

# **Summary of Changes to Encroachment Ordinance**

## **Reorganized Ordinance**

Ordinance now organized into 10 Chapters (up from eight Chapters): Definitions and Construction of Division, General Provisions, Encroachment Work Standards, Application Requirements, Permit Issuance, Permit Fees and Deposits, Maintenance and Repair of Sidewalks, Wireless Telecommunication Facilities, Transportation Permits, and Appeal and Violation.

Sections containing revisions are as follows:

12000: Updated language and minor revisions regarding the title and scope of the ordinance.

12001: Updated language and minor revisions regarding the purpose of the ordinance.

12002: Updated language and minor revisions regarding authority for the ordinance.

## **Chapter 1: Definition and Construction of Division**

12100: Increased number of defined terms from 23 to 38, including new definitions and definitions moved from other provisions for clarity and ease of reference. Nearly all existing definitions were revised for clarity.

12101: Removed descriptions of chapters and added language regarding preemption of the Coastal Zoning Ordinance.

12102: Expanded severability provision to cover entire ordinance.

## **Chapter 2: General Provisions**

12200: Revised list of activities requiring a permit for clarity, added special events and litter collection, and clarified that unpermitted encroachments are unlawful and subject the encroacher to liability for damages.

12201: Revised to clarify indemnification requirements.

12202: Expanded the list of activities exempt from permitting requirement, including minor landscaping, mailbox installation, and placement of trash receptacles for collection.

12203: Updated language regarding powers of a deputy official.

12204: Updated language regarding permittee's duty to comply with directives of Road Commissioner; added requirement for permittee to secure compliance by officers, agents, and employees.

12205: Updated language regarding references to other ordinances and statutes; added reference to Ventura County General Plan, Area Plans, and Coastal and Non-Coastal Zoning Ordinances.

12206: Updated language regarding closure and interference with use of road; removed reference to Streets and Highways Code section.

12207: Updated language regarding work performed without a permit; clarified County's options against encroachers who fail to get a permit; added provision applying ordinance's requirements to unpermitted encroachers.

12208: Updated language regarding removal of encroachments to better comport with the Streets and Highways Code.

12209: Updated language regarding restoration of right-of-way after encroachment removed.

12210: Updated language regarding filing of records of underground encroachments.

12211: Revised inspections section to prohibit obstruction of Road Commissioner in the taking of samples, in the enforcement of the ordinance, and in the enforcement of the Streets and Highways Code; updated language regarding costs of inspectors; revised notice provision to allow permit to require two days' notice of start of work.

12212: Updated language; revised provision regarding compliance with filed plans to remove redundant reference and to apply to revisions to plans.

12213: Revised to require written authorization for changes to scope of work.

12214: Minor changes regarding possession of permit.

12215: Updated language regarding permit terms, changes in work, and extensions.

12216: Updated language regarding Road Commissioner's certificate of acceptance.

12217: Updated language; revised to make roadside seller liable for damages caused by parking in right-of-way.

12218: Added new requirements for filming permits.

12219: New provision authorizing "adopt-a-road" permits for roadside litter collection.

12220: New provision governing permits for special events.

12221: New provision governing speed humps and speed cushions.

### **Chapter 3: Encroachment Work Standards**

12300: Updated language regarding standards; added reference to the National Pollutant Discharge Elimination System.

12301: Updated language regarding interference with right-of-way.

12302: Updated language regarding notices of start of encroachment work.

12303: Updated language and minor revisions regarding the location of encroachments; revised to clarify that Road Commissioner may approve pipelines crossing right-of-way at angles other than 90 degrees.

12304: Updated language and minor revisions regarding design of encroachments; added requirements governing minimum cover over underground encroachments; added reference to Federal Energy Regulation Commission.

12305: Updated language and minor revisions regarding traffic control requirements.

12306: Updated language; added requirements for covering open excavations at end of workday.

12307: Updated language regarding restoration of right-of-way upon completion of work; added requirement that approval for non-thermoplastic paint must be in writing; added requirement that pavement repair must extend to edge of pavement when excavation is within 30 inches of edge of pavement.

12308: Updated language regarding permits for driveway approaches; added prohibition against driveway approach being used for parking in the right-of-way.

12309: Updated language regarding storage of equipment and materials in the right-of-way.

12310: Updated language regarding emergency excavations by permittees with underground encroachments; added telephone numbers for notifications.

12311: Updated language regarding disturbing survey monuments.

12312: Updated language; added requirement that approval for drainage plan must be in writing.

12313: Updated language regarding repaving by Transportation Department.

12314: Updated language regarding clean-up after completion of work.

12315: Updated language regarding requirement to place television and audio transmission lines underground.

12316: Updated language regarding interference with highway users and other permit holders.

12317: Updated language regarding relocation of encroachments; added requirement that relocation be completed within 90 days.

12318: Updated language regarding protection and repair of existing facilities.

12319: Updated language regarding landscaping requirements; added language clarifying that landscaped area may be used by the public, Transportation Department, or other permittee; added language requiring other permittee to replace damaged landscaping; added language clarifying that permittee is responsible for compliance with laws regarding nesting birds and other species.

12320: Updated language regarding holes for flagpoles.

