

County of Ventura
PWA Transportation Department
Draft Revision to Encroachment Ordinance
Responses to Comments
January 10, 2019

On October 26, 2018, the Public Works Agency Transportation Department (PWATD) requested comments from the Board of Supervisors (BOS) and select agencies, consultants, and utilities regarding a Revision to the Encroachment Ordinance (EO). The draft revision to the EO was placed on the County's website at pwa.vcpublicworks.org. The current EO 2041 was adopted by the BOS on March 26, 1968, and available at www.ventura.org and www.municode.com.

The PWATD received comments from AT&T (ATT), the City of Camarillo (CAM), Calleguas Municipal Water District (CMWD), Mr. Steve Offerman from District #1 Supervisor Bennett's office (Supervisor D1), and Southern California Edison (SCE). Southern California Gas (SCG) expressed an interest in commenting, however PWATD has not yet received their comments. PWATD also revised the document; these revisions are included in the table below.

PWATD responses to comments are provided in tabular form here below. Responses were emailed to each entity and discussed when requested.

Section / Who	Comment	Response
12800 General ATT – Bullet #1	General comment that ATT recognizes County wants Ordinance to be consistent with federal and state laws.	Noted. No response required.
12800 ATT – Bullet #2	Small cells. Definition. Commented that definition not consistent with 47 CFR 1.6002(1).	Chapter 8 remained unchanged from the previously approved definition of small cells which was drafted in agreement with the Wireless providers including AT&T in 2013. The definition will not result in a wireless provider being denied a permit to which it is entitled.
12800 ATT – Bullet #2	Small cells. Commented that FCC rules have different sizes for small cell antennas and equipment.	See response to Bullet #2
12800 ATT – Bullet #2	Small cells. Commented that FCC rules have additional parameters on small cells.	See response to Bullet #2
12800 ATT – Bullet #2	Small cells. Commented that FCC definition does not restrict small cells to facilities placed on existing poles.	See response to Bullet #2
12800 ATT – Bullet #2	Small cells. Commented that ordinance does not have	Included in section 12506

Section / Who	Comment	Response
	timing provision for reviews. Recommended FCC rule of 60 days for collocation and 90 days for others.	
12800 ATT – Bullet #2	Small cells. Review time. Recommended not allowing appeals for small cells.	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.
12800 ATT – Bullet #3	Small cells. Definition. Commented that County should adopt FCC definition.	Noted. See response to Bullet #2
12802(g)(2) 12802(g)(3) 12802(g)(4) ATT – Bullet #3	Substantial increase in size. Definition. Commented that County should adopt FCC definition in 47 CFR 1.40001(b)(7). Ordinance definitions here left inconsistent with CFR.	The definition in the ordinance, for “substantial increase in size” mostly affects only the level of review, the type of information that must be submitted with an application, and the public notification. These don’t dictate whether a permit gets issued, just the process.
12802(i) ATT – Bullet #3	Wireless boundary. Comment that boundary unnecessary and may not comply with Telecommunications Act of 1996.	The only place that defined term wireless telecommunications facility boundary is used in the ordinance is in § 12807(c)(1), where the provider will be required, under a full review, to provide a site plan depicting this boundary. It doesn’t mean a boundary within which no WTF would be allowed. The proximity limitations on additional WTFs are elsewhere in the ordinance, and they don’t reference this boundary.
12810 ATT – Bullet #4	Expert reviews. Commented that expert reviews should be limited to structural safety assessments or compliance with FCC RF regulations.	Noted. No response required.
12800 ATT – Bullet #5	Additional reports. Commented that Director is not authorized to request additional reports. Recommend eliminating section.	PWATD does not have the expertise to review the reports when a report is needed. The requirement cannot be eliminated.
12100 (p) (2) CAM	Definitions. Moratorium road. Questioned why slurry seal is excluded.	Slurry seal was excluded because of two reasons: 1. Not considered to add structural capacity; 2. Difficult to obtain slurry in small quantities from the plant.
12307 (e) CAM	Restoration of right-of-way. Questioned why slurry seal is	Slurry seal is allowed in (e) to consider it as a repair method on any

