

ORDINANCE NO 260

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, REPEALING CHAPTER 2, SECTIONS 51.021 THROUGH 51.0213, OF TITLE 5, HIGHWAYS, TRAFFIC, OF DIVISION 2, TRAFFIC, OF VOLUME 1, OF THE SAN BERNARDINO COUNTY CODE, AS ADOPTED BY THE TOWN OF YUCCA VALLEY AT THE TIME OF INCORPORATION, AND ADOPTING CHAPTER 12.60, ENCROACHMENT AND EXCAVATION REGULATIONS

CHAPTER 12.60

ENCROACHMENTS AND EXCAVATIONS

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12.60.010 PURPOSE AND INTENT:

The purpose and intent of this chapter is to establish regulations that result in the effective management of the public rights of way and public places for the benefit of the public and the public health, safety and welfare. The standards and procedures established in this Chapter are adopted to promote and protect public safety, to protect and preserve public property, to assure quality control inspection and maintenance of public and private improvements within public rights of way and public places, and for the general health, safety and welfare of the public.

12.60.020 DEFINITIONS: WORDS AND PHRASES:

The following words and phrases when used in this Chapter shall have the meaning respectively ascribed to them herein.

ADMINISTRATIVE AUTHORITY: As applied to this Chapter shall mean the Town Manager, Deputy Town Manager, Public Works Director, Town Engineer, or his designated representative, unless otherwise specified in the various sections.

ENCROACHMENT: Shall mean the entry upon, over, under or placing any facility upon, across, over or under, along or across, or the use of any public place in such a manner as to prevent, obstruct, or interfere temporarily or permanently with the normal use of that public place, easement, sidewalk area, parkway or similar area under the control of the Town.

OBSTRUCTION: Means any object, material, instrumentality or impediment in, upon, along, across, under or over a street needed or useful for a limited period of time in performing or doing work in, upon, along, across, under or over a street or in or upon property in close proximity thereto

whether the same obstructs travel or not, provided a barricade, torch or light when placed upon, along or across a street by any person placing personal property lawfully in, upon, along, across, under or over such street to protect the public, such property or any work done in connection therewith, or by an officer or employee of the Town in the course of his employment, shall not be considered an obstruction within the meaning of the foregoing definition.

- PARKWAY:** Shall mean that portion of the street right-of-way lying outside the curb line, or edge of roadway, and the property line adjacent thereto, existing or proposed, whether improved or unimproved. Parkway also includes any area within a roadway or roadway easement that is not open to vehicular travel.
- PERMITS (ENCROACHMENT):** As applied to this Chapter shall mean a form provided by the Town. The form will be two-fold; it will be an application when filled out by the Permittee and a Permit when approved by the Administrative Authority.
- PERMITTEE:** Means the person to whom the encroachment permit is issued.
- PERSON:** Shall mean any person, association, individual, owner, lessee, tenant, occupant, private company, firm, partnership, utility, special district, corporation, governmental agency or organization of any kind.
- PROTECTIVE MEASURES:** Means any barricades, traffic control devices, trench plates or similar such devices intended to give warning and protect the public from injury or loss resulting from the placement of an encroachment within the public way.
- PUBLIC PLACE:** Shall mean any public or semi-public (private) street, alley, sidewalk, parkway, sidewalk area, easement, square, plaza, park, mall, parking lot or any other public or semi-public (private) property owned by, or under the control of the Town.
- SIDEWALK:** Shall mean that portion of the sidewalk area that has been improved with a concrete or asphaltic surface.

SIDEWALK or
SIDEWALK AREA:

Shall mean a portion of or all of a parkway that is unimproved (no concrete or A.C. sidewalks), but is maintained for the exclusive use of pedestrians.

STREETS:

Shall mean any public street, lane, alley, court, easement, dedicated or offered for dedication, right of way or other public place in the Town, as they now exist or may hereafter be established, or any portion thereof, including all or any part of the entire width of the highway, right of way or easement, whether or not such entire area is actually used for highway purposes, excepting any easement or right of way vested for a specified entity, roadway, whether improved or unimproved.

STREETS WITH NEWER
PAVEMENT:

Are defined as those constructed, recently reconstructed, or repaved, with improvements having been completed and accepted by the Administrative Authority within the previous 60 months prior to the date request for cutting or excavating

STREETS WITH OLDER
PAVEMENT:

Are defined as those constructed, recently reconstructed, or repaved, with improvements having been completed and accepted by the Administrative Authority more than 60 months prior to the date request for cutting or excavating

SURFACE UTILITY
STRUCTURES:

Mean utility structures located within the public right-of-way at or above the existing or proposed grade, including but not limited to electrical transformers, telephone and cable television pedestals, hand holes, pull boxes, meter boxes, valve boxes and signal traffic controllers.

