



## **ANDERSON COUNTY PUBLIC WORKS DIVISION**

735 Michelin Blvd  
Anderson, SC 29626  
(864) 260-4190

### **ENCROACHMENT PERMIT POLICY**

#### **I. GENERALLY**

- 1.1 It shall be unlawful for any utility, business, entity or individual to excavate within, encroach upon, or in any other way alter a County-maintained road right-of-way, except in accordance with Anderson County Ordinance Section 38-616.
- 1.2 Any utility, business, entity or individual desiring to excavate within, encroach upon, or in any other way alter a County-maintained road right-of-way shall notify the Anderson County Public Works Division – Roads and Bridges Department (“Roads and Bridges Department”) of the proposed activity by submitting an application for an Encroachment Permit (“Permit”). A Permit ensures that all activities will be performed in accordance with applicable design and construction standards, that anyone working within the County-maintained road right-of-way have sufficient insurance necessary to safeguard the public interest, that facilities will be properly located within the right-of-way to prevent obstruction of and damage to existing facilities, and that any activity will be performed in accordance with applicable Federal, State and local law.
- 1.3 A copy of a Permit shall be maintained by the applicant and kept at the work site at all times during the permitted activity, except for Annual Blanket Permit holders, which are only required to notify the Roads and Bridges Department of work recently performed. Failure to obtain a Permit or failure to comply with the terms of a Permit constitutes a misdemeanor and shall be punishable in accordance with Section 1-7 of the Code. After written notification of a violation is provided, each day the violation is not remedied shall constitute a separate violation. Upon issuance of a violation notice, all activity at the work site must immediately stop until the penalty has been paid in full and a Permit has been issued, or the applicant complies with the terms of the existing Permit.
- 1.4 If a bond is required, a surety bond, cash bond, or Irrevocable Letter of Credit from an accredited lending institution must be posted prior to issuance of the permit and will be held for a period of 18 months after all repairs or excavation have been completed. The cash/bond is refundable after 18 months, upon a final inspection to ensure work is completed to the satisfaction of the county.

#### **II. ENCROACHMENT PERMITS**

- 2.1 Permits must be obtained at least forty-eight (48) hours prior to initiating any activity within the County-maintained road right-of-way. Permit applications and a schedule of required fees and security, as amended periodically by County Council, shall be available for review upon request from the Roads and Bridges Department, located at 735 Michelin Blvd, Anderson, SC 29626, or on the internet at [www.andersoncountysc.org](http://www.andersoncountysc.org).

- 2.2 The applicant should be familiar with the proposed activity within the County-maintained road right-of-way or secure the assistance of a qualified contractor to represent the applicant, and should be prepared to discuss the proposed activity with the Roads and Bridges Department at the time of application. The applicant shall be required to submit a sketch or drawing with each Permit application. Depending upon the complexity of the proposed activity, three sets of detailed engineering plans may be required to provide sufficient information regarding the horizontal and vertical placement of the proposed facilities, such as the area of placement, proximity to existing facilities, safety measures needed to safeguard the public, and methods of protection of public and private facilities from damage during and after construction.
- 2.3 Except as noted below, licensed and bonded contractors or utility companies shall be required to perform all activities within the County-maintained road right-of-way. The issuance of Permits to individuals shall be restricted to situations where the nature of the encroachment is such that a licensed and bonded contractor is not required to ensure and protect the integrity of the roadway and the safety of the public. However, permits shall not be issued to individuals if the proposed activity requires compaction of fill, erosion protection measures, or other activities that would place at risk the integrity and stability of the County-maintained road right-of-way.
- 2.4 A contractor or utility company acting as an agent for an applicant may secure a Permit. However, by signing the application, the agent as well as the applicant accepts all responsibility for all activity associated with the Permit.
- 2.5 Permits shall be valid for a period of time not to exceed ninety (90) days from the date of issuance, unless pre-approved for a longer period of time by the Roads and Bridges Department. A Permit may be extended for an additional period of time as determined by the Roads and Bridges Department. Applicants or their agents working under an expired Permit shall be subject to the same penalties as an individual or entity working without or failing to comply with the terms of a Permit.
- 2.6 The applicant, or any agent or employee of the applicant, shall obtain all necessary information related to the existence and location of all existing surface and underground facilities. To the fullest extent of the law, the applicant shall hold harmless and indemnify the County, its successors and assigns, officers, council members, agents and employees from and against any and all claims, losses, expenses (including reasonable attorney's fees), demands or judgments which result from or arise out of damage to other facilities and/or adjacent private property while working in the County-maintained road right-of-way.
- 2.7 Upon completion of the permitted activity, the applicant shall restore the County-maintained road right-of-way to its original condition, ensuring that all repairs conform to the requirements contained in the current edition of the *SCDOT Standard Specifications for Highway Construction Manual*. Eighteen months after completion of the permitted activity, security funds held by the County, if any, shall be returned to the applicant, provided the County Engineer, upon final inspection, approves the repair. If the County Engineer deems the repair to be unacceptable, the County Engineer shall notify the applicant of the unacceptable nature of the repair and provide the applicant thirty (30) days to correct such deficiency before permanently retaining the security to properly repair and restore the County-maintained road right-of-way to its original condition. Once the County-maintained road right-of-way has been properly repaired, excess security funds held by the County, if any, shall be returned to the applicant. The Roads and Bridges Department reserves the right to correct or have problems corrected and charge all associated costs (including but not limited to labor, materials, equipment, supervisory, and administrative) to the applicant or its security deposit.

