

Chapter 100 – The Permit Function

Table of Contents

101	WHAT IS AN ENCROACHMENT PERMIT?	3
102	STATUTORY AUTHORITY	4
103	WHO NEEDS AN ENCROACHMENT PERMIT?	5
104	ENCROACHMENT PERMITS ISSUED BY CALTRANS.....	5
105	ROUTINE ENCROACHMENT PERMITS ISSUED BY CITIES OR COUNTIES	6
106	THIS SECTION WAS LEFT BLANK INTENTIONALLY	6
107	OFFICE LOCATIONS AND HOURS.....	6
108	OVERVIEW OF THE ENCROACHMENT REVIEW PROCESS	6
108.1	QMAP Projects.....	11
108.2	This Section Was Left Blank Intentionally	11

Chapter 100

The Permit Function

The California Department of Transportation (Caltrans) is the steward of the California State highway right-of-way. As a Safety-First department, Caltrans is focused on measures to reduce risks for all users, including those who drive, walk, ride, or use other modes of travel on the State Highway System (SHS) and for Caltrans employees, contractors, and permittees, who are working to make the SHS as safe and reliable as possible. Achieving this goal will take a comprehensive effort across the board from all Caltrans employees, our partner agencies, the private sector, and roadway users.

California has a vision to eliminate fatalities and serious injuries on all California's roadways by 2050. To realize this vision, Caltrans has adopted the Safe System Approach as declared in the February 15, 2022, Director's Policy on Road Safety (DP-36). Caltrans commits to:

- A safety-first mindset prioritizing road safety.
- Prioritize the elimination of fatal and serious injury collisions through the existing highway safety improvement programs along with development and implementation of new programs to enhance the safe use of SHS.
- Eliminating race, age, ability, and mode-based disparities in road safety outcomes.

The State highway right-of-way at times also allows for non-transportation uses such as the utility infrastructure that delivers water, power, and telecommunications that help keep communities prospering. The State highway right-of-way also enhances California's economy and livability by permitting community-sponsored special events, celebrations, and parades. This manual provides policies, standards, and best practices so Caltrans can evaluate and analyze each encroachment permit application to:

- Promote the safety of the traveling public, highway workers, and permittees,
- Protect, maintain, and enhance the quality of the State highway right-of-way during and after permitted work,

- Ensure that the proposed encroachment is compatible with the primary use of the State highway right-of-way,
- Protect the State's and public's investment in the highway facility, and
- See if requested temporary use of State highway right-of-way for special events, filming, etc. are planned in a way that minimizes inconvenience to the traveling public and addresses anticipated safety impacts.

Encroachment permits are issued under the authority of law. In processing permit applications, Caltrans draws upon the extensive experience of its workforce to evaluate proposed activities using federal and State law, Caltrans' policies and standards, and engineering related resources to promote safety, uniformity, and efficiency throughout the State highway right-of-way.

101 WHAT IS AN ENCROACHMENT PERMIT?

An **encroachment** is defined in Section 660 of the California Streets and Highways Code as “[...]any tower, pole, pole line, pipe, pipeline, fence, billboard, stand or building, or any structure, object of any kind or character not particularly mentioned in the section, or special event, which is in, under, or over any portion of the [State] highway right-of-way. ‘Special event’ means any street festival, sidewalk sale, community-sponsored activity, or community-approved activity.”

An encroachment permit issued by Caltrans (or issued by an authorized local agency in certain circumstances) is permissive authority for the permittee to enter State highway right-of-way to construct, alter, repair, improve facilities, or conduct specified activities.

An encroachment permit is permissive authority for the permittee or the permittee's authorized agent to enter State highway right-of-way, for example to construct, alter, repair, improve facilities, or conduct specified activities. Unless otherwise specified, the permittee is responsible for the encroachment and the conditions thereof. The permittee is bound by the General Provisions, Special Provisions, and any other terms and conditions under which the encroachment permit was issued for at least as long as the encroachment remains in, under, or over the State highway right-of-way, and some have no expiration date.