12.60.030 PERMIT REQUIRED:

No person shall construct, obstruct, reconstruct, remove, excavate or encroach under, over, or on any sidewalk, curb, gutter, cross gutter, drainage facility, street, parkway, easement, square, plaza, park, mall, parking lot or any other public or semi-public (private) property or miscellaneous structured owned or maintained by, or under the control of, the Town, without

first obtaining a permit from the Administrative Authority. All work shall conform to permit conditions and to this Chapter.

The Administrative Authority may issue an annual blanket permit to utilities for purposes of placing, replacing or repairing facilities within a public place in an unimproved area or where the opening or excavation in a paved area does not exceed two feet in width and three feet in length.

At the discretion of the Administrative Authority, a separate agreement, in addition to the standard encroachment permit and its standards and conditions, may be required for projects which encroach upon more than one mile in length of streets, easements, or public places.

12.60.040 PERMIT – APPLICATION:

The application for encroachment and excavation shall be in the form prescribed by the Administrative Authority and shall provide the following minimum information.

- A. State the name, address, phone number and email address of the applicant;
- B. State the name, address, telephone number and email address of the licensed contractor or entity, or the authorized representative, performing the work on behalf of the permittee. The authorized representative performing the work on behalf of the permittee shall provide 24 hour per day contact information.
- C. The purpose of the facility;
- D. A fully-dimensioned map, sketch, drawing or other illustrations which describes the location, size, depth and dimensions (where applicable) of the encroachment, excavation, construction, installation or removal, to which the application is submitted; The fully-dimensioned map, sketch, drawing or other illustrations shall also identify right of way or easement width, paved street width, centerline, and locations of any and all existing curb, gutters, sidewalks, cross gutters, drainage facilities and all improvements within the Town's controlled public place(s).
- E. The approximate time when work will begin, and the approximate time required to complete the work, including removing all obstructions, material and debris, backfilling, compacting and placing permanent resurfacing and/or replacing improvements, in compliance with this Chapter and conditions applied to the permit. The Administrative Authority may establish time frames or limits for completion of any and all work under encroachment permits issued.
- F. An agreement, signed by the permittee, that if the permit expires, is revoked by the Administrative Authority, or is vacated or abandoned, the permittee will, immediately and to the satisfaction of the Administrative Authority, restore the public place, street,

right of way, easement, parkway, or other to the equivalent or better condition than it was on the date the permit was issued.

- G. A statement signed by the permittee that, as to any encroachment not placed in a right of way, belonging to the permittee which is prior in time and/or right to the Town's right of way, if any encroachment permit is issued interferes with the subsequent improvement, grading or realignment of the public way by the Town or other Town project, then the permittee and his successors or assigns will at his own expense remove such encroachment or relocate it at a location designed by the Administrative Authority.
- H. A permit expiration date may be established by the Administrative Authority. Additionally, the Permittee shall give the Administrative Authority forty-eight (48) hour advance notice when work will be started and for all inspection requests. Similar notice shall be provided to the Sheriff's Department and San Bernardino County Fire Department if required on the permit. When work on any project ceases for any reason for a period of forty-eight (48) hours or more, permittee shall notify the Administrative Authority, the Sheriff's Department, San Bernardino County Fire Department, and any other emergency service provide as identified by the Administrative Authority, at least forty-eight (48) hours prior to recommencing such work. Work being performed on weekends and holidays shall be made by written authorization from the Administrative Authority.
- I. Adjustments to any permit conditions may be granted by the Administrative Authority for good and sufficient reasons. To protect the safety and convenience of the public, the Administrative Authority may establish special conditions on any permit issued.
- J. A statement signed by the Permittee that this Chapter authorizes the Administrative Authority with the right to stop work and/or revoke any permit upon violation of this Chapter or the permit conditions.

If the size and/or location of the encroachment is altered from the application information, the applicant shall provide within five (5) working days accurate "As Built" information to update the original application.

- K. When approved and signed by the Administrative Authority, the application, and all assigned and attached conditions and provisions, shall constitute a permit. Whenever unexpected significant changes or modifications are made to existing facilities, the Permittee shall secure written approval from the owner of the facility and an addendum to the original encroachment permit from the Administrative Authority.

12.60.050 PERMIT – FEES AND GENERAL DEPOSITS:

The Administrative Authority shall collect a permit fee to cover the cost incurred by the Town pursuant to the provisions of this chapter. Recoverable costs include administrative expenses

involved in the issuance of an encroachment permit, checking plans for compliance with this Chapter and other ordinances, and field inspections conducted to insure compliance with this Chapter and the terms and conditions under which the encroachment permit was issued, including costs for any necessary enforcement actions. Fee schedules may be established and amended from time to time by resolution of the Town Council. Encroachments subject to full cost recovery as set forth by resolution of the Town Council shall make a general deposit, in the amount established by Town Council resolution(s), to be sufficient to pay the costs of the permit, engineering and inspections fees. The general deposit is in addition to any security deposits that may be required under this Chapter.

