

ORDINANCE NO. 1988-1

AN ORDINANCE OF THE BOARD OF SUPERVISORS, SANTA CRUZ COUNTY, ARIZONA, ESTABLISHING RIGHT-OF-WAY PERMIT CATEGORIES; PROVIDING FOR THE ISSUANCE OF A RIGHT-OF-WAY PERMIT AND THE COLLECTION OF FEES THEREFROM; PENALTIES FOR VIOLATION OF THIS ORDINANCE; AND REPEALING ALL ORDINANCES IN CONFLICT THEREWITH.

WHEREAS, A.R.S. 11-251 authorizes Boards of Supervisors to control and manage public ways and to regulate the extent and conditions of improvements within such rights-of-way; and

WHEREAS, it is in the public interest that all uses of the rights-of-way for public roads, streets and alleys in the unincorporated portion of Santa Cruz County by individuals, corporations, and political subdivisions be regulated and controlled so that said rights-of-way may be effectively utilized and maintained for their primary purpose as public ways;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF SANTA CRUZ COUNTY:

SECTION 1. TITLE

That this Ordinance shall be known as the Santa Cruz County Public Right-Of-Way Control Ordinance.

SECTION 2. PURPOSE

That it is the purpose of this Ordinance to promote the public health, safety and welfare, and to minimize public and private losses due to work accomplished within public rights-of-way by provisions designed:

- A. To protect human life and health.
- B. To minimize expenditure of public money for accomplishing work in public rights-of-way.
- C. To minimize inconvenience or prolonged interruption to the public.
- D. To minimize damage to public facilities and utilities such as irrigation and flood control facilities; pavements, curbs, gutters, driveways, and sidewalks; water, gas, sewer and other types of pipelines; and utility lines such as electric and telephone; and

- E. To insure that those who accomplish work in public rights-of-way assume responsibility for their actions.

### SECTION 3. GENERAL PROVISIONS

#### 3.1 Lands To Which These Regulations Apply

This Ordinance shall apply to all county rights-of-way within the boundaries of Santa Cruz County located beyond the corporate limits of incorporated cities and towns.

#### 3.2 Compliance

No work within, or use of, Santa Cruz County rights-of-way shall hereinafter be undertaken without full compliance with the terms of this Ordinance and other applicable regulations.

#### 3.3 Interpretation

In the interpretation and application of this Ordinance, all provisions shall be;

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

### SECTION 4. RIGHT-OF-WAY PERMIT REQUIRED

A. A Right-Of-Way shall be obtained before any person, corporation, association, or other political subdivision shall enter upon the right-of-way of any public road, streets, alley or way, no a State Highway, located outside the corporate limits of any city or town in Santa Cruz County, for the purpose of using or performing any construction, reconstruction, or removal, to the following:

1. Pavement, curbs, gutters, driveways, sidewalks;
2. Drainage of flood control facilities;
3. Grading, oiling, graveling or any surfacing of any road;
4. Water, gas sewer or other types of pipelines;
5. Irrigation and waste water facilities;

6. Utility lines such as electric, television, telephones, other power, service and communication facilities;
7. Structures, signs (whether temporary or permanent);
8. Plantings, landscaping, watering and/or drainage systems, and decorative placements;
9. Any of the above which may overhang the public road, street, alley or way.

B. However, this Ordinance shall not prevent any person, corporation, association or political subdivision from emergency maintenance of any pipe or conduit lawfully on or under any public street, or right-of-way, or from making excavation as may be necessary for the preservation of life or property when an urgent necessity therefore arises during the hours the Office of the Santa Cruz County Public Works Department is closed, except that those making emergency use shall apply for a permit within one (1) calendar day after the offices are again opened.

#### SECTION 5. RIGHT-OF-WAY PERMIT CATEGORIES

Right-Of-Way Permits as required in Section 4 above are hereby established in the following categories:

A. Category "A" Right-Of-Way Permit:

A permit for construction in Santa Cruz County Right-Of-Way

B. Category "B" Right-Of-Way Permit:

A permit for use of Santa Cruz County Right-Of-Way for other than construction purposes, i.e.:

1. Bike and marathon races.
2. Maintenance of right-of-way by homeowner associations.
3. Installation and maintenance of aerial systems.
4. Other uses by the public.
5. Work requested by the County Public Works Director.
6. Private drives and culverts.