An encroachment permit is not a property right. A permittee cannot transfer or assign an encroachment permit to another party. An encroachment permit cannot be transferred to a new owner when the property or facility (e.g., utility) is sold. New property or utility owner must apply for and obtain their own encroachment permit as soon as possible after the property or facility is acquired. Any attempt to assign or transfer an encroachment permit shall be null and void.

An encroachment permit must be obtained for all proposed activities of encroachments within, under, or over the State highway right-of-way. Some examples of work requiring an encroachment permit are utilities, excavations, advertisements (when allowed by statute), vegetation planting or trimming, surveys, mailboxes, driveways, installation or removal of fire chains for compensation, special events, and commercial filming activities.

Encroachment permits are not issued to allow building structures to extend into the State highway right-of-way, such as bay windows, cornices, and decorative features that extend beyond the surface of a building. To do so would grant exclusive use of public property to private entities for non-transportation use and without compensation. (Exception: see Advertising Displays, Section 501.3).

Permits for oversize or overweight transportation and outdoor advertising displays are not obtained through the encroachment permit process or District Encroachment Permits Office. The Office of Commercial Vehicle Operations manages permitting for oversize or overweight transportation on the State highway right-of-way. The Outdoor Advertising Branch regulates the licensing, permitting, and placement of outdoor advertising displays visible from the State highway right-of-way. Additional information on these other permitting processes, requirements, and contact information is available at:

<https://dot.ca.gov/programs/traffic-operations/transportation-permits> and
<https://dot.ca.gov/programs/traffic-operations/oda>

102 STATUTORY AUTHORITY

Authority for Caltrans to control encroachments within the State highway right-of-way is stated in the California Streets and Highways Code starting with Section 660.

103 WHO NEEDS AN ENCROACHMENT PERMIT?

Unless under contract with Caltrans, all entities must obtain an encroachment permit to enter and conduct any activity within, under, or over the State highway right-of-way. Entities that must obtain an encroachment permit include, but are not limited to, individuals, contractors, corporations, utilities, cities, counties, Native American Tribes, and other government agencies.

Work within the State highway right-of-way is exempt from encroachment permits only when it is:

- A State Highway construction contract being performed for Caltrans.
- A Caltrans service contract that specifically exempts the contractor.
- A delegation of a maintenance agreement.
- Authorized by District Right-of-Way when the work is located in non-operating State Highway right-of-way.
- Authorized by the California Vehicle Code and the associated activities do not affect highway operation and/or safety.

In certain instances, the placement of an encroachment may be authorized before issuing a written permit, e.g., verbal permission granted under emergency conditions. A written application for an encroachment permit must be submitted as soon as possible. Work that can be completed under regular conditions is not considered emergency work. Law enforcement agencies may not be required to obtain encroachment permits for specified enforcement activities performed as part of their duty (see Section 517.4).

104 ENCROACHMENT PERMITS ISSUED BY CALTRANS

Only Caltrans has authority to approve and issue permits for activities within State highway right-of-way. However, Caltrans may delegate permit issuing authority to cities and counties for routine encroachments by agreement but retains sole authority over the State highway right-of-way even after delegation. Agreements must contain provisions for city or county-issued encroachment permits (see Appendix B and Section 500.4).

105 ROUTINE ENCROACHMENT PERMITS ISSUED BY CITIES OR COUNTIES

Cities or counties may issue routine State highway encroachment permits on specified State highway facilities located within their jurisdictional boundaries. Local agencies must be authorized by Caltrans under an agreement to issue permits (see Appendix B and Section 500.4).

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107 OFFICE LOCATIONS AND HOURS

Caltrans issues encroachment permits through twelve (12) District Encroachment Permits Offices. Applicants should direct inquiries and permit applications to the appropriate District Encroachment Permits Office having jurisdictional authority over the proposed encroachment site. Addresses and contact information can be found at:

<https://dot.ca.gov/programs/traffic-operations/ep/district-contacts>

The California Government Code, Section 11020 requires all State Agencies to be open for the transaction of business from 8:00 a.m. to 5:00 p.m. except weekends and holidays. Staggered lunch hours must be used to provide continuous service throughout the day.