- 2.8 The Roads and Bridges Department may refuse to issue a Permit if any monies are due and outstanding from the applicant or for inadequate past performance on the part of that applicant.

### III. MISCELLANEOUS

- 3.1 All permitted activity in the County-maintained road right-of-way shall be performed in accordance with appropriate Federal, State, and local standards.
- 3.2 All permitted activity shall be performed to the satisfaction of the County Engineer or designee. Permits may not be issued or shall be revoked for activity that is not performed in accordance with sound engineering and construction principles or otherwise in compliance with law.
- 3.3 Except in emergency circumstances, all activity in the public right-of-way shall be performed during daylight hours, sunrise to sunset, unless otherwise specified in the Permit.
- 3.4 Except in the event of an emergency, the Roads and Bridges Department shall be notified at least two (2) business days in advance of the start of the activity. Should the County Engineer find work in progress prior to notification by the applicant and/or Permit not on site during construction, work will be stopped until all permit requirements have been met.
- 3.5 As required by law the applicant must contact the Palmetto Utility Protection Service (P.U.P.S.) at 1-888-721-7877 at least three (3) business days before any type of excavation activity commences. The P.U.P.S. number must be noted on the Permit.
- 3.6 All activities within the County-maintained road right-of-way shall be conducted in a manner that causes minimal inconvenience to adjacent property owners and the traveling public. Reasonable access to driveways, houses, and buildings adjacent to the site shall be maintained at all times unless previously arranged in writing with the affected party. Any temporary approaches to crossings or intersecting highways shall be pre-approved by the Roads and Bridges Department and kept in good condition. All business establishments or homes within 300 feet of the site shall be notified at least twenty-four (24) hours in advance of any activity and shall have access during construction at all times. Any trees, shrubbery, or landscaping damaged by the applicant during the activity shall be replaced as directed by the County Engineer if owned by the County or the owner if on private property.
- 3.7 No debris spoils or stockpiling of materials shall be allowed unless specifically authorized in a Permit. Under no circumstances shall material stockpiles be left in the street or on shoulders of the County-maintained road right-of-way overnight.
- 3.8 Excavations shall be limited to one thousand (1000) linear feet of open trench before backfill operations must begin. If any excavation cannot be backfilled immediately, the applicant shall securely and adequately cover the excavation and maintain proper barricades, and lights as required, from the time of the opening of the excavation until the excavation is surfaced and opened for travel. The County Engineer of designee shall determine the suitability of excavation barricading in each circumstance.
- 3.9 All concrete forms shall be inspected by the County Engineer twenty-four (24) hours prior to pouring.
- 3.10 Traffic controls within any Permit site shall conform to the *Manual of Uniform Traffic Control Devices (MUTCD), Latest Edition*.