12.60.060 WORK REQUIREMENTS:

All encroachment work shall be performed in accordance with either Town Standards and Specifications or the Standard Specifications for Public Works Construction (Greenbook), and at certain times, pursuant to the Caltrans manual, or according to the plans and specifications referred to in the Permit and, in addition to any special requirements and/or specifications, and conditions, which may be made a part of the permit.

12.60.070 PERMITTEE'S LIABILITY AND INSURANCE:

- A. As a requirement of all permits issued under this Chapter, an agreement, signed by the permittee, shall agree, in consideration of the granting of this permit, the APPLICANT(S) or Permittee(s) and any contractors or subcontractors working on its behalf shall agree to defend, indemnify and hold harmless the TOWN, its agents, officers and employees, at his sole expense, against any action, claim or proceedings and all loss, damage, liability, claim, demand, suit, cost, demand, claim, cost, expense, obligation or liability, whatsoever, including reasonable attorneys' fees, brought against the TOWN or its agents, officers or employees, elected and appointed boards, to attack, set aside, void, or annul this approval or because of the issuance of such approval of the encroachment permit, and/or the installation, construction, maintenance, use or operation of the work contemplated in the application for the encroachment permit, or which arises out of or is in any way connected with the performance of any work under the permit, regardless of whether the Indemnitees reviewed and approved any plans or inspected any work or improvement, including the encroachment, and regardless of whether such maintenance, repair, replacement, construction or condition was affected or caused by the indemnitees, except as provided by law, or in the alternative, to relinquish such approval. The applicant shall reimburse the TOWN, its agents, officers, or employees for any court costs, and attorney's fees which the TOWN, its agents, officers or employees may be required by a court to pay as a result of such action. The TOWN may, at its sole discretion, participate at its own expense in the defense of any such action but such participation shall not relieve APPLICANT(S) of his obligations under this condition. The Town shall promptly notify the APPLICANT(S) of any claim, action or proceedings arising from the TOWN'S approval of this project, and the TOWN shall cooperate in the

defense. This agreement shall include all claims, actions and proceedings brought for inverse condemnation.

- B.. As a requirement of all permits issued under this Chapter, an agreement, signed by the APPLICANT(S) or Permittee(s), agree(s), warrant(s), and covenant(s) at its/their own cost and expense, to procure and maintain during the construction of the project or improvement, and until all actions by the TOWN have been completed (such as final inspections and/or all conditions required by said permit or license have been fully and completely complied with relating to said activity, project, or improvement). APPLICANT(S) shall maintain Commercial General Liability Insurance no less broad than Insurance Services Office (IS) form CG 00 01 with minimum limits of \$1,000,000 per occurrence; \$2,000,000 General Aggregate; \$2,000,000 Products/Completed Operations Aggregate. If APPLICANT(S) maintains higher limits than the specified minimum limits, TOWN requires and shall be entitled to coverage for the higher limits maintained by APPLICANT(S). The TOWN shall be endorsed (ISO Form CG 20 12 or 20 26 or their equivalents) as an additional insured for liability arising out of operations performed by or on behalf of the APPLICANT(S) for which a permit has been issued. The insurance provided shall be primary to, and non-contributory with any insurance or self-insurance maintained by the TOWN. The policy shall cover inter-insured suits and include a separation of insureds or severability clause APPLICANT(S) shall maintain Automobile Liability Insurance with minimum limits of \$1,000,000 combined single limit per accident. Coverage shall apply to all owned, hired and non-owned vehicles. APPLICANT(S) shall maintain Workers Compensation and Employers' Liability Insurance with statutory limits as required by the Labor Code of the State of California. Employers Liability limits of \$1,000,000 per accident, \$1,000,000 disease per employee, \$1,000,000 disease per policy. All required insurance must all be submitted with the application. The TOWN Risk Manager may waive the requirement for insurance when it is reasonable and appropriate to do so.

12.60.080 LICENSE REQUIRED:

Excepting for work by regular full time employees of the United States, or the State of California, and those regular employees of utility companies, special districts, and County of San Bernardino personnel, all work done with the right-of-way of the Town shall be performed by contractor(s) licensed by the State of California, working within the area of expertise authorized by their license, and as required by the Town.