108 OVERVIEW OF THE ENCROACHMENT REVIEW PROCESS

All projects and activities on the State highway right-of-way (by Caltrans or others) must comply with applicable laws, regulations, policies, standards, and requirements. The review and analysis of encroachment projects is managed through either the Encroachment Permits Office Process (EPOP) or Project Delivery Quality Management Assessment Process (QMAP); the applicable process is determined based on several factors including the project scope, complexity, safety, operational impacts, and the ability of the project proponent (applicant) to submit a complete application package at 100% design (see Project Development Procedures Manual, Chapter 9, Article 8). The "Applicant's Checklist To Determine Applicable Review Process" (form TR-0416) and corresponding flowchart (Figure 1.2) help users determine the appropriate review process for their proposed project.

In accordance with Streets and Highways Code, Section 671.5, projects must have environmental clearance, a complete design (at 100%), and all required supporting reports, analyses, and documents (e.g., Geotechnical Reports, Traffic Studies, Warrants, Agreements, etc.) to be accepted as complete and managed through the EPOP.

The encroachment permit office process is summarized in Figure 1.1. The standard process begins when an Encroachment Permit Application Package (EPAP) is submitted to the appropriate District Encroachment Permits Office. An EPAP includes an application (“Standard Encroachment Permit Application” [form TR-0100]), appropriate checklist(s), associated forms, plans, supporting documents, and applicable fees. The EPAP are evaluated to determine if the encroachment is allowable and can be done with minimal impact to highway users (see Chapter 200 for more details), and whether the EPAP addresses anticipated safety impacts.

An application for a standard encroachment permit must be on a current “Standard Encroachment Permit Application” (form TR-0100) and signed by the project or property owner or an authorized representative/agent whose authority is validated by a letter of authorization from the project or property owner. The standard encroachment permit application forms and related documents can be found at:

<https://dot.ca.gov/programs/traffic-operations/ep>

Activities associated with encroachments for Commercial Filming, Adopt-A-Highway Program, Airspace Lease Program, Chain Installer Operations, and Roadside Enhancements differ from the standard encroachment permit office process. Additional information on the processes for these encroachments is available at the websites provided below as well as their respective sections in Chapter 500 of this manual.

Commercial Filming: All applications for commercial filming must be submitted through the California Film Commission.

<http://film.ca.gov/>

Adopt-A-Highway Program: All applications associated with litter and/or graffiti removal, planting and establishment of trees or wildflowers, vegetation control, etc. must be submitted through the Adopt-A-Highway Program.

<https://dot.ca.gov/programs/maintenance/adopt-a-highway>

Airspace Lease Program: All applications associated with cellular phone towers, storage unit facilities, parklets, leasing of non-operational highway right-of-way, etc. must be submitted through the Division of Right-of-Way and Land Surveys – Office of Real Property Services.

