

ORDINANCE 499
(AS AMENDED THROUGH 499.11)
AN ORDINANCE OF THE COUNTY OF RIVERSIDE AMENDING ORDINANCE NO. 499
RELATING TO ENCROACHMENTS IN COUNTY HIGHWAYS

The Board of Supervisors of the County of Riverside, State of California, do ordain as follows:

Section 1. GENERAL Subject to the control of the Board of Supervisors, there is hereby delegated to the County Transportation Director the administration of the use of County highways, including County roads, for excavations and encroachments; construction, operation, and maintenance of utility facilities; planting, maintenance, and removal of trees; and the issuance, modification, and revocation of permits for such uses.

Section 2.1. ENCROACHMENTS AND EXCAVATIONS No person, including firm, corporation, public utility company, public agency or district, or political subdivision, shall make any excavation or backfill in, or construct, install, or maintain any improvement, structure, or encroachment in, on, over, or under, any County highway or the right of way thereof without first obtaining from the County Transportation Director a permit therefore, or operate and maintain the same without such permit or in violation of the terms or conditions thereof. Such a permit shall be issued by the County Transportation Director only upon written application therefore, and payment of the required fee or fees. Such permit shall be issued only if the applicant is a public utility company holding a current franchise from the County of Riverside, or a public agency or district, or political subdivision having lawful authority to use the highway right of way for purposes specified, or the owner of an easement for such purpose within the highway right of way, or if the Transportation Director is satisfied that the use proposed is in the public interest and that there will be no substantial injury to the highway or impairment of its use as the result thereof, and that the use is reasonably necessary for the performance of the functions of the applicant. Every such permit shall be revocable and the uses and installations thereunder shall be subordinate to any prior right of the County to use the right of way for public road purposes. Every such permit shall be conditional upon the right of the County to require the permittee to relocate or remove the improvement, structure or encroachment at the permittee's expense for the benefit of the County or to relocate the improvement, structure or encroachment at the permittee's expense, where in the opinion of the County Transportation Director, such action is reasonably necessary to avoid, for the benefit of any public utility company, public agency or district, political subdivision, or any other person or agency having a right to use the County highway for the purpose proposed, a crossing conflict or underground interference; but the acceptance of a permit shall not be deemed a waiver by the permittee of any contractual or statutory right against any party for reimbursement of the expense of such removal or relocation. Every such permit shall be subject to such conditions as the County Transportation Director determines are necessary to assure the safety of the traveling public and the restoration of the highway, including pavement surfaces, ground surfaces, and subsurfaces within highway rights of way. The County Transportation Director may require such surety bond or deposit of money as in his judgment may be necessary to secure performance of the conditions of the permit and the replacement or restoration of the highway, including pavement surfaces, ground surfaces, and subsurfaces within highway rights of way, and any survey monuments or other improvements that may have been disturbed. The County Transportation Director may, where convenient to road work he has programmed, or for other reasons of County convenience, arrange to do the work of replacement to pavement or restoration of the roadway at the expense of the permittee. Permittee shall backfill excavation to current County

standards in accordance with County Ordinance 461. If required, permittee shall also restore the County highway or right of way to its condition prior to excavation. If any permittee shall fail to backfill any excavation or to restore the County highway or right of way to its condition prior to the excavation, the County Transportation Director shall have the right to perform said work and collect in the name of the County the cost thereof.

Section 2.2. UTILITY MAINTENANCE AND RELOCATION. Each public utility company, public agency or district, or political subdivision shall maintain its public utility improvements, structures, substructures, and other facilities within County road rights of way to current utility standards and to at least current, applicable County standards, whether or not the encroachment permit for the construction or installation of subject facilities was issued to the current owner. When it is determined to be in the interest of the public and the County, the Transportation Director may allow a private developer to obtain an encroachment permit for the construction or installation of public utility facilities for subsequent ownership by a public utility company, public agency or district, or political subdivision. In such a case, the public utility company, public agency or district, or political subdivision shall obtain an encroachment permit for the operation and maintenance of said public utility facilities prior to the issuance of the construction or installation permit. Upon satisfactory construction or installation of the public utility facilities including trench backfill and overlying road surfaces, the public utility company, public agency or district, or political subdivision, not the private developer, shall operate and maintain said facilities in compliance with the aforementioned encroachment permit.