12.60.090 CASH DEPOSIT - SURETY REQUIRED WHEN, AND DEDUCTIONS:

If required by the Administrative Authority, the Permittee shall provide a cash deposit, surety bond and/or other acceptable security in the amount determined by the Administrative Authority as sufficient to reimburse the Town for the costs of restoring the public place to its original condition in the event the Permittee fails to do so.

- A. Before any sums are withdrawn from the security deposit, the Town shall give written notice to the permittee.
1. Describing the act, default or failure to be remedied , or damages, costs or expenses which the Town incurred by reason of the permittee's act or default;
 2. Provide a reasonable opportunity for permittee to first remedy the existing or ongoing default or failure if applicable;
 3. That the permittee will be given an opportunity to review the act, default, or failure described in the notice with the Administrative Authority.
- B. If work is on-going under the issued permit, and the permit is still active, the permittee shall replenish the security deposit within fourteen days after written notice from the Town that there is a deficiency in the amount of the fund.

12.60.100 DEFAULT OF PERMITTEE:

By applying for and obtaining a permit pursuant to this chapter, the Permittee agrees that in the event the Permittee fails to comply promptly with the terms of the permit and perform and complete the work according to the plans, if any, and the specifications referred to in this chapter, or fails to comply with any other provisions of this Chapter, the Town may elect to perform and complete all or part of the work. In the event the Town elects to perform any work, the Permittee shall pay to the Town upon demand of the Administrative Authority, and prior to actual performance and completion of the work by the Town or its contractor, the costs of performing and completing all or part of the work according to such permit, the plans, if any, and the specifications. The Administrative Authority may prosecute the work either by the use of the Town's forces or by an independent contractor, whichever method the Administrative Authority deems appropriate; and in the event the Permittee fails to pay such cost to the Town upon demand, the Town may bring an action in a court of competent jurisdiction to recover such costs together with reasonable administrative costs and attorneys' fees.

12.60.110 BEGINNING OF WORK OR USE:

The Permittee shall begin the work or use authorized by a permit issued under this chapter within fifteen (15) working days from the date of issuance, unless a different period is stated in the permit. If the work or use is not begun within fifteen (15) working days or within the time frame stated in the permit, then the permit shall become void, unless before its expiration the time for beginning has been extended in writing by the Administrative Authority. A permit for temporary encroachments, as described by the Administrative Authority, for continuing a use or maintaining a temporary encroachment previously authorized, shall be valid for a term of sixty (60) days from date of issuance, unless sooner terminated by discontinuance of the use,

removal of the encroachment, or termination of the permit by written order of the Administrative Authority mailed thirty (30) days before the date of termination.

12.60.120 NOTICE OF COMMENCEMENT OF WORK:

Permittee shall give notice to the Administrative Authority of the actual time of commencement of any work at least forty-eight (48) hours in advance. Similar notice shall be given to the Police Department and Fire Department if required on the permit. If the Permittee is a utility company, the form and frequency of notifications on work to be performed shall be as agreed upon in writing by the Administrative Authority and the utility company. When work on any project ceases for any reason for a period of forty-eight (48) hours or more, excluding weekends, or more, Permittee shall notify the Administrative Authority, the Police Department, and Fire Department, when required, at least twenty-four (24) hours prior to recommencing such work. Work being performed on weekends and holidays, that requires inspection, shall be by special arrangement.

12.60.130 PROMPT COMPLETION OF WORK REQUIRED:

After a project is commenced, the Permittee shall diligently pursue all work covered by the encroachment permit, promptly complete all work and restore the street as nearly as practicable to its original condition to avoid obstructing the public place more than is reasonably necessary. It shall be the Administrative Authority's authority to determine such timing.

12.60.140 PERMIT – REFUSAL OR REVOCATION:

- A. Any application for an encroachment permit may be denied, and any encroachment permit may be revoked, by written order of the Administrative Authority, effective immediately, a copy of which shall be mailed to the Permittee at the address specified in the permit, upon any one or more of the following grounds:
1. Violation of any of the provisions of this chapter;
 2. Misrepresentations of any material fact in the application;
 3. Violation of the terms or conditions of the permit;
 4. Failure to post, or withdrawal of, the requested deposit.
- B. Any encroachment permit may be revoked at any time, without cause, by resolution of the Town Council after mailing a notice of intention to revoke the permit to the Permittee at the address specified in the permit at least ten (10) days prior to the adoption of the resolution.