<https://dot.ca.gov/programs/right-of-way>

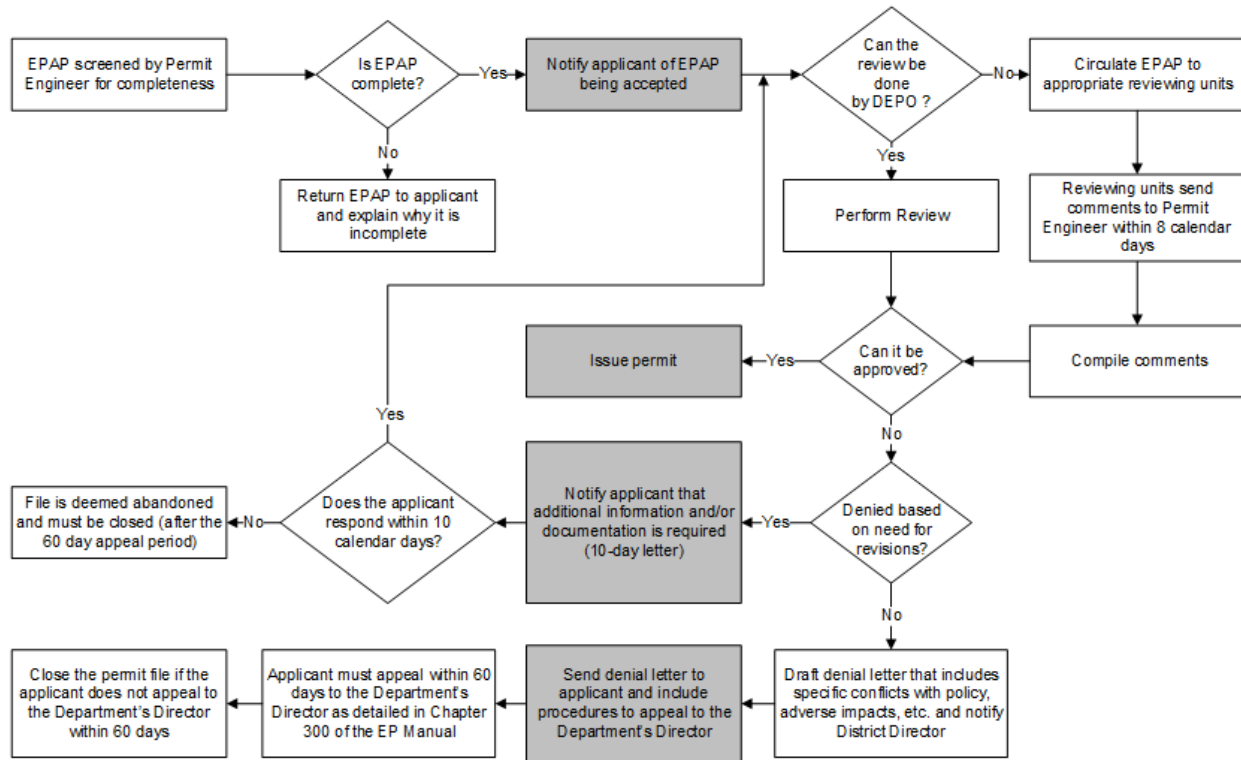
Chain Installer Operations: All applications associated with the installation or removal of tire chains for compensation [allowed by Streets and Highways Code, Section 670, Subdivision (a)(5)] must be submitted through either the District Encroachment Permits Office or the District Division of Maintenance depending on the district. Please contact your local District Encroachment Permits Office for additional information.

<https://dot.ca.gov/programs/traffic-operations/ep/district-contacts>

Roadside Enhancements: All applications associated with Transportation Art, Gateway Monuments, Community Identification, Scenic Highways, Blue Star Memorial Markers, and other state transportation infrastructure that reflects and aligns with local community needs and goals must be submitted through the Landscape Architecture Program.

