

Note: All text is new and is added to the California Code of Regulations.

**TITLE 21. PUBLIC WORKS
DIVISION 2. DEPARTMENT OF TRANSPORTATION**

Chapter 8. Encroachment Permits

Article 2. Appeal

§ 1413. Scope.

This Article implements and makes specific the procedure to appeal the denial of an Encroachment Permit application and provides information relating to the costs and allocation of costs associated with the appeal. This Article does not apply to an appeal of a broadband facility permit Applicant, which is governed by Article 1 of this Chapter.

NOTE: Authority cited: Section 671.5, Streets and Highways Code.
Reference cited: Section 671.5, Streets and Highways Code.

§ 1413.1. Definitions.

All terms defined in this section are applicable to terms used in this Article. These terms have the following meanings:

- (a) "Administrative Costs" means the estimated administrative costs to the Department of conducting an appeal related to a specific Encroachment Permit, based on the standard hourly rate for processing Encroachment Permits in effect on the date the Encroachment Permit appeal package described in Section 1413.3 of this Article is submitted to the Department.
- (b) "Applicant" means an individual, organization, agency, public corporation, business, or authorized agent who has submitted an Encroachment Permit application.
- (c) "Department" means the California Department of Transportation.
- (d) "Department Director" means the director of the California Department of Transportation, or an authorized designee.
- (e) "District" means one of the twelve (12) Department Districts. Each District consists of one or more California counties.
- (f) "Encroachment Permit" means a written permit by which the Department allows the Applicant and/or another person or entity acting on behalf of the Applicant to encroach onto Department property as described in Section 660 of the Streets and Highways Code or to perform any act or activity described in Sections 670 or 670.1 of the Streets and Highways Code.
- (g) "60 Days" means sixty calendar days, unless the sixtieth (60th) day lands on a holiday or weekend as defined in Section 12a of the Code of Civil Procedure, in which case the computation of time shall be as provided in Section 12a of the Code of Civil Procedure.

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NOTE: Authority cited: Section 671.5, Streets and Highways Code.

Reference cited: Sections 660, 670, 670.1, and 671.5, Streets and Highways Code; Section 12a, Code of Civil Procedure.

§ 1413.2. Appeal Process to the Department Director.

- (a) If the District denies an Encroachment Permit application, an Applicant may appeal to the Department Director by submitting a written appeal package as set forth in Section 1413.3 of this Article within 60 Days after the District serves the District's letter denying the Encroachment Permit application. The written appeal package must be submitted to:

Encroachment Permits Appeal
Director, California Department of Transportation
c/o Headquarters Division of Traffic Operations
1120 N Street, MS 36
Sacramento, CA 95814

- (b) The Applicant and the Department may mutually agree, in writing, to extend the time for the appeal process or any part of the appeal process.

NOTE: Authority cited: Section 671.5, Streets and Highways Code.

Reference cited: Section 671.5, Streets and Highways Code.

§ 1413.3. Appeal Package.

A written appeal package is deemed a complete submittal on the date the Department Director receives all items listed below:

- (a) An appeal letter to the Department Director specifically requesting an appeal of the denied Encroachment Permit application and containing a detailed explanation of why the Department should issue an Encroachment Permit for the proposed project or activity sought by the application; and
- (b) Denial letter issued by the District or a statement in the appeal letter that a denial letter was not issued by the District within 60 Days after the District's receipt of a complete Encroachment Permit application package; and
- (c) Applicant's name, company or organization, mailing address, and telephone number, and the same information for any person or entity designated by the Applicant to represent Applicant in the appeal; and
- (d) Identification of all locations, including District, county, route, and post mile, at which the Applicant and/or person or entity acting on behalf of the Applicant proposes to encroach onto Department property as described in Section 660 of the Streets and Highways Code or to perform any act or activity described in Sections 670 or 670.1 of the Streets and Highways Code; and

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- (e) Description of the proposed encroachment onto Department property as described in Section 660 of the Streets and Highways Code and/or the proposed act or activity described in Sections 670 or 670.1 of the Streets and Highways Code, which the Applicant and/or person or entity acting on behalf of the Applicant proposes to perform or conduct under the denied Encroachment Permit being appealed, including three (3) complete sets of plans and any applicable specifications, calculations, maps, and other supporting documents; and
- (f) A \$2,000 deposit towards the Applicant's fifty percent (50%) share of the Administrative Costs of conducting the appeal. The deposit shall be made by check or money order made payable to the California Department of Transportation; and
- (g) Notice of whether the Applicant requests to make a presentation to the Department Director or the Department Director's designee.

NOTE: Authority cited: Section 671.5, Streets and Highways Code.

Reference cited: Sections 660, 670, 670.1, and 671.5, Streets and Highways Code.

§ 1413.4. Final Determination and Costs.

The Department Director shall notify the Applicant in writing of the final decision on the appeal within 60 Days after receipt of the completed written appeal package as described in Section 1413.3 of this Article. Once the final decision has been issued, the Department will determine the Applicant's fifty percent (50%) share of the Administrative Costs. If the Applicant's deposit is less than the Applicant's fifty percent (50%) share of the Administrative Costs, the Department will subtract the deposit amount and bill the Applicant for the remainder of the Applicant's fifty percent (50%) share of the Administrative Costs. If the deposit is greater than the Applicant's fifty percent (50%) share of the Administrative Costs, the Department will refund to the Applicant the excess remaining from the deposit.

NOTE: Authority cited: Section 671.5, Streets and Highways Code.

Reference cited: Section 671.5, Streets and Highways Code.