## SECTION 6. RIGHT-OF-WAY PERMIT FEES

Each Applicant shall, before any permit shall be issued, deposit with Santa Cruz County Public Works Director a Right-Of-Way Permit fee. The schedule of fees set forth herein is established to offset the County's expenses incurred in connection with processing permit applications and inspecting work performed under the permit, and the fee shall be computed on the basis of such fee schedules. If no work is performed within three (3) months after a permit is obtained, the permit shall expire.

### FEE SCHEDULE

Category "A" Basic Permit Fee \$15.00 plus Inspection Fee from applicable sub-category as follows:

- (1) Each foot of excavation in right of way embankment, or excavation otherwise off \$.10 travelled roadway.
- (2) Each foot of excavation in travelled roadway (including jacking, tunneling, and inspection holes). \$.20
- (3) Each foot of open cut excavation that encroaches on two or more lanes of traffic. \$.50

Category "B" Basic Permit Fee \$10.00

## SECTION 7: ADMINISTRATION

A. It shall be the duty of Santa Cruz County Public Works Director to administer and enforce this Ordinance. All other county law enforcement officials and agencies shall, whenever requested by the Public Works Director, participate in and assist the Public Works Director in the enforcement of this Ordinance to the extent that they are lawfully authorized to do so. Duties of the Public Works Director shall include, but not be limited to:

1. Review all development applications and permits to determine that:
  - a) The permit requirements of this Ordinance have been satisfied.
  - b) All other required state and federal permits have been obtained;
2. Issue Right-Of-Way Permits authorized by the provisions of this Ordinance.

B. All applications for Right-Of-Way Permits shall be in writing on such form as required by the Santa Cruz County Public Works Director, unless waived in writing by the Public Works Director. The application shall be submitted at least ten (10) working days prior to the start of use or construction, and shall be accompanied by three (3) copies of a drawing, map, blueprint, diagram, or similar exhibit of a size and in the quantity prescribed by the Public Works Director, sufficient to clearly illustrate the location, dimension, motive, method and purpose of the proposed work. Permits shall be issued only to the person, corporation, association, or political subdivision making application therefore and may not be assigned to another person, corporation, association, or political subdivision by the permittee. If a permittee assigns his permit to another, the permit shall become invalid. If the work is not completed within the designated time frame, a new permit must be obtained for incomplete work. If no work is performed within three (3) months after the permit is obtained, the permit shall expire.

C. All work done in said public roads, streets, alleys or ways shall be done in accordance with the permit and specifications of Santa Cruz County for such installation. The County Public Works Director may require, in the public interest, such structures as designated by him to properly provide for the health, safety, welfare of the public, including but not limited to: Traffic control, providing access to adjoining property and maintenance of other facilities in the area.

D. The Santa Cruz County Public Works Director shall furnish to any applicant such inspection services as will determine if the improvements constructed are in accordance with permits granted and applicable specifications. Any persons, under any permit as set forth in this Ordinance shall notify the Public Work Director at least two (2) full working days in advance of the time and place the work will begin.

E. If any work is undertaken prior to securing a permit therefore, the Santa Cruz County Public Works Director may require the right-of-way to be restored to its original condition prior to granting a permit, or may charge a reasonable fee not to exceed \$500 in addition to the normal fee schedule for inspection and examination of the work done prior to the issuance of a permit. All work shall cease until the Public Works Director determines whether the right-of-way should be restored to its original condition or grant a permit in accordance with this resolution.

#### SECTION 8. INSURANCE OR LIABILITY REQUIREMENTS

A. The permittee shall, if other than (1) a resident owner of a residential property where he wishes to perform construction, other than utility trenching, in front of his own property; (2) a federal, state, county or municipal agency or political subdivision; or (3) any public service or utility corporation with a net worth of more than \$1,000,000 as reflected by its most current balance, procure and deliver to the Santa Cruz County Public Works Director, prior to issuance of such a permit, a certificate of insurance covering Public Liability and Property Damage issued by an insurance company authorized by the insurance Department of Arizona to transact business in the State as shall protect the applicant or contractor and any subcontractor performing any work upon public rights-of-way from claims for damages resulting from such work.