For the purpose of the design or construction of public works projects within County rights of way, the public utility company, public agency or district, or political subdivision shall, upon request by the County, identify the vertical and horizontal location of existing utilities, based on record drawings (also known as 'as-built' drawings) or, if mutually agreed upon, when it is determined there may be conflicts with existing utility facilities, by excavating and exposing the existing utility facilities. The County shall utilize information about existing utility facilities to avoid or limit design or construction conflicts in an effort to keep relocation costs to a minimum.

The public utility company, public agency or district, or political subdivision shall, upon receipt of a request from the County of Riverside to remove or relocate utility facilities that are in conflict with a public works project on public right of way, cause the conflicting facilities to be removed or relocated in a diligent manner so as to avoid any delays or costs to the public works project. The public utility company, public agency or district, or political subdivision shall reimburse the County of Riverside, upon receipt of billing, for any delays or costs attributable to the failure of the public utility company, public agency or district, or political subdivision to remove or relocate conflicting utility facilities in a timely manner.

The public utility company, public agency or district, or political subdivision owning any utility facilities situated within County rights of way shall be responsible for all costs and liability, resulting from damage to public and private property and personal injury, which is caused by the construction, installation, operation, maintenance or failure of any utility facility. The public utility company, public agency or district, or political subdivision shall reimburse the County of Riverside for all costs incurred by the County in the protection of life and property where required due to any failure of a utility facility, or due to any unsafe construction, installation, operation, or maintenance of the utility facility, within County rights of way.

Section 3. EXCEPTIONS. An excavation or encroachment may be made without first obtaining a permit for repair or replacement of a facility previously installed only when necessary for the immediate protection or preservation of life or property, and provided that such a permit be

obtained on the first business day thereafter, and further provided that said excavation is made in such manner as to give full protection to the users of such highway and the County of Riverside. No permit shall be required for the loading or unloading of agricultural produce or produce containers. All such operations shall where possible be conducted off of the paved or traveled part of any county highway. If any part of the loading or unloading occurs on the paved or traveled portion of such highway, appropriate visible warnings shall be posted for the protection of traffic approaching from each direction, and if such operation leaves less than one traffic lane available for travel in either direction, a flagman shall be used at the sole risk of the operator. Use of warnings and flagmen shall be in accordance with published standards of the State Department of Transportation. Overnight storage of containers, agricultural products or unlicensed vehicles on the shoulder of any county highway or within eight feet of the traveled portion of such highway is prohibited. Bulk manure not in containers may be temporarily stored or stockpiled within the right of way of a county highway only when intended to be used on the abutting agricultural lands as follows:

1. On any portion of the right of way obviously not graded, improved or used for vehicle travel, sidewalk or drainage purposes.
2. On any unpaved graded shoulder of a paved highway, not closer than 4 feet from the pavement nor in such location as will impede or impair highway drainage.
3. On the graded shoulder of a highway less than 4 feet from the pavement only if there is no other location available and only if warning lights and signs to protect the traveling public are placed and maintained during any overnight storage at such place.

Section 4. TREE REMOVAL. No person, firm, corporation, public district, public agency or political subdivision shall remove or severely trim any tree planted in the right of way of any County highway without first obtaining a permit from the County Transportation Director to do so. Such permit shall be issued without fee, if the County Transportation Director is satisfied that such removal or trimming is in the public interest or is necessary for the improvement of the right of way or the construction of improvements on adjacent land. He may impose such conditions as he deems reasonable or necessary, including requirements for the work to be done only by a qualified tree surgeon or tree trimmer actually engaged in that business, and for bond, insurance or other security to protect person and property from injury or damage. The provisions limiting trimming of trees shall not apply to any public utility maintaining overhead power of communication lines pursuant to franchise, where necessary to prevent interference of a tree with such installation. A permit for removal of a tree may be conditioned upon its relocation or replacement by one or more other trees of a kind or type to be specified in the permit.

Section 5. APPLICATION. Each application for a permit under this ordinance shall be in writing in the name of the person or agency owning the encroachment and controlling the excavation and shall be signed by such person or agency or by his or its agent authorized in writing. The application shall be submitted on a form supplied by the County Transportation Director and shall contain or be accompanied by such information as he may require. Each permit shall be in writing, signed by the County Transportation Director or his representative, on a form to be furnished by him.

Section 6. FEES.

A. The permit fees and inspection fees required by this ordinance shall be paid at or after the time application is filed, but in any event before the permit is issued. Said fees for permits, which shall not be refundable, and for inspections shall be as set out in the tables contained in Appendix A of this ordinance.

