b)(3) because the Ordinance, and actions that may be permitted under the Ordinance, both individually and cumulatively, will: have no significant effect on the environment; involve negligible or no expansion of existing or former uses; consist only of the permitting of alterations to existing highways, streets, and appurtenant structures; consist of replacement or reconstruction of existing structures on the same site; consist of construction of limited numbers of small facilities; consist of minor alterations in the condition of land, water, or vegetation; and involve actions taken to protect the environment.

This letter has been reviewed by the County Executive Office, the Auditor-Controller's Office, and County Counsel.

If you have questions, please call the undersigned at (805) 654-2077.



David Fleisch
Director
Transportation Department

Attachments:

Encroachment Ordinance
Exhibit 1: Summary of Ordinance
Exhibit 2: Summary of changes
Exhibit 3: Response to comments