12321: Updated language regarding other standards applicable to permittees; made structural capacity, noise, and graffiti requirements applicable to all encroachments (previously applicable only to wireless telecommunications facilities permits); added requirement for emergency measures when testing high-pressure utility pipe.

## **Chapter 4: Application Requirements**

12400: Updated language regarding applicant requirements.

12401: Updated language regarding applications for permits; added requirements for cross-section of roadway, traffic-control plan (previously applicable only to wireless telecommunications facilities permits), estimate of costs to repair, work by licensed contractor, letter from water or sewer service provider (where encroachment includes new water or sewer service), scaled plans, and time estimate for completion of work.

12402: Updated language regarding requirement for proof that compliance with ordinance not feasible.

12403: Updated language regarding agreement to relocate encroachment; added provision making expenses payable by applicant's successors and assigns.

12404: Updated language regarding proof that encroachment is not a hazard; made provision applicable to all structures (previously applicable only to overhead structures).

## **Chapter 5: Permit Issuance**

12500: Revised provisions allowing issuance of administrative permits (previously "annual permits") to utilities for minor repairs to existing facilities.

12501: Updated language regarding authority to impose additional requirements.

12502: New provision authorizing permits for long-term and permanent encroachments.

12502: Updated language regarding relocation of existing improvements.

12504: Updated language regarding non-transferability of permits.

12505: Revised provision regarding findings that must be made for approval of permit to apply to all permits (previously applicable only to wireless telecommunications facilities permits).

12506: New provision regarding the timelines for permit issuance.

12507: Updated language regarding grounds for denial of permit; added grounds of failure to comply with ordinance and prior violations of permit conditions.

12508: Updated language regarding grounds for revocation of permits; added grounds of failure to complete work within specified time and failure to comply with ordinance.

12509: Revised provision regarding decisions on applications to apply to all permits (previously applicable only to wireless telecommunications facilities permits).

## **Chapter 6: Permit Fees and Deposits**

12600: Updated language regarding establishment of fee rates.

12601: Updated language; added inspection fee.

12602: Updated language regarding deposit of fees.

12603: Updated language regarding fee exemptions; added exemptions for long-term encroachments, sidewalk repairs, tree and root removal, and tree trimming.

12604: Updated language regarding fee exemptions for public safety and welfare.

12605: Updated language regarding fees schedule and fees for work without a permit.

12606: Updated language regarding permittee's liability for County costs.

12607: Updated language regarding requirement for deposit of fees.

12608: Updated language regarding return of unused deposits.

12609: Updated language regarding invoicing and collection of fees.

**Chapter 7 Maintenance and Repair of Sidewalks** 12700: Updated language regarding powers of Director of Transportation Department.

12701: Updated language regarding property owner's responsibilities.

12702: Updated language and cross-references regarding liability for maintenance and for injuries.

## **Chapter 8 Wireless Telecommunications Facilities –Public Right-of-Way**

12805: Added provision requiring marker to be located where it can be viewed and understood by a person standing at location of facility.

12807: Added provision requiring radiofrequency and electromagnetic frequency report for certain installations in residential areas (previously applicable only to certain other installations); revised matrix accordingly.

12815: Revised provision regarding grandfathering of existing facilities to specify exact date.

12820: Updated language; revised provision regarding application of Chapter to specify exact date.

**Chapter 9 Transportation Permits** 12900: Updated language governing issuance of transportation permits.

12901: Updated language regarding eligibility for permit.

12902: Updated language regarding interference with public utilities; added language clarifying that violation is unlawful; added prohibitions against damaging and colliding with; added prohibition against acts taken against County property (previously only applicable to utilities' property).

12903: Updated language regarding exceeding permitted capacity; added language clarifying that violation is unlawful; added authority for Director of Transportation Department to revoke previously issued permit.

12904: Updated language regarding movement in convoy.

12905: Updated language regarding possession of permit.

12906: Updated language regarding automatic revocation of permits.

12907: Updated language regarding combined loads.

12908: Updated language regarding movement in inclement weather; added language clarifying that violation is unlawful.

12909: Updated language regarding requirement for verification of load limits; added language clarifying that violation is unlawful; added language making requirement to verify route apply at all times during movement.

12910: Updated language regarding meaning of permit; added language clarifying that acceptance of permit acknowledges reading and understanding this Chapter.

12911: Updated language regarding reporting of accidents; added provision requiring report be made to Transportation Department (previously only required report to Department of Motor Vehicles).

12912: Updated language regarding responsibility to repair damage; added authority to deny future permits.

12913: Updated language regarding planking of wheels.

12914: Updated language regarding relocation permits under the Ventura County Building Code.

12915: Updated language regarding overweight vehicles.

12916: Updated language regarding compliance with laws.

12917: Updated language regarding inspections.

12918: Updated language regarding authority to issue or withhold permit.

12919: Updated language regarding approvals for height clearance.

## **Chapter 10 Appeal and Violation**

121000: Revised appeals process to replace appeals to Board of Supervisors with appeals to Director of Transportation Department and to Road Commissioner; adds specific requirements for appeals.

121001: Updated language regarding penalty for violation and authority to revoke permit; made revocation provision applicable to all permits (previously applicable only to wireless telecommunications facilities permits).

121002: Updated language regarding successive denials; made provision applicable to all permits (previously applicable only to wireless telecommunications facilities permits).