Section / Who	Comment	Response
	allowed in (e), but excluded in 12100 (p) (2). Questioned the intent of the moratorium.	moratorium roadway with multiple small excavations over a large area or length of roadway to reduce the cost to the permittee.
12500 Page 37 Chapter 5 CAM	Permit issuance. Recommend adding section that states the time frame the County will render a decision on a permit application.	A section that states the time frame the County will render a decision on a permit application was added. 12506
12603 (b) CAM	Fee exemptions. Recommend adding “(3) To entities in 12603(a) for comment and routine work.”	Added Section (3) Where the permit is issued to entities listed in Section 12603(a) for routine maintenance work in the roadway, when there is no excavation in the roadway.
General CMWD	Non-working hours. Question about traffic control during non-working hours?	12305 addresses traffic control. Open excavations must be temporarily restored during non-working hours.
12100 (hh) CMWD	Definitions. Questioned whether water utilities are included in definition.	Although the definition only lists one regulatory agency, the CPUC, the ordinance definition of utility includes those entities that transmit domestic water. For clarity, the following language was added: “or other regulatory body”.
12200 (a) (8) CMWD	Planting in right-of-way. Questioned what activities were allowed or not allowed.	Activities that require a permit are listed under 12200 (a) with some exceptions. 12200 (a) (8) lists the installation of low lying lawns or ground cover as exceptions.
12212 CMWD	Recommend changing last sentence to “In case of conflict between two different specifications, the more stringent specification will apply.” “Higher” doesn’t always apply in these contexts.	Revised.
12211 and 12302 CMWD	Inspection- Notification Is it really the intent to require two different parallel notifications of the start of work? This seems duplicative.	Intent for Section 12302 & Section 12211 is to call the inspector or number on the permit.

Section / Who	Comment	Response
12302 (b) CMWD	Notification. Recommend that permittee call phone number on permit.	Noted. Change word “notification” to “notification of inspector”.
12303 (c) CMWD	Location. 90-degree crossings. Recommend less restrictive requirement.	Noted. The words “when feasible” in 12303 (c) imply that other design options may be approved. Add “or as approved by the Road Commissioner” for clarity.
12303 (d) CMWD	Location. Manholes in wheel path. Recommend less restrictive requirement. Recommend adding “no other viable option exists.”	Continual wheel impacts to manholes are not recommended due to the damage that may be caused to the both objects. Such interaction is not recommended, however 12303 (d) states that exceptions may be approved with justification.
12303 (f) CMWD	Location. Equipment accessory structures. Recommend less restrictive setback requirements.	Setback requirements are required for safe travel of all transportation users. A clear zone of ten (10) feet or more is recommended for emergency parking and recovery of errant vehicles. No unyielding, unmovable objects are allowed within five (5) feet of the pavement edge. Five (5) is clear space or more is the required for non-motorized transportation users.
12303 (g) CMWD	Location. Equipment height. Recommend less restrictive height requirements.	Height limitations are required for safe travel of all transportation users. Tall objects in the road shoulder can obstruct sight visibility for motorized transportation users. Section 12303 (p) added that gives Commissioner authority to waive requirements with justification.
12303 (k) CMWD	Manholes for underground vaults. Recommend allowing manholes above grade in shoulder for improved ability to locate.	Height limitations in road shoulder are required for safe travel of all transportation users, including non-motorized transportation users and safer off-pavement emergency parking.
12304 (d) CMWD	Design. Standards. Recommend general review and approval of encroachments.	Noted. Approval by the PWATD is for time, manner and placement of the encroachment in the right-of-way. The permit does not approve design, materials, or methods for encroachments. All encroachments are expected to be designed, constructed, operated and maintained in accordance with industry standards.

Section / Who	Comment	Response
12304 (d)(3) CMWD	Design: Change reference to "California State Department of Health and Environmental Control" to "State Water Resources Control Board Division of Drinking Water," to reflect current jurisdiction. Also, AWWA issues standards not specifications.	Revised and added other regulatory body with jurisdiction over water lines.
12306 (a) CMWD	Excavation. Shoring. Recommend changing phrase "details of the shoring" with "a copy of the shoring submittal."	Revised. Language recommended was added to section.
12306 (b) CMWD	Excavation. Length of open trench work. Recommend less restrictive requirement.	No change to text. All open trenches must be temporarily backfilled or plated for safe travel of all transportation users during non-working hours. The length of open trench work must not exceed the length that can be properly backfilled or plated at the end of each work day. The language allows the Road Commissioner to authorize a less restrictive requirement.
12306 (c) CMWD	Excavation. Open trenches in road shoulder. Recommend less restrictive requirement.	No change to text. All open trenches must be temporarily backfilled or plated for safe travel of all transportation users during non-working hours, including those that may travel in the road shoulder. 12306 (b) addresses the requirement.
12306 (d) CMWD	Excavation. Trenchless methods. Recommend more flexibility.	Noted. Other construction methods may be approved by the Commissioner with justification. Language recommended was added to section.
12307 (c) CMWD	Restoration of right-of-way. Backfilling within 48 hours. Recommend more flexibility.	No change to text. The roadway must be restored to the original condition for safe travel of all transportation users.
12309 (d) CMWD	Storage of equipment. Language does not adequately address storage of materials and equipment during non-working hours.	The permittee may submit a plan for review and approval to safely leave materials and equipment in the road right-of-way during non-working hours; however, clear zone distances must be provided between the traveled way and the stored materials and equipment for safe travel during night-time or daylight non-working hours.