12.60.150 PROTECTION MEASURES - ROUTING OF TRAFFIC:

- A. It is the duty of every person undertaking any construction, including making an excavation in or upon any public place, to place and maintain barriers and warning devices necessary for safety of the general public.
- B. For excavations over five feet in depth, blasting operations and tunneling work, the Permittee shall, when required by law, obtain a permit from the California Division of Industrial Safety and/or any other permit required by State or Federal safety regulations.
- C. Barriers, warning signs, lights, and all other traffic control measures shall conform to the requirements of the Manual of Warning Signs, Lights and Devices for Use in Performance of Work upon Highways, issued by the State of California, Department of Transportation, and to any additional requirements specified by the Administrative Authority. Warning signs shall be placed as prescribed the Manual, issued by the State of California, Department of Transportation and the CAMUTCD.
- D. The Permittee shall take appropriate measures to ensure that during the performance of construction work on streets, traffic conditions as nearly normal as practicable shall be maintained at all times so as to minimize inconvenience to the occupants of the adjoining property and to the general public.
- E. When traffic conditions permit, the Administrative Authority may, by written approval, permit the closing of sheets and alleys to all traffic for a period of time prescribed by the Administrative Authority. The written approval of the Administrative Authority may require that the Permittee provide approved detours and give notification to various public agencies and to the general public. In such cases, the written approval shall not be valid until notice is given.

12.60.160 LOCATION OF UTILITIES:

Underground utility lines to be installed in new or existing Town streets shall be located in a position approved by the Administrative Authority.

12.60.170 CLEARANCE FOR VITAL STRUCTURES REQUIRED:

The construction work shall be performed and conducted so as to not unreasonably interfere with access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing structures, and all other vital equipment designated by the Administrative Authority.

12.60.180 FACILITIES-PROTECTION AND RELOCATION REQUIREMENTS:

Permittees shall inform themselves as to the existence and location of all facilities likely to be encountered by their operations.

Unless the law otherwise provides, relocation of an existing facility shall be performed in accordance with a plan approved by the owner. No facility owned by the Town shall be moved to accommodate the Permittee unless the cost of such work is borne by the Permittee.

All facilities affected by any excavation or other construction work shall be supported and protected by the Permittee with methods approved by the owner of the facility. Should an existing facility be damaged by the Permittee's operations, and for this purpose pipe coating or other encasement or devices are to be considered as part of a facility, the Permittee shall promptly notify the owner of the damaged facility. All facilities damaged by the Permittee's operations shall be repaired as directed by the owner and the expense of such repairs shall be charged to the Permittee.

12.60.190 FACILITIES – ABANDONMENT – REQUIREMENTS:

Whenever a substructure is abandoned, except the abandonment of service lines designed to serve single properties, the person owning, using, controlling or having an interest therein, shall file with the Administrative Authority a drawing or written statement indicating, in detail, the location of the substructure so abandoned. At the time of such abandonment, the Administrative Authority may determine what portion, if any, of the abandoned substructure shall be removed or otherwise treated.

Whenever a driveway approach is abandoned, or can no longer be justified by the use made of the abutting property, the Administrative Authority may require removal of any associated driveway, apron or curb depression and restoration of any existing curb, gutter or sidewalk across the driveway width.

12.60.200 EXCAVATED MATERIAL – DISPOSAL REQUIREMENTS:

- A. Where the confines of any area being excavated are too narrow to permit piling of excavated material beside the trench, the Administrative Authority may require the Permittee to haul away the excavated material. The Permittee shall be responsible for securing any necessary disposal sites. In addition, the Permittee shall anticipate, and make provisions for abatement of dust and dirt nuisances resulting from its operations.
- B. Any necessary disposal sites may require the application for, and issuance of, a grading plan and grading permit. Disposal sites are subject to common and typically accepted industry standard grading practices, including erosion and sediment control. All disposal sites or stockpiles are temporary as issued under the controlling encroachment permit, and shall be removed to the satisfaction of the Administrative Authority prior to final approval of the encroachment permit.

12.60.210 SITE MAINTENANCE:

Surplus dirt, debris, rocks or building materials shall be contained during permit work and the site cleaned daily to reduce the possibility of materials being carried off-site by runoff. Materials shall not be placed in such a manner which might result in the blockage of any drainage structure or channel.

- A. Clean-up and Dust Control: Throughout all phase of construction, including suspension of work, the Permittee shall keep the work site clean and free from rubbish and debris. The Permittee shall also abate dust nuisance by cleaning, sweeping and sprinkling with water or other means as necessary. The use of water resulting in mud on roads or drainage facilities will not be allowed as a substitute for sweeping or other measures. All soil and construction material shall be removed prior to that portion of the road being made available to traffic.
- B. Haul Routes: When required by the Town, the Permittee shall have a designated truck haul route for hauling of materials and/or disposal of excess materials. Care shall be exercised to prevent spillage on, or damage to, Town roads. Any such spillage or damage shall be removed or repaired immediately. Dust control and traffic control shall be provided for all hauling operations.
- C. Storage in Town Roads: There shall be no equipment or materials stored or stockpiled in road right-of-way. Equipment and materials shall be removed from road right-of-way when not in use and at the end of each working day, except as approved by the Administrative Authority. Offsite storage locations, including equipment and material storage yards, must be approved by the Town and proof of property owner approval supplied to the Town prior to occupation of the site.
- D. Emergency Response: Before work is started the Permittee shall furnish names and telephone numbers of person(s) on-call if emergency work is required by the Town. The Town, at its sole discretion, may elect to perform emergency work if it is judged as necessary for the protection of the roads or for the health and safety of the public. All emergency work shall be accomplished at no expense to the Town and reimbursement for all Town expenses shall be required of the Permittee.
- E. Maintenance of Trenches: Permittee shall perform continuing maintenance of all trenches, including periods of suspension of work, during the course of construction and shall maintain the trench for a period of twelve (12) months.