B. In addition to any liability imposed upon the permittee by law, the permittee shall indemnify and agree to save harmless Santa Cruz County and its elected or appointed officers, agents, board, commissions, employees, and representatives against and from any cost, expense, claim, demand, or liability arising out of or in connection with, any negligent act of omission by the permittee, his agents, and employees, in the course of the performance of the work under permit which results directly or indirectly in the injury to or death of any person or persons or the damage of any property of any person or persons.

#### SECTION 9. VIOLATIONS AND PENALTIES

Any person, firm or corporation violating any provision of this Ordinance pertaining to construction, reconstruction, removal, repair, maintenance or other works within County Right-Of-Way shall be guilty of a Class II misdemeanor. Each day that a violation of any of the provisions of this Ordinance shall continue shall be deemed to constitute a separate offense.

#### SECTION 10. SEVERABILITY

That if any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

#### SECTION 11. EFFECTIVE DATE

The effective date of this Ordinance shall be July 1, 1988.

ORDINANCE NO. 1992-1

AN ORDINANCE AMENDING SANTA CRUZ COUNTY  
ORDINANCE NO. 1988-1, KNOWN AS THE  
SANTA CRUZ COUNTY RIGHT-OF-WAY CONTROL  
ORDINANCE IN REGARD TO PERMIT REQUIREMENTS,  
PERMIT CATEGORIES, FEES AND ADMINISTRATION

WHEREAS, Santa Cruz County Ordinance No. 1988-1 provides for the regulation and control of all uses of the right of way for public roads, streets and alleys in the unincorporated portion of Santa Cruz County; and

WHEREAS, the revision of certain provisions of Santa Cruz County Ordinance No. 1988-1 relating to permit requirements, categories, fees and administration is now required for more efficient administration;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF SANTA CRUZ COUNTY that Section 4: Right-Of-Way Permit required by Santa Cruz County Ordinance Number 1988-1 is amended in its entirety to read:

Section 4: Right-Of-Way Permit Required

A. A Right-Of-Way Permit shall be obtained before any person, corporation, association, or other political subdivision shall enter upon the right-of-way of any Santa Cruz County public road, street, alley or way, not a State Highway, located outside the corporate limits of any city or town in Santa Cruz County for the purpose of temporarily or permanently altering the character or the physical appearance of the right-of-way, or caused an obstruction to normal use, including construction, reconstruction, installation, erection or removal of the following:

1. Pavement, curbs, gutters, driveways, sidewalks;
2. Drainage of flood control facilities;
3. Grading, oiling, graveling or any surfacing of any road;
4. Water, gas, sewer or other types of pipelines;

SANTA CRUZ COUNTY R-O-W PERMIT FEE SCHEDULE

TYPE	FILING FEE	ITEM DESCRIPTION	INSPECTION FEE	PER UNIT
A-1	\$15.00	CONSTRUCTION: MINOR PERMIT	\$10.00	Each
A-2	\$15.00	CONSTRUCTION: MAJOR PERMIT		
		a. TRENCH EXCAVATION	.04	LF
		b. BORING	.02	LF
		c. PLOWING	.01	LF
		d. CURB, GUTTER, SIDE-WALK (EA OR COMB)	.05	LF
		e. PAVING OTHER THAN SIDEWALK	.04	SY
		f. FIRE HYDRANT	5.00	EA
		g. EQUIP. PAD/PEDESTAL	1.25	EA
		h. UTILITY POLE	1.50	EA
		i. ANCHOR/GUY	1.00	EA
		j. DRIVEWAY CULVERTS/DRAINAGE	2.00	EA
B-1	N/C	NON-CONSTRUCTION: NON-COMMERCIAL	N/C	EA
B-2	\$10.00	NON-CONSTRUCTION: COMMERCIAL	N/C	EA

FEE INFORMATION

1. Construction minor permit fee includes filing fee and flat inspection fee.
2. Construction major permit fee includes filing fee and inspection fees applicable to the construction covered by the permit.
3. Construction major permit fee will be levied when filing fee and applicable inspection fees would be greater than filing fee and flat inspection fee.
4. Construction major permits with items not identified in the fee table will be computed so as to include items not identified in the fee table at 2 percent of the cost of construction as estimated by the Public Works Director or his designee.