B. When it is mutually agreed to by the applicant and the Transportation Director, or his or her designee, any fee required by this ordinance may be treated and accounted for as a deposit-based, actual-cost fee in the same manner as is detailed in section 1.1 of Riverside County Ordinance No. 671.

C. **DEPOSIT-BASED, ACTUAL-COST FEES.**

1. Certain project functions within this ordinance are designated as requiring deposit-based fees and are identified as such with the legend "Deposit-based Fee:" following the function title.
2. For deposit-based fee functions only, fees collected in excess of the actual cost of providing the specific service shall be refunded. Applications whose work require a cost to the designated department beyond the estimated fee collected as a deposit shall require an additional deposit. Work on any application will cease when the deposit is depleted and will resume when additional deposits are received.
3. The County will make draws against deposited funds on biweekly intervals based on payroll accounting cycles and at the fully burdened hourly rates for each job classification required to provide a specified service. Hourly rates for services shall be established through the yearly budget process and adopted by the Board of Supervisors as part of the County Budget public hearings.
4. Deposits for applications will be collected upon submittal of the application. Deposits will be monitored and, when 80% depleted, an analysis of the project will be done to determine if the remaining portion of the deposit will cover expected project completion costs. If costs are expected to exceed the remaining deposit in an amount of \$5.00 or more, additional deposits will be required to be submitted to recover the estimated full cost for completion. Additional deposits will be determined on a case by case basis based on the estimated cost to complete the application.
5. A full accounting of each application will be made within 45 days of decision of the application and provided to the applicant. Remaining deposits of \$5.00 or more will be refunded to the applicant.
6. When it is mutually agreed to by the applicant and the department or agency to which a fee applies, any fee not designated a "Deposit-based Fee:" may be treated and accounted for as a deposit-based fee in the manner established in paragraphs 1 through 5 of this subdivision.

Section 7. EXEMPTIONS.

A. The following shall be exempted from payment of the permit fee for an excavation or encroachment:

1. Every public district, public agency or political subdivision having lawful authority to use the right of way or highway for the purpose specified.
2. Street improvements under special assessment or improvement district proceedings conducted by the Board of Supervisors.
3. Public utility and public service facilities installed pursuant to specific contract with the County of Riverside and under the control thereof or a County Service Area thereof.
4. Paragraphs 2 and 3 of this subdivision apply only when the subject improvements are constructed by a county agency. If constructed by a private contractor, all permit and fee requirements as established by this ordinance are applicable.

B. The following shall be exempted from the payment of the inspection fee for an excavation or encroachment:

1. Street improvements under special assessment or improvement district proceedings conducted by the Board of Supervisors.
2. Public utility and public service facilities installed pursuant to specific contract with the County of Riverside and under the control thereof or a County Service Area thereof.
3. Paragraphs 1 and 2 of this subdivision apply only when the subject improvements are constructed by a county agency. If constructed by a private contractor, all permit and fee requirements as established by this ordinance are applicable.

C. Subdivision improvements to be constructed pursuant to agreement with the County of Riverside are exempt from this ordinance.

Section 8. BLANKET PERMITS. The Transportation Director may issue to any applicant a blanket permit for a series of excavations or encroachments of the same type or types. This provision shall be broadly applied to reduce administrative costs of both County and applicant. In the event that the terms and conditions of the blanket permit are violated, it may be revoked and the permittee may be required to obtain a separate permit for each encroachment.

Section 9. PENALTIES. Any person who does any act for which a permit is required by this ordinance, without first obtaining such permit, or who, having obtained such a permit, violates any term or condition thereof and thereby jeopardizes or injures person or property, is guilty of a misdemeanor and shall be punishable by a fine of not more than \$1,000.00, or by imprisonment in the county jail for not more than 6 months, or by both such fine and imprisonment. Nothing herein shall be deemed to deprive any person of any civil right or remedy he may have against a violator of this ordinance, nor to deprive the County of Riverside of any cause of action which it may have against such violator, regardless of any prosecution or conviction under this section.

Any person who violates the provisions of the second paragraph of Section 3 of this ordinance is guilty of a misdemeanor which shall be punishable as provided in this section.

Section 10. SEVERABILITY. If any provision, clause, sentence, or paragraph of this ordinance, or the application thereof to any person, entity, or circumstances, shall be held invalid, such invalidity shall not affect the other remaining provisions of this ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are hereby declared to be severable.

Section 4. EFFECTIVE DATE This ordinance shall take effect 60 days after adoption.