<https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability>

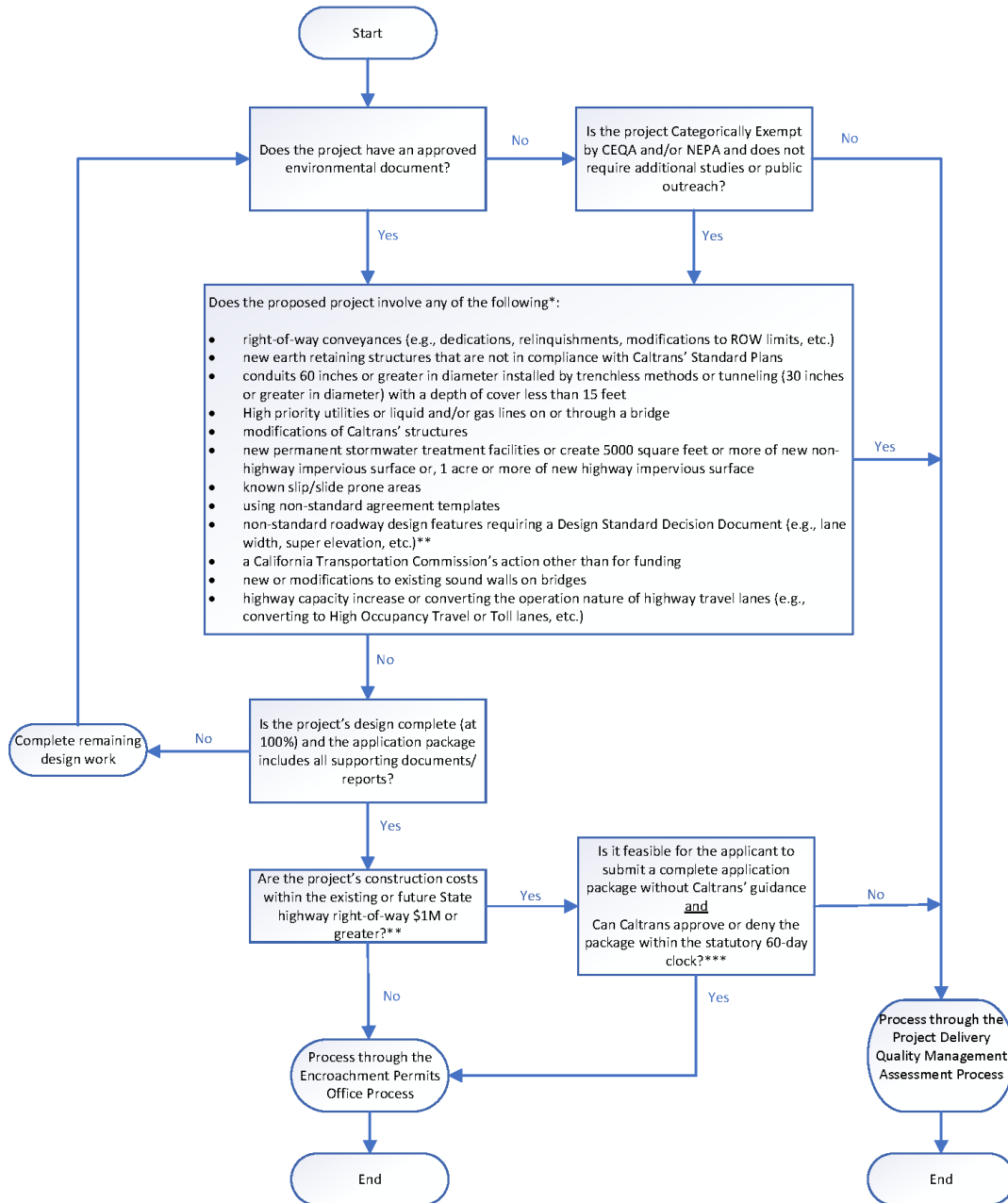
Figure 1.1 Standard Encroachment Permit Application Package (EPAP) Process



*The HQ Encroachment Permits Branch has established functions to ensure compliance with the 60 calendar day statutory requirement. These functions include:

1. Preliminary meetings,
2. The Encroachment Permits Management System database,
3. A Program goal to approve or deny a permit within 30-calendar days or less for most EPAPs.

Figure 1.2 Flowchart to Determine the Appropriate Caltrans Review Process for Encroachment Projects on the State Highway System



* Applicants are advised to consult with Caltrans (typically the District Encroachment Permit Engineer) early in the planning or design phase when their project has any of the identified elements in this box. This will facilitate the evaluation of the proposed project, and identify possible design alternatives before the applicant expends significant time and resources on a design alternative that may not be approvable.

** Not applicable to utility-only projects.

*** The District Permit Engineer, in consultation with the impacted functional units will determine the appropriate review process based on the scope and level of oversight needed to deliver a quality project. In the event of a disagreement, the DDDs will decide and in the event of disagreement, the District Director will decide.

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108.1 QMAP Projects

These projects typically require project development assistance from multiple Caltrans Divisions and therefore are only issued an encroachment permit after the project design and environmental documents are completed (see Project Development Procedures Manual, Chapter 9, Article 8). It is highly recommended that applicants with larger projects, especially those with deviations from Caltrans' standards, contact the local District Encroachment Permits Office early in project development and before submitting the encroachment permit application. The contact information can be found at:

<https://dot.ca.gov/programs/traffic-operations/ep/district-contacts>

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