12.60.220 PROTECTION OF WATERCOURSES REQUIRED:

The Permittee shall provide and maintain adequate waterways for all surplus water; including storm water, runoff pumped from excavations, flushings or other water resulting from the Permittee's operations.

12.60.230 CUTTING OF PAVEMENT, SIDEWALK, CURB, GUTTER AND CROSS-GUTTER:

- A. Asphalt Pavement: Asphalt pavement shall be saw-cut unless an alternate method is approved by the Administrative Authority.
- B. Concrete Sidewalk, Curb, Gutter and Cross-Gutter: All concrete facilities shall be saw cut. The depth of cut shall be a minimum of one-third of the thickness of the material being cut. Sidewalks, curbs, gutters and cross-gutters shall be cut on and removed to the nearest joint or score line. In the absence of lines and joints, the area to be cut and removed will be determined in the field by the Administrative Authority, or his agent.

12.60.240 UTILITY LINES – BORING, JACKING CONDUCTOR CASING REQUIREMENTS:

Utility lines and conductor casings in public streets shall be installed by boring and/or jacking when the public street has been improved, paved, widened, or constructed in the past five years and may be required by the Administrative Authority to be installed by boring and/or jacking in other public streets. Water boring shall not be permitted.

12.60.250 SUBSTRUCTURES – DEPTH REQUIREMENTS:

Unless otherwise approved by the Administrative Authority, the minimum cover of substructures shall be as follows:

- A. Streets and alleys: Thirty (30) inches below the established flow line of the nearest gutter; or

If a flow line is not established, then the depth shall be at a minimum of forty-eight (48) inches below the surface of the nearest outermost edge of the travelled portion of the street, or

Designed elevations, approved by the Administrative Authority.

- B. Parkways: Eighteen (18) inches below established parkway elevation.
- C. Other public places: Eighteen (18) inches below the surface.

Unless the law otherwise provides, nothing in this Ordinance shall impose a duty upon the Permittee to maintain these minimum depth requirements upon subsequent changes of elevation in the surface unless the depth of the substructure interferes with the maintenance of, or travel on, a public street.

12.60.260 BACKFILLING REQUIREMENTS:

Backfilling shall consist of placing and compacting excavated or imported material in an excavation. Compaction to a relative density of ninety-five percent shall be reached in the top twelve inches of soil below base material. Compaction to a relative density of ninety percent shall be reached up to the ground surface at all other public places. Base material shall be compacted to a relative density of ninety-five percent. Asphalt concrete material shall be compacted to a relative density of ninety-five percent. Compaction tests by an approved soils laboratory or engineer may be required at the Permittee's expense to assure compliance with this section.

12.60.270 EXCAVATION REPAIR REQUIREMENTS

A. EXCAVATIONS IN OLDER PAVEMENT

Streets with older pavement are defined as those constructed, recently reconstructed, or repaved, with improvements having been completed and accepted by the Administrative Authority more than 60 months prior to the date request for cutting or excavating.

Unless the street is identified in the then adopted Capital Projects Budget, excavations in any street, regardless of the street's age or condition, shall be subject to the following provisions:

- a. The party responsible for making, suffering or causing the excavation to be made shall restore or cause to be restored such excavation in the manner specified herein:
 1. For lateral cuts in the street:
 - a. Final resurfacing shall include the grinding of existing, surrounding pavement and repaving at a minimum depth 0.15 feet. The applicant shall grind 5 feet on either side of the trench line for residential streets for the trench length, and 10 feet on either side of the trench for non-residential streets for the trench length.
 - b. Slurry seal shall be applied 30 feet on either side of the trench line for a length equivalent to the half width of non-residential streets.
 - c. If the distance between any two trenches, including the finished resurfacing area(s) as required herein and approved under permit, is less than 10 feet, the final resurfacing shall be extended to encompass the area between the trenches.
 2. For longitudinal cuts in the street:

- a. Final resurfacing shall include the grinding of existing, surrounding pavement and repave at a minimum depth of 0.15 feet. The applicant shall grind 2 feet on either side of the trench line for residential streets, and the width of the affected travel lane(s) for non-residential streets. If the remainder pavement between the edge of cut and gutter lip is 48 inches or less, said pavement shall be included in the final resurfacing.
 - b. Slurry seal shall be applied for the full width of residential streets and half width for non-residential streets.
 - c. In all cases, the resurfacing shall be for the full length of the trench, plus an additional twenty (20) feet on each end.
3. For trenches other than those that are longitudinal or lateral, the Administrative Authority shall establish the appropriate limits of paving at his sole reasonable discretion

B. EXCAVATIONS IN NEW PAVEMENT:

1. No permit should be issued which would permit an excavation, or pavement cut, in newly paved streets unless the applicant can demonstrate clearly to the Administrative Authority that the public health and safety require the contemplated work be permitted, and that there are no reasonable alternatives to cutting and/or excavating. This prohibition shall not apply to public agencies or public utilities when repairs are required to repair or replace failed pipelines or conduits, or when a new connection, which could not have been anticipated, must be made to satisfy a current need of that agency or utility.
2. Newly paved streets are defined as those constructed, recently reconstructed, or repaved, with improvements having been completed and accepted by the Administrative Authority within the previous 60 months prior to the date request for cutting or excavating.
3. If an installation or repair is demonstrated to be critically needed and no other alternatives exist, the Administrative Authority may approve an open cut or excavation within newly paved streets, subject to the following provisions:
 - a. The party responsible for making, suffering or causing the excavation to be made shall restore or cause to be restored such excavation in the manner specified herein:
 1. For lateral cuts in the street:

- a. Final resurfacing shall include the grinding of existing, surrounding pavement and repaving at a minimum depth 0.15 feet. The applicant shall grind 10 feet on either side of the trench line for residential streets for the trench length, and 20 feet on either side of the trench for non-residential streets for the trench length.
 - b. Slurry seal shall be applied 50 feet on either side of the trench line for a length equivalent to the half width of non-residential streets.
 - c. If the distance between any two trenches, including the finished resurfacing area(s) as required herein and approved under permit, is less than 10 feet, the final resurfacing shall be extended to encompass the area between the trenches.
2. For longitudinal cuts in the street:
- a. Final resurfacing shall include the grinding of existing, surrounding pavement and repave at a minimum depth of 0.15 feet. The applicant shall grind the entire width of residential streets, and the half-street width between the curb and centerline for non-residential street.
 - b. Slurry seal shall be applied for the full width of residential streets and half width for non-residential streets.
 - c. In all cases, the resurfacing shall be for the full length of the trench, plus an additional twenty (20) feet on each end.
3. For trenches other than those that are longitudinal or lateral, the Administrative Authority shall establish the appropriate limits of paving.

12.60.280 SITE RESTORATION REQUIREMENTS:

- A. **Concrete Sidewalk, Curb, Gutter and Cross-Gutter:** All concrete facilities shall be replaced at the same cross-sectional thickness as that removed except that sidewalks shall be a minimum of four inches thick, driveways and gutters six inches thick, and cross-gutters eight inches thick or as required by the adopted standards of the Administrative Authority.
- B. **Asphalt Pavement:** All trenches within existing paved roads shall be provided with temporary surfacing of a minimum of three-inch thickness, unless the Permittee immediately installs permanent resurfacing. Temporary paving shall be properly maintained until permanent surfacing is placed.

Unless previously approved by the Administrative Authority all temporary pavement shall be replaced by permanent pavement within forty-five (45) calendar days.

Prior to placement of permanent pavement, edges shall be saw cut to a vertical face. Permanent asphalt concrete shall be four inches thick, unless existing pavement section is thicker in which case the existing thickness shall be matched. The pavement shall be placed so that the finished surface, after compaction, is level with or does not exceed a maximum of one-fourth inch above the existing pavement and does not overlap onto the existing pavement. The pavement over three inches in thickness shall be installed in two lifts.

If over 50 percent of a street is destroyed by work authorized by an encroachment permit, the administrative authority may require a structural overlay of the entire street.

12.60.290 OPEN TRENCH – MAXIMUM:

The maximum amount of open trench to be allowed shall not exceed five-hundred feet or less as determined by the Administrative Authority.

12.60.300 URGENT WORK:

When, in the judgment of the Administrative Authority, the safety or convenience of the traveling public or the public interest requires that encroachment work be performed as emergency work, the Administrative Authority shall have full power to order, at the time the permit is granted, that all necessary forces be employed by the Permittee twenty-four (24) hours a day to the end that such work may be completed as soon as practical.

