

ORDINANCE NO. 2006-11-1

AN ORDINANCE REGULATING ROADWAY RIGHT-OF-WAY
ENCROACHMENT

WHEREAS, Sevier County is experiencing pronounced population growth and mineral development; and

WHEREAS, industrial development will require the improvement of County roads, and

WHEREAS, said growth and development necessitates frequent encroachment upon County roads for vibroseising and for the installation of utilities; and

WHEREAS, a new ordinance concerning road encroachment is necessary; and

WHEREAS, use of County road rights-of-way by utilities for power, gas, water, telephone and cable television lines have created and will continue to create conflicts and problems of access to such lines and location and alignment of new lines; and

WHEREAS, it is the declared public policy of Sevier County to permit the use of its roads by the public and by various private entities which serve the public and contribute to the economic development of the County, while minimizing the cost to the County created by such use, which creates extraordinary maintenance, improvement or repair costs, by requiring that such costs be paid by those whose use of such roadways exceeds their designed functions, or whose activities within county road rights-of-way cause damage to county roadways or other users thereof; and

NOW, THEREFORE, it is hereby ordained by the Sevier County Commission that the following is enacted as law regulating roadway right-of-way encroachment:

SECTION 1: DEFINITIONS

AASHTO means the most recent edition of A Policy on Geometric Design of Highways and Streets published by the American Association of State Highway and Transportation Officials.

Applicant means any natural person, partnership, corporation, firm, or an association of legal entity seeking to engage in activities, which would constitute an encroachment upon an existing County roadway.

Blanket Permit means an encroachment permit issued for a period of one calendar year to an applicant who of necessity may make numerous encroachments. This permit is designed to alleviate the necessity of securing a separate performance and completion bond for each encroachment.

Disproportionate Use means use or impacts exceeding the functional design specifications of an existing road, rights-of-way, and/or associated structures, or substantially expanding the normal use patterns thereof.

Encroachment means the disturbance of any roadway and/or rights-of-way.

A Class 1 Encroachment means encroachment by connection of residential driveways or private roadways, parking area or other structure affecting or altering the shoulder of the roadway, OR by installation of cattleguards.

A Class 2 Encroachment means encroachment by grading, construction, reconstruction, surfacing or resurfacing, alignment or realignment, excavation, boring or jetting, obstruction, removal of materials, vibroseising, heavy haulage, or use exceeding the function thereof, including extraordinary short-term use.

A Class 3 Encroachment means excavating, boring, jetting, cutting of pavement or other disturbance by utilities within county road right-of-way for the purpose of installing, repairing or maintenance of cables, pipelines, etc.

Encroachment Permit means the written permission given an applicant by the Supervisor conditionally authorizing an encroachment or a series of encroachments and setting forth the details specifications and limitations thereof.

Existing County Roadway means any roadway listed on the Sevier County road system in the Sevier County Road Log together with the right-of-way therefor and any other rights-of-way over which Sevier County has acquired, by any means, the right of passage.

Line means any pipeline, cable, wire or conduit used by a utility for transmission of its product or services.

Maintenance means work on a road which, although constituting an encroachment hereunder, is required to keep the same in good condition, extend its life, