



County of Santa Clara

Roads and Airports Department

ENCROACHMENT PERMIT GENERAL PROVISIONS

VER 11-01-24

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1. **DEFINITIONS:** Refer to Santa Clara County Ordinance Section C12.5 Definitions for a complete list of definitions as used in these provisions. The following additional definitions apply:
 - a) Applicant: As used in these provisions, “Applicant” means any person, firm, corporation, business, or governmental agency that executes the necessary forms to request official approval of a project or a permit in order to carry out construction of a project.
 - b) Permittee: As used in these provisions, “Permittee” shall mean any person, firm, corporation, business, or governmental agency to whom a permit has been issued.
 - c) Permit: The permit issued by the County of Santa Clara to an Applicant that is required for commencing a land use, land development activity, or a construction project
2. **LEGAL ENFORCEMENT:** Work under the Encroachment Permit (Permit) must comply with provisions in the following references, whether or not they are set forth herein:
 - a) California Streets and Highways Code;
 - b) California State Water Resources Control Board NPDES General Permit for Storm Water Discharges Associated with Construction & Land Disturbance Activities (Order No. 2009-0009-DWQ or any amendment thereof);
 - c) California Regional Water Quality Control Board, San Francisco Bay Region, Municipal Regional Storm Water NPDES Permit (Order No. R2- 2009-0074, NPDES Permit No. CAS612008, October 14, 2009, or any amendment thereof);
 - d) Central Coast Regional Water Quality Control Board, Revised Regional Storm Water Management Plan for City of Gilroy, City of Morgan Hill, and County of Santa Clara (South County) (February 22, 2010 or any amendments thereof);
 - e) County of Santa Clara Ordinance Code;
 - f) County of Santa Clara Standard Details and Standard Specifications;
 - g) Local ordinances and regulations of applicable municipality where the work is located;
 - h) Other federal, state, or local regulatory agencies.
3. **COUNTY STANDARDS AND DETAILS:** All designs within County's right-of-way shall comply with County standards. County standards may be found at: <https://countyroads.sccgov.org/do-business-us/published-standards-specifications-documents-and-forms>
4. **GENERAL INSTRUCTIONS**
 - a) All work is to be completed in accordance with these General Provisions attached to the Permit, any special provisions or conditions shown on the Permit itself.

- b) Commencement of any work under this Permit shall constitute acceptance of the conditions and requirements of the permit for the installation or future maintenance of the encroachment whether or not the Permit is signed by said person or an authorized representative of said person, firm or corporation
 - c) Work plans and specifications, required bonds and insurance, must be submitted, approved and on file in the Roads and Airports Department (hereinafter County) prior to issuance of the Permit.
 - d) If additional engineering, soils investigations or geological investigations are required, they shall be provided by the Permittee.
 - e) All survey work including construction staking shall be provided by the Permittee.
5. **PERMISSION AND REVOCATION:**
- a) The encroachment permit grants permission to the permittee or their agent (i.e., a contractor) to perform the work within the County right of way. This grant of permission does not constitute a deed or grant of easement by the County. The permit is not transferable or assignable. If the permittee sells the property, the encroachment permit for that property is not transferable to the new property owner. The new property owner(s) is required to apply for and obtain their own permit.
 - b) This Permit is revocable in accordance with the procedures and requirements of California Streets and Highways Code.
6. **INDEMNIFICATION:** Notwithstanding any other provision of this Permit, the Permittee shall indemnify, release, defend, and hold harmless, with counsel approved by the County of Santa Clara (hereinafter "County") and its officers, agents, and employees from any claim, demand, suit, judgment, liability, loss, injury, damage, or expense of any kind (including attorneys' fees and costs) arising out of, or in connection with, performance of this Agreement by the Permittee, its contractor(s) and/or its agents, employees, or subcontractors, excepting only loss, injury, or damage caused by the sole negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this Permit to provide the broadest possible coverage for the County as allowed by law. The Permittee shall reimburse the County for all costs, attorneys' fees, expenses, and liabilities incurred with respect to any litigation or process in which the Permittee contests its obligation to indemnify, defend, and/or hold harmless County under this Permit and does not prevail in that contest. Issuance of a permit authorizing construction does not release the Developer, Permittee or its Engineer from the responsibility for the correction of errors or omissions contained in the plans. If, during the course of the construction, the public interest requires a modification of (or departure from) the specifications and/or plans, the County shall have the authority to require: i) The suspension of work; ii) The necessary modification to the specifications and/or plans; and, iii) specify the manner in which the same is to be made.
7. **INSURANCE:** The Permittee shall obtain insurance as required in Santa Clara County Ordinance Division B17, Section B17-35(d) and shall provide a certificate of insurance verifying such insurance to the County prior to any work being performed. The County, its officers, employees and agents shall be named as additional insured.
8. **BONDS:** The Permittee shall obtain a performance bond in the amount indicated when required by the County as a condition of the permit and shall provide a certified copy of the bond verifying such bond in the amount required by the County.
9. **BONDS RELEASE:** If a Performance bond is posted, it will be released by the County after a written request for a final inspection and verification by the County the work has been satisfactorily completed. Release of the Performance bond is subject to the Permittee providing any Maintenance bond or Deferred Maintenance Agreement required by the County.
10. **PRIVATE PROPERTY:** This Permit shall not be construed as authorization for excavation and/or grading on private property adjacent to the encroachment or any other work for which a separate permit may be required. This Permit shall not be construed as authorization for any work for which a separate permit may be required – i.e. a driveway permit does NOT include utility work of any kind; a permit to connect water is separate from a permit to connect gas, electric, or communication.
11. **RELOCATION RESPONSIBILITY:** In the event future improvement of the road necessitates relocation of the encroachment authorized by this Permit, the Permittee shall relocate same at their sole expense.
12. **CONTRACTS AND AGREEMENTS:** This Permit does not release the Permittee from any liabilities contained in other agreements or contracts with the County and other municipal agencies.
13. **ACCEPTANCE:** Commencement of any work under this Permit shall constitute acceptance of the conditions and requirements of the permit for the installation or future maintenance of the encroachment whether or not the Permit is signed by said person or an authorized representative of said person, firm or corporation.

14. **INTEGRATED PEST MANAGEMENT:** Santa Clara County Ordinance Division B28 regulates the use of integrated pest management and pesticide use within County ROW. Permittee shall comply with all provisions of Ordinance Code B28, and prior to using any pesticide, Permittee shall receive the written approval of the County IPM Coordinator. Additional information about the IPM Ordinance can be found at <https://ipm.sccgov.org/about-ipm>.
15. **FEES:** Encroachment Permit review and issuance of the permit is subject to County established fees. Encroachment Permits that require an extension is subject to a time extension fee if extension is approved. Refer to County Roads and Airports Department for a list of current fees and general conditions regarding extensions of permits.