Section / Who	Comment	Response
12317 (e b) CMWD	Relocation of encroachment. Recommend adding “legal requirements for procurement”.	Revised to add addition time for “legal requirement”
12401(bC)(2) CMWD	Permit application. A cross-section should be optional. It isn’t always necessary to clearly convey the nature and extent of the work.	Not all items list under 12401(c) is required as applicable.
12401 (b) (4) CMWD	Permit application. Questioned the purpose of the cost estimate.	The cost estimate is for staff use to estimate any trust fund or surety to be included with the cost of restoring the right of way in case the permit does not comply with the conditions of the permit. Large-scale projects require a trust fund for additional inspection hours. Small-scale projects by private parties or contractors may require a surety deposit to be refunded upon satisfactory approval of the pavement restoration and work after 90 days.
12606 CMWD	Permittee costs. Recommend changing bullet “(b)” to “(9)”.	Noted. Bullet changed.
12202 (c) SCE	Exemptions from permit requirements. Questioned how annual permit affected by exemption for utilities.	Noted. Discussed matter with SCE. Any maintenance work by a utility would require an (annual) administrative permit or a separate (individual) permit. Section (c) addresses those utilities who have an annual permit, and the language was modified to reflect this. This language should be consistent with the annual permit conditions
12207 (a) SCE	Work without notification. Questioned why permittee liable for payment of any fees.	Noted. No change to text. This is not a new requirement. Unpermitted work is subject to double fees or other penalties as allowed by local, state, or federal regulations.
12210 SCE	Records of installations. Stated that language not clear. Questioned whether as-builts are always required.	Noted. This is not a new requirement. Added “as builts” to title and section. Any encroachment to remain in, on, over, or under the county road right-of-way should be documented with as-builts.
12214 SCE	Permit available in vehicle. No question.	Language added to clarify that permit must be available in vehicle or onsite.

Section / Who	Comment	Response
		Permit must be available at the work site. This language is mostly directed to transportation permits but applies to any permit.
12303 (c) SCE	Location. Questioned why excavation across right-of-way are only at 90 degrees.	Noted. Although crossings at 90 degrees cause the least impact to the road pavement, language was added to allow approval of alternatives by the Road Commissioner.
12303 (d) SCE	Location. Questioned why location should be outside the wheel path.	Noted. Continual wheel impacts to manholes are not recommended due to the damage that may be caused to the both objects. Such interaction is not recommended, however 12303 (d) states that exceptions may be approved with justification.
12303 (e) SCE	Above-ground utility lines. Questioned why no above-ground utility lines are allowed.	Noted. Discussed matter with SCE. Undergrounding is required on all new installations or new projects where no above-ground utilities exist. This language is consistent with the requirement for wireless facilities in Chapter 8.
12303 (f) SCE	Above-ground equipment. Questioned why no above-ground equipment may be placed within five (5) feet of the pavement.	This is a standard for safety reasons. Setback requirements are required for safe travel of all transportation users. No unyielding, unmovable objects are allowed within five (5) feet of the pavement edge. Five (5) is clear space or more is the required for non-motorized transportation users.
12303 (h) SCE	Maximum height of pole. Questioned why there is a maximum height of pole restricted by General Plan or Area Plan.	Discussed matter with SCE. Staff reviewed a few Area Plans with SCE and no specific pole-height requirements were noted, however the height must comply with the General Plan, including Area Plan, if such restrictions exist. The EO must comply with other existing local regulations.
12303 (o) SCE	Relocation. No question.	No change to text. Encroachments that may impair visibility or be less visible during night-time hours must be illuminated with reflectors or highly reflectorized paints or equivalent.
12304 (d) SCE	Design. Installation to meet minimum standards. No question.	Section included to minimize liability to County. Approval by the PWATD is for time, manner, placement, of the encroachment in the right-of-way, but does not approve designs, materials,

