



**COUNTY OF SAN MATEO**  
Inter-Departmental Correspondence  
Public Works



**Date:** October 18, 2013  
**Board Meeting Date:** December 10, 2013  
**Special Notice / Hearing:** None  
**Vote Required:** Majority

**To:** Honorable Board of Supervisors

**From:** James C. Porter, Director of Public Works

**Subject:** Ordinance Amendment Related to Regulation of Encroachments in Public Rights of Way

**RECOMMENDATION:**

Adoption of an Ordinance to amending the County of San Mateo Ordinance Code, Title 2, Chapter 2.54 Permitting and Inspection Fees, previously introduced on November 19, 2013 and waiver of reading the ordinance in its entirety.

**BACKGROUND:**

In 2008, your Board approved Ordinance No. 04426 adding Chapter 2.54 Permitting and Inspection Fees to the San Mateo County Ordinance Code under Title 2 Administration which enabled the Department of Public Works to implement fees for permitting and inspecting various encroachments or improvements in maintained and non-maintained public rights of way. These regulatory fees cover services related to issuing and regulating various types of encroachment permits. Actual revenues collected from these fees have helped offset a portion of the costs associated with reviewing and evaluating various encroachment permits.

The adopted ordinance included a fee schedule effective from the beginning of each fiscal year beginning with July 2008 through July 2011 with a 3% automatic increase in fees for each successive year. The original fee schedule was developed on the basis of comparable agency fees and was intended to recover the costs of managing encroachment permits in San Mateo County.

**DISCUSSION:**

Staff believes that an adjustment to the rate schedule for the permitting and inspection fees is needed to administer the fees efficiently and better reflect actual costs for services.

While the proposed fees will not cover the full cost of processing and inspecting encroachment permits, it appears that in some instances, application fees have deterred some members of the public from applying for an encroachment permit and work has been done in a right of way without a permit. Time spent by staff investigating and following up with unpermitted work in a right of way could not be recovered under the current fee schedule.

To address this problem without increasing the burden to homeowners and businesses who do apply for encroachment permits for work within the road right of way, staff proposes:

- 1) An adjusted fee schedule that maintains overall programmatic revenues but reduces fees for certain types of proposed encroachments that need minimal inspection; and
- 2) Adding to the fee schedule allowable penalties of \$350/day, to a maximum of \$10,500, for failure to remove an unpermitted encroachment after receiving notice requiring removal of the encroachment.

The Department, through the Director's Road Commissioner authority, has the ability under the *Streets and Highway Code Section 1483* to assess penalty fees of \$350 per day for each day an unpermitted encroachment is not removed. The Department believes that assessment of such penalty fees will serve as a deterrent to performing unpermitted work and ultimately reduce the time and resources required to address unpermitted encroachments. The new penalty provision, in conjunction with the adjusted fee schedule, should result in an increase in permit applications.

Included in our fee setting evaluation was a review of permit fees in adjoining jurisdictions as well as actual costs to the Department for review and inspection. Annual fee increases are based on projected increases in costs related to managing and processing encroachments.

Staff believes the new fee schedule and penalties will increase the number of applications, minimize staff time spent on unpermitted work, and improve the use of the right of way for the community.

County Counsel has reviewed and approved the Ordinance as to form.

Approval of amending the Permitting and Inspection fees in the San Mateo County Ordinance Code contributes to the Shared Vision 2025 of a Livable Community by insuring that encroachments in the public right of way are managed safely, fairly, and consistently.

**FISCAL IMPACT:**

The proposed fee ordinance amendment takes effect thirty (30) days after adoption. Revenues resulting from the fees are anticipated to generate revenues of approximately

\$260,000 per year based on calendar year 2012 permit activity. The balance of program costs, estimated at \$40,000 annually, will be paid out of the Road Funds.

Actual revenues and expenditures for the calendar year 2012 are shown in the following table in the first column and estimated revenues and expenditures for the same year if these proposed fees had been applied are shown in the second column.

<b>Description of Work</b>	<b>Actual</b>	<b>Proposed</b>
Revenues	\$293,000	\$260,000
Expenditures	(\$390,000)	(\$300,000)
Revenues less Expenditures	(\$97,000)	(\$40,000)

All encroachment fees and penalties may be waived by the discretion of the Director of Public Works if he determines it to be in the public interest to do so.

There is no impact to the General Fund.