

SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



ITEM: 3.32
(ID # 21760)

MEETING DATE:
Tuesday, May 02, 2023

FROM : TLMA-TRANSPORTATION:

SUBJECT: TRANSPORTATION AND LAND MANAGEMENT AGENCY/TRANSPORTATION:
Initiation of an Amendment to Ordinance No. 499, Relating to Encroachments in the County of Riverside Highways. All Districts. [\$20,000 Total Cost - Gas Tax 100%]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Adopt an order to Initiate an Amendment to Ordinance No. 499, which updates/modernizes the Ordinance language, adds a new moratorium section on newly paved roadways, provides a section on applicable definitions, and further clarifies intent in various Ordinance sections; and
2. Direct the Transportation Department and County Counsel to prepare and process this amendment.

ACTION:Policy


Mark Lancaster, Director of Transportation 4/27/2023

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Washington, seconded by Supervisor Gutierrez and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington, Perez and Gutierrez
Nays: None
Absent: None
Date: May 2, 2023
xc: Transp., CO.CO.

Kimberly A. Rector
Clerk of the Board

By: 
Deputy

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA**

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 20,000	\$ 0	\$ 20,000	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: No General Funds will be used on this project. Gas Tax 100%.			Budget Adjustment:	N/A
			For Fiscal Year:	22/23

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

Ordinance No. 499 is the county ordinance regulating encroachments in County Road rights-of-way, also referenced as "County Highways". This Ordinance applies to work done within the County rights-of-way by utility companies authorized under a valid franchise agreement, special districts, public agencies, and private parties.

The current version of Ordinance No. 499.15 was adopted by the Board of Supervisors on October 22, 2019 (Agenda Item 19.3).

Three and a half years have passed since the last update. There is a need to comprehensively update Ordinance No. 499 to update/modernize the Ordinance language, add a new moratorium section on newly paved roadways, provide a section on applicable definitions, and further clarify the intent in various Ordinance sections.

Impact on Residents and Businesses

There is no impact on residents and businesses at this time. The amendment to Ordinance No. 499 will be considered for adoption at a future Board of Supervisors meeting.

Additional Fiscal Information:

According to Board Policy A-67, the Board of Supervisors is to consider the costs associated with preparing, processing, and implementing an ordinance amendment in deciding whether to adopt an order initiating the amendment. The estimated cost of preparing, processing and implementing this amendment by the County staff is \$20,000.

ATTACHMENTS:

Riverside County Ordinance 499.15


Jason Farin, Principal Management Analyst 4/26/2023


Aaron Gettis, Deputy County Counsel 4/24/2023

**ORDINANCE 499
(AS AMENDED THROUGH 499.15)
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. The County Transportation Director may immediately remove and dispose of, or by notice may require the removal of, any un-permitted advertisement sign from the County highways in accordance with the Streets and Highways Code.

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 are set forth in Appendix A and shall be paid at the time an application is filed. Notwithstanding the foregoing, any public utility company, public agency or district, or political subdivision may, with the consent of the Transportation Director, defer the payment of any such fee until the time a permit is issued. Except for the fees designated as "Deposit-based" in Appendix A, all such fees shall be nonrefundable.

B. When it is mutually agreed in writing by the applicant and the Transportation Director, any fee not designated a "Deposit-based" fee by this ordinance may be treated as a deposit-based fee and all of the provisions of Section 1.1 of Ordinance No. 671, as now adopted or hereafter amended, shall apply.

C. DEPOSIT-BASED FEES.

1. Certain functions within this ordinance are designated as requiring deposit-based fees and are identified with the legend "Deposit-based" in the tables contained in Appendix A to this ordinance.

2. Fees designated as deposit-based fees shall be subject to all of the provisions of Section 1.1 of Ordinance No. 671, as now adopted or hereafter amended.

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. SIDEWALK VENDING PERMIT REQUIRED.

- A. The Riverside County Transportation Director, or designee, may issue Sidewalk Vending Permits in accordance with Riverside County Ordinance No. 853. "Sidewalk Vending Permit" means a nontransferable permit issued by the Riverside County Transportation Director authorizing a person to engage in the business of being a sidewalk vendor.
- B. To apply for a Sidewalk Vending Permit, the applicant must provide:
 - 1. A completed application in the form provided by the Riverside County Transportation Director;
 - 2. A copy of the applicant's California driver license or identification number, individual taxpayer identification number, or social security number. Such information is not a public record and will remain confidential as required by Government Code Section 51038(c)(4); and
 - 3. A copy of a valid permit for vending food issued by the Riverside County Department of Environmental Health, as required.
- C. The Sidewalk Vending Permit application shall require the applicant to agree, in writing, to comply with all the provisions of this chapter and all applicable provisions of Riverside County Ordinances including but not limited to Riverside County Ordinance Nos. 853 and 580.
- D. The Sidewalk Vending Permit processing fee required by this ordinance is set forth in Appendix A. The Sidewalk Vending Permit fee shall be paid at the time the application is filed. The Sidewalk Vending Permit shall be valid for one year commencing upon the date of issuance.
- E. In accordance with California Government Code Chapter 6.2 of Title 5, Division 1, Part 1, Section 10 of this ordinance does not apply to

this Section 9.

Section 10. 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 11. 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)
499.12 Item 9.7 of 02/24/2009 (Eff: 04/25/2009)
499.13 Item 3.22 of 05/08/2012 (Eff: 07/07/2012)
499.14 Skipped
499.15 Item 19.3 of 10/22/2019 (Eff: 12/21/2019)

APPENDIX A

ENCROACHMENT	Permit	Inspection Fee	Unit	Total
	Fee			
			Fee	Fee

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
Sidewalk Vending Permit	\$79.00				\$79.00

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
Application for a franchise for a project involving a solar power plant or other use not constituting a public utility use	\$20,000				\$20,000

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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