Section / Who	Comment	Response
		or methods for encroachments. All encroachments are expected to be designed, constructed, operated and maintained in accordance with industry standards.
12305 (b) SCE	Traffic control. No question.	The CAMUTCD is required.
12305 (c) SCE	Traffic control. Question regarding stop signs.	Purpose of section to minimize liability to County. The permittee is responsible for conducting work in the right-of-way in a safe manner for the traveling public. The permit will specify which safety devices must be provided for traffic control purposes, including, but not limited to additional stop signs at signalized intersections where battery backup may cease to operate the signal.
12306 (a) SCE	Excavation in right-of-way. Shoring details. Questioned whether this is a new requirement.	This is not a new requirement. For excavations deeper than five (5) feet, details of shoring must be provided to inspector at in advance of the work. Timing changed from "48 hours" to "two working days".
12306 (c) SCE	Open excavations. End of workday. SCE already does this. No question.	This is required as part of the standard conditions. Another utility commented on this section. Other methods may be approved by the Road Commissioner.
12307 (c) (e) SCE	Road restoration. Questioned whether County Road Standards follow the Greenbook.	The CRS requires a T-section to restore the pavement. The Greenbook standards does not require T-section.
12310 (c) SCE	Notification for emergency work. No question.	Notification is required so that the PWATD can inspect the work.
12310 (d) SCE	Notification for emergency work. Question whether application for emergency work is an after-the-fact permit.	Yes, the application for emergency work would be an after-the-fact permit and the permit description would be noted as such.
12319 (c) SCE	Recommended removing preserving the shape of tree.	The requirement for preserving the shape of tree is not a new requirement and is necessary for maintaining the stability of the tree.
12321 (a) SCE	Commented regarding Other standards. Structural capacity of a pole.	This requirement is consistent with the wireless section Chapter 8.
12401 (a) SCE	Propose striking exception for annual permit holders.	

Section / Who	Comment	Response
12401 (b) (4) SCE	Commented regarding Estimate to repair damage to roadway.	This is required to compute the surety amount.
12401 (d) SCE	Estimate for work. Questioned whether County requires estimates for work to be permitted.	This is not a new requirement; however, Staff do not ask for the estimate to process every application. For larger projects, the estimate is used to determine the amount of inspection time that may be necessary to satisfactorily inspect the work. A trust fund deposit is request by Staff to cover additional inspection time not covered by the permit fee.
12500 SCE	Annual Permits	Revised term "Annual" to "Administrative": Revised to say what work is included in the Administrative permit.
12607 SCE	Deposit required. Commented that SCE does this for large projects. Questioned whether this is changing.	No. This is not a new requirement. For larger projects, the estimate is used to determine the amount of inspection time that may be necessary to satisfactorily inspect the work. A trust fund deposit is request by Staff to cover additional inspection time not covered by the permit fee.
12810 SCE	Wireless facilities. Expert review. Small cell installation.	SCE is also subject to the requirements of Chapter 8.
12200 (a) (8) Supervisor D1	Permit required. Landscaping. Commented that pedestrian and equestrian travel will be impacted by low lying landscaping.	Encroachment are not allowed within 5-feet of the edge of pavement. On roadways with higher speeds, encroachments are not allowed up to 10 feet; which would give adequate distance for pedestrian and equestrian travel.
12220 (c) (d) (e) Supervisor D1	Special event requirements. Commented that the requirements for (c) (d) (e) are not given. These are not requirements.	Revised requirements (c) (d) (e) to (1) (2) (3) under section 12220 (a). Special events and their impact on the traveling public are reviewed on a case-by-case basis and some of the factors that could impact the review and approval, and the conditions to be placed on the event would be the type of event, duration of the event, time of day, day of week, number of vehicles, parking requirements, etc.
12304 (d) Supervisor D1	Utility encroachments not maintained by the Department. Questioned	Permit conditions require the permittee to maintain privately owned and constructed storm drains in the right-of-

Section / Who	Comment	Response
	what standards apply to privately owned storm drains. Who would maintain private storm drains.	way unless PWATD accepts maintenance.
12202 PWATD	Deleted (c) Activities under the annual permit are not exempt from permit requirements. The activities are performed under the Administrative permit.	
12205 PWATD	Added that Ordinance does not exempt compliance with General plan and zoning ordinances	
12221 PWATD	Added speed hump requirements	
12303 (i) PWATD	Added encroachments above the travelled way must have a minimum vertical clearance of sixteen (16) feet.	
12306(c) PWATD	Added requirement of recess non-skid steel plates over excavation on roadways with speed >35mph	
12307 (i) PWATD	Added condition to extend pavement repairs to the edge of pavement when the trench is less than 30" from edge of pavement	
12317 (b) PWATD	Separated part of 12221(a) into two section (a) and (b)	
12400(e) PWATD	Added insurance requirements for non-utilities for temporary use	
12500 (e) PWATD	Deleted (same as 12202 (c))	
Chapter 6 PWATD	Revised title Sureties to Deposits	
12701(1) PWATD	Added "underlying property" before owners of lots	
12701 (2) PWATD	Deleted repair of maintenance of curb and gutter as part of sidewalk repair	