12.60.310 EMERGENCY ACTION:

Nothing in this Ordinance shall be construed to prevent the making of excavations or the performance of work necessary for the preservation of life or property or for the location of trouble in conduit or pipe, or for making repairs, provided that the person undertaking such work shall apply to the Administrative Authority for a permit on the first working day after the work is commenced.

12.60.320 NOISE, DUST AND DEBRIS:

Each Permittee shall carry out encroachment work in a manner which will avoid unnecessary inconvenience to the general public and occupants of neighboring property and the Permittee shall take all practicable measures to reduce noise, dust and debris. Hours of restricted operation have been established and shall be adhered to unless otherwise approved by the Administrative Authority.

12.60.330 PRESERVATION OF MONUMENTS:

No monument set for the purpose of locating or preserving the lines of any street or property subdivision; including precise survey reference points or permanent survey bench marks within the Town shall be removed or disturbed by any person who has not first filed a corner record for such removal or disturbance.

Permission to remove, disturb, or replace monuments shall only be granted upon the condition that the removal, disturbance or replacement of any monument be done under the supervision of a registered civil engineer authorized to practice land surveying or a license land surveyor. Any expenses incurred by the Town for the proper placement/replacement of monuments shall be paid by the Permittee.

12.60.340 INSPECTIONS:

The Administrative Authority shall make inspections and may establish rules and regulations reasonably necessary to enforce and carry out the intent of this Ordinance.

12.60.350 NON-PERMITTED EQUIPMENT:

Steel tracked equipment is not permitted on Town streets without prior approval of the Administrative Authority.

12.60.360 STOP WORK AND/OR CANCELLATION OF PERMIT:

The Administrative Authority shall be authorized to stop work on any permit if any of the following occur:

1. Unsafe working conditions to either the general public or workers on-site.
2. Substandard work.
3. Nuisances such as dust, debris or mud are deposited on Town streets and not cleaned in a timely manner.

If the above conditions occur on a recurring basis the Administrative Authority is authorized to cancel the permit.

12.60.370 VIOLATION OF PERMIT:

Violation of the encroachment permit terms may subject the permit to revocation per Section 12.60.410, as well as other enforcement procedures provided by the Municipal Code.

12.60.380 MAILBOXES:

Mailboxes are permitted with street rights-of-way. Mailboxes shall be installed per Town Standards.

12.60.390 DROP BOXES AND PUBLICATION STANDS:

Drop boxes and publication stands are permitted in industrial and commercial zones only.

At the discretion of the Administrative Authority drop boxes and publication stands may be subject to the same requirements as mailboxes.

12.60.400 PUBLIC NUISANCE:

Any work performed contrary to the permit, the plans, if plans are made, and the specifications referred to in this ordinance that is determined by the Administrative Authority to be a public nuisance shall be removed or abandoned.

12.60.410 DEFECTIVE WORK AND MATERIALS:

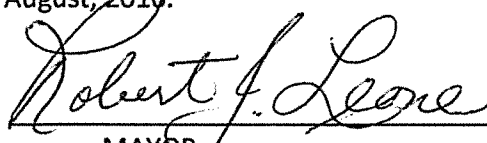
Upon order of the Administrative Authority, any work or material which does not conform to the permit, the plans, if plans are made, and the specifications, referred to in this chapter shall be removed and replaced so as to conform to the plans and specifications, notwithstanding that such work or material has been previously inspected, or approved, or accepted by the Administrative Authority.

Permittee shall be required to maintain all traffic control and maintain trench repair while the work is stopped.


12.60.420 ENCROACHMENT PERMIT HANDOUT:

The Administrative Authority is authorized to prepare a handout listing the requirements for encroachment permit applications. The handout may elaborate further on the requirements listed in this Ordinance. Modifications to the handout may be made that do not affect the policies within this ordinance without Town Council action.

APPROVED AND ADOPTED THIS 16TH day of August, 2016.


MAYOR

ATTEST:


Town Clerk

STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

TOWN OF YUCCA VALLEY

I, Lesley R. Copeland, Town Clerk of the Town of Yucca Valley, California hereby certify that the foregoing Ordinance No. 260 as duly and regularly introduced at a meeting of the Town Council on the 16th day of August, 2016, and that thereafter the said ordinance was duly and regularly adopted at a meeting of the Town Council on the 6th day of September, 2016, by the following vote, to wit:

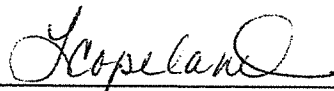
Ayes: Council Members Abel, Denison, Lombardo and Mayor Leone

Noes: None

Abstain: None

Absent: Council Member Huntington

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Town of Yucca Valley, California, this 7th day of September, 2016.



Town Clerk of the Town of
Yucca Valley