- 3.11 If it should ever become necessary to move or relocate a facility, or any part thereof, on account of change in location of the roadway, widening of the roadway, or for any other sufficient reason, such moving or relocation shall be done on demand of the Roads and Bridges Department at the sole expense of the owner of the facility. If and when the facility contemplated herein shall be moved or relocated, either on the demand of the Roads and Bridges Department or at the option of the owner all work in connection with the construction, maintenance, moving or relocation of the facility contemplated herein shall be done by and at the expense of the owner, and the roadway and facilities shall be restored to their original condition at the expense of the owner.
- 3.12 If significant damage to the asphalt surface of a County-maintained public road occurs or is anticipated to occur as a result of a permitted activity, the County Engineer has the right, as a condition of the Permit, to require the applicant to resurface, not spot repair the entire affected road surface within or adjacent to the permitted site. A separate bond in the amount of 125 percent of the contract cost of resurfacing shall be posted prior to construction.
- 3.13 In the event of an emergency, an individual or entity may act without a permit, but shall notify the County Engineer within twenty four (24) hours of the emergency response, or as soon thereafter as reasonably practicable. The individual or entity shall then obtain a Permit from the Roads and Bridges Department within forty eight (48) hours of the emergency response or may be subject to a civil penalty not to exceed \$500. Failure to comply with and honor a civil penalty shall constitute a violation of this Code and such violation shall be punishable in accordance with Section 1-7 of this Code.

**IV. PUBLIC UTILITY BLANKET PERMITS**

- 4.1 Public utility companies may apply for an Annual Blanket Permit with the Roads and Bridges Department, allowing an unlimited number of permits for all activities that do not disturb the asphalt surface of a County-maintained public road. However, public utility companies shall provide the Roads and Bridges Department a weekly report detailing activities performed such as the location of the activity and the type of work performed. Plans are not required for routine maintenance and service connections.
- 4.2 Public utility companies that do not desire to apply for an Annual Blanket Permit shall apply for a separate permit for each activity within a County-maintained road right-of-way together with applicable fees and/or security.
- 4.3 Regardless of whether a utility company has obtained an Annual Blanket Permit, separate Permits are required for new or replacement line installations, new or relocated service poles, and any activity disturbing the asphalt surface of a County maintained public road.

**V. PERMIT FEE SCHEDULE**

General Permit Fee	\$25.00
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Permit Extension Fee	\$10.00
Reinspection Fee	\$25.00
Pavement Cut	\$100.00 Permit Fee + \$5.00/sf of pavement cut
Longitudinal Work in R/W	General Permit Fee + \$0.05/linear foot

**BONDS REQUIRED**

Utility Blanket Permit	Waived for Utilities in good standing
Pavement Cut	Pavement Cut Permit Fee x 10
Longitudinal Work in R/W	Longitudinal Work Permit Fee x 50

Bonds may be in the form of a Surety Bond, Cash Bond or Irrevocable Letter of Credit.

If calculated bond exceeds the \$5000.00 continuous bond posted by a Utility Company under the Utility Blanket Permit requirement, a separate bond in the overage amount must be posted.

Bond will be waived for an adjacent homeowner who is doing less than 100' lineal feet of work or at the discretion of the County Engineer.

## **AUTHORITY**

### **SOUTH CAROLINA CODE OF LAWS**

**SECTION 57-7-60.** Excavating in highways not in State highway system; permit.

Any person desiring to make any excavation for any purpose in or across any road outside any incorporated city or town, not in the State highway system, shall make and file with the county supervisor an application in writing for permission to make such excavation. Such application shall state fully the nature, purpose, extent and depth of the proposed excavation and shall contain such further information as may be required by the supervisor. Before such permission shall be granted the applicant shall execute and deposit in the office of the supervisor a good and sufficient bond of indemnity, or cash, in such sum as may be required to repair the road and restore it to as good condition as to foundation and surface as it was before being excavated. When such excavation is to be made by a solvent public utility, such bond may be executed by the utility without additional surety.

**SECTION 57-7-70.** Permit not required for municipality owning waterworks or sewerage outside limits.

If any city or incorporated town owns its own waterworks or sewerage, which extends beyond the city or town limits, the city or town may in any particular case, after giving written notice to the county supervisor of its desire so to do and receiving the consent of the supervisor, proceed with the work without compliance with the requirements of Section 57-7-60, and in any such case such city or town shall be responsible to the county for the repair of the road, it being optional with the city or town to bring itself within the provisions of this section with the consent of the supervisor.

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### **ANDERSON COUNTY LAND USE ORDINANCE April 17, 2003**

#### **ARTICLE VI. ROAD STANDARDS**

##### **DIVISION 1. GENERALLY**

###### **Section 38-616. Road repairs; encroachment permits.**

(a) All persons desiring to excavate within, encroach upon, or in any other way alter a County-maintained road and/or right-of-way, shall notify the County Engineer and submit to the Anderson County Transportation Division an application for an encroachment permit, together with required fees and security, as determined periodically by County Council, at least 48 hours prior to initiating such work. A schedule of required fees and security shall be available for review from the Anderson County Transportation Division.

(b) Upon completion of the permitted activity, the applicant shall restore the County-maintained road and/or right-of-way to its original condition, insuring that all repairs conform to the requirements contained in the SCDOT Standard Specifications for Highway Construction Manual. Eighteen months after the permitted activity, the security shall be returned to the applicant, provided the County Engineer, upon final inspection, approves the repair. If the County Engineer deems the repair to be unacceptable, the security shall be retained by the County and used to properly repair and restore the road and/or right-of-way to its original condition. Once the road and/or right-of-way has been properly repaired, any excess security will be returned to the applicant.

(c) Failure to comply with any of the requirements of this Section constitutes a misdemeanor and shall be punishable in accordance with Section 1-7 of this Code. After written notification of a violation is provided, each day the violation is not remedied shall constitute a separate violation.

**Sec. 1-7. General penalty; continuing violations.**

(a) Wherever in this Code or in any ordinance of the county any act is prohibited or is declared to be unlawful or an offense or misdemeanor, or the doing of any act is required, or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, and no specific penalty is provided for the violation thereof, the violation of any such provision of this Code, or any such ordinance, shall be subject to the maximum penalties authorized for the Magistrates' Courts of the State of South Carolina, as from time to time provided in Section 22-3-550 of the South Carolina Code of Laws, 1976, as amended, or successor legislation.

(b) Each day any violation of this Code or any such ordinance, resolution, rule, regulation or order shall continue shall constitute, except where otherwise provided, a separate offense.

(c) As an alternative to, or along with the misdemeanor charge, the violator of any section of this Code may be charged with a civil penalty, not exceeding \$500.00, where no specific penalty is required.

(Ord. No. 98-010, 5-19-98; Ord. No. 02-003, § 2, 3-5-02; Ord. No. 01-047, § 2(a), 1-21-03)

State law references: Authority to provide penalties for ordinance violations not in excess of jurisdiction of magistrates' courts, S.C. Code 1976, § 4-9-30(14); jurisdiction of magistrates' courts, S.C. Code 1976, § 22-3-550.

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**STATE OF SOUTH CAROLINA  
COUNTY COUNCIL FOR ANDERSON COUNTY  
ORDINANCE NO. 2005-017  
JUNE 21, 2005**

**SECTION XXXX. ENCROACHMENT PERMITS**

The Anderson County Transportation Division is authorized to charge fees for encroachments on County roads and rights-of-way and for encroachment permits for such encroachments in accordance with an encroachment fee schedule prepared, from time to time, by the Anderson County Transportation Division, and approved by Anderson County Council by appropriate Council action. Such fees for encroachments on Anderson County roads and rights-of-way and for encroachment permits for such fees shall be sufficient to fully reimburse the County for all costs of supervising, inspecting, and repairing, as necessary, all damage to County roads and rights-of-way caused by such encroachments. The first such encroachment permit fee schedule, dated February 16, 2005, and attached hereto as a part of this budget ordinance, is hereby approved.