This fee schedule is attached as an exhibit to Santa Cruz County Ordinance No. 1992-1 and is effective 3-12-92. This fee schedule may be reviewed and amended by the Santa Cruz County Board of Supervisors as necessary.

1. Commercial (i.e., a "for profit" purpose), such as
  - a. Film making
  - b. Installation and maintenance of aerial systems
  - c. Festivals, Craft Shows
  
2. Non-Commercial, such as
  - a. Bike and Marathon races
  - b. Maintenance of Right-Of-Way by homeowner associations or community organizations
  - c. Work directed by the County Public Works Director.
  - d. Other "not for profit" uses by the public

BE IT FURTHER ORDAINED BY THE BOARD OF SUPERVISORS OF SANTA CRUZ COUNTY that Section 6: Right-Of-Way Permit Fees of Santa Cruz County Ordinance Number 1988-1 is amended in its entirety to read:

Section 6: Right-Of-Way Permit Fees

Each applicant shall, before any permit shall be issued, deposit with Santa Cruz County Public Works Director a Right-Of-Way Permit fee. The schedule of fees set forth in the Attachment 1 Exhibit to this ordinance is established to offset the County's expenses incurred in connection with processing permit applications and inspection work performed under the permit, and the fee shall be computed on the basis of such fee schedule. If work is not completed within six (6) months after a permit is obtained, the permit shall expire.

BE IT FURTHER ORDAINED BY THE BOARD OF SUPERVISORS OF SANTA CRUZ COUNTY that Section 7: Administration, Part C of Santa Cruz County Ordinance Number 1988-1 is amended to read:

C. All work done in said public roads, streets, alleys or ways shall be done in accordance with the permit requirements and according to applicable specifications of Santa Cruz County for such installation. The County Public Works Director may require, in the public interest, such structures as designated by him to properly provide for the health, safety, and welfare of the public, including but not

5. Irrigation and waste water facilities;
6. Utility lines such as electric, television, telephones, other power, service and communication facilities;
7. Structures, signs (whether temporary or permanent);
8. Plantings, landscaping, watering and/or drainage systems, and decorative placements;
9. Any of the above which may overhang the public road street, alley or way.

B. However, this Ordinance shall not prevent any person, corporation, association or political subdivision from emergency maintenance of any pipe or conduit lawfully on or under any public street, or right-of-way, or from making excavation as may be necessary for the preservation of life or property when an urgent necessity therefore arises during the hours the Office of the Santa Cruz County Public Works Department is closed, except that those making emergency use shall apply for a permit within one (1) calendar day after the offices are again opened.

BE IT FURTHER ORDAINED BY THE BOARD OF SUPERVISORS OF SANTA CRUZ COUNTY that Section 5: Right-of-Way Permit Categories of Santa Cruz County Ordinance Number 1988-1 is amended in its entirety to read:

Section 5. Right-Of-Way Permits as required in Section 4 above are hereby established in the following categories:

A. Category "A" Right-Of-Way Permit:

A permit for construction, reconstruction, installation, erection or removal in Santa Cruz County Right-Of-Way.

B. Category "B" Right-Of-Way Permit:

A permit for use of Santa Cruz County Right-Of-Way for other than construction purposes. Such a Category "B" Right-Of-Way Permit shall be of one of the following types:

BE IT FURTHER RESOLVED BY THE BOARD OF SUPERVISORS OF SANTA CRUZ COUNTY that Section 8: Insurance or Liability Requirements, Part A of Santa Cruz County Ordinance 1988-1 is amended to read:

**Section 8: Insurance or Liability Requirements**

A. A Category "A" permittee shall, if other than (1) a resident owner of a residential property where he wishes to perform construction, other than utility trenching, in front of his own property; or (2) a federal, state, county or municipal agency or political subdivision, procure and deliver to the Santa Cruz County Public Works Director, prior to issuance of such a permit, an acceptable certificate of insurance naming Santa Cruz County as a coinsured and shall provide not less than the following limits of coverage:

1. One million dollars (\$1,000,000) for death or bodily injury or loss sustained per occurrence.
2. One million dollars (\$1,000,000) for damage or loss of property per occurrence.

This coverage shall be maintained for so long as the permittee maintains any facilities within the County rights-of-way. A multiple permit applicant may fulfill this requirement by maintaining a blanket certificate on file with the County.

BE IT FURTHER ORDAINED BY THE BOARD OF SUPERVISORS OF SANTA CRUZ COUNTY that a new Section 12 is added to Santa Cruz County Ordinance No. 1988-1 to read:

**Section 12: Exemption from Payment of Fees**

Federal and state and local governments, as well as instrumentalities or subdivisions thereof, shall be exempt from payment of fees as otherwise provided for in the administration of this ordinance.

limited to: traffic control, providing access to adjoining property and maintenance of other facilities in the area. Permit applicants shall be responsible for:

1. Provision, installation and maintenance of necessary construction traffic safety control devices as prescribed by the most recent edition of Manual on Uniform Control Devices and as included in an approved Traffic Control Plan. The applicant shall submit, with his permit application, a Traffic Control Plan for review and approval.

2. Verification of the location of all underground utilities in accordance with the "Blue Stake" laws and any other requirements prior to the commencement of any excavation, and shall protect said utilities from damage.

3. Insuring that no condition shall be allowed to exist in connection with the exercise of the permit which would be a hazard or source of danger to the health and safety of the public. Should the work present or become a hazard to the public, Santa Cruz County may take necessary immediate corrective action and bill the applicant for the full cost of such corrective action.

4. The accomplishment of all permitted work in accordance with requirements of any other applicable Santa Cruz County Ordinances and Regulations, and with applicable State and Federal law.

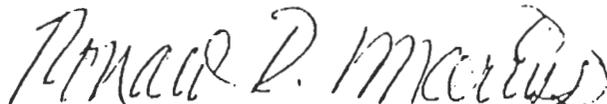
5. Removal or replacement or modification of work within such time and as specified by written notice of the Santa Cruz County Public Works Director should work performed under a permit or in an emergency fail to pass inspection.

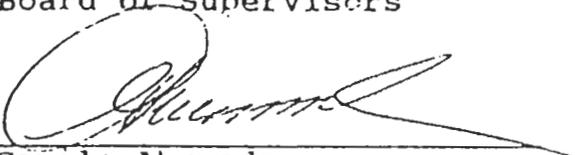
BE IT FURTHER RESOLVED BY THE BOARD OF SUPERVISORS OF SANTA CRUZ COUNTY that a new Section 7: Administration, Part F is added to Santa Cruz County Ordinance Number 1988-1 to read:

F. Permit applicants are placed on notice that, in some instances it may be found after permit issuance that Santa Cruz County may not own the particular property or property rights for the area covered by the permit. Permit applicants assume all risks resulting from any defect to the title to the land and no warranty of title to the underlying land is expressed or implied.

BE IT ALSO ORDAINED BY THE BOARD OF SUPERVISORS OF SANTA CRUZ COUNTY that the effective date of this Ordinance Amendment is \_\_\_\_\_, 1992.

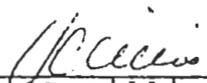
PASSED AND ADOPTED THIS 12<sup>th</sup> DAY OF March 1992.

  
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Ronald R. Morriss, Chairman  
Board of Supervisors

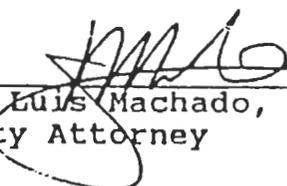
  
\_\_\_\_\_  
Camilo Ahumada,  
Supervisor

  
\_\_\_\_\_  
Robert Damon,  
Supervisor

ATTEST:

  
\_\_\_\_\_  
Fran DeCillis,  
Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Jose Luis Machado,  
County Attorney