- Adopted:** 499 11/09/1964 (Eff 12/08/1964)
Amended: 499.1 05/20/1975 (Eff: 06/18/1975)
 499.2 06/24/1975 (Eff: Urgency)
 499.3 Item 6.1 of 03/08/1977 (Eff: 06/05/1977)
 499.4 Item 6.1 of 05/30/1978 (Eff: 06/28/1978)
 499.5 Item 6.2 of 11/25/1980 (Eff: 12/24/1980)
 499.6 03/01/1983 (Eff: 03/30/1983)
 499.7 Item 3.12 of 02/23/1988 (Eff: 03/24/1988)
 499.8 Item 3.11 of 08/13/1991 (Eff: 09/11/1991)
 499.9 Item 12.2 of 09/15/1998 (Eff: 11/12/1998)
 499.10 Item 3.41 of 02/02/1999 (Eff: 03/03/1999)
 499.11 Item 9.3 of 12/23/2003 (Eff: 02/02/2004)

APPENDIX A

ENCROACHMENT	Permit Fee	Inspection Fee	Unit Inspection Fee	Total Permit Fee
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MINOR

Tree planting, trimming or removal	\$69.00	\$19.00	each		varies
Minor drainage structures (Std 303/309/310)	\$69.00	4% cost			varies
Operate and maintain permits	\$69.00	\$0.00			\$69.00
Seismic refraction survey	\$69.00	\$183.00			\$252.00
Residential driveway approach	\$69.00	\$93.00			\$162.00
Blanket permit – utilities	\$69.00	\$931.00		Annually	\$1000.00
Riders (extensions of time)	\$69.00	\$0.00			\$69.00

INVOLVED

Catch basin 300 (4', 7', 14', 21', 28')	\$112.00	3% cost			varies
Drop inlet / Overside Drain	\$112.00	3% cost			varies
Water / Sewer laterals	\$112.00	\$183.00	plus	\$0.20 lf	varies
Trap Fences	\$112.00	\$183.00	plus	\$0.20 lf	varies
Monitoring Wells / soil borings	\$112.00	\$183.00			\$295.00
Landscape / irrigation	\$112.00	\$183.00	plus	\$0.20 lf	varies
Commercial driveway approach	\$112.00	\$230.00			\$342.00
Grading in right of way	\$112.00	\$183.00	plus	\$0.20 lf	varies
Curbs and gutters	\$112.00	\$183.00	plus	\$0.20 lf	varies
Concrete sidewalks	\$112.00	\$183.00	plus	\$0.20 lf	varies
Filming	\$112.00	\$91.50	per day		varies
Temporary power poles	\$112.00	\$183.00	plus	\$0.20 lf	varies
Riders (changes)	\$112.00	plus other	appl.	charges	varies
Heavy equipment crossings	\$112.00	\$91.50	per day		varies
AC Paving	\$112.00			\$0.07 sf	varies
Pedestrian benches	\$112.00	\$183.00			\$295.00
Utility service connections involving trenching	\$112.00	\$183.00	plus	\$0.20 lf	varies
County required utility relocations	\$0.00	\$0.00			no fee

EXTENSIVE

Dry / Wet Utility trenches (less than 1000 feet)	\$156.00	\$183.00	plus	\$0.20 lf	varies
Road Closures	\$156.00	\$91.50	per day		varies
Street, Water, Sewer, Storm Drain (tr's / pm's only)	\$156.00	\$0.00			\$156.00
Storm drains	\$156.00	\$183.00	plus	\$0.20 lf	varies

DEPOSIT BASED

(initial deposit amount)

Traffic signal	\$112.00	3% cost			varies
Bridges and drainage structures	\$156.00	3% cost			varies
Permanent poles / aerial cable	\$156.00	\$183.00	plus	\$0.20 lf	varies
Dry / Wet Utility trenches (1000 feet +)	\$405.00	\$183.00	plus	\$0.20 lf	varies

PENALTIES

Work done without benefit of permit (minor)	\$250.00		plus	2 X fee	varies
Work done without benefit of permit (involved)	\$500.00		plus	2 X fee	varies
Work done without benefit of permit (extensive)	\$1,000.00		plus	2 X fee	varies
Illegal cutting pavement (in addition to permit costs)	\$1,000.00		plus	\$0.25 sf	varies
Failure to notify County of work done under blanket permit	\$1,000.00			revoked	\$1,000.00

MISCELLANEOUS

Miscellaneous Plan Review / Field Review	Current DBF hourly labor / equipment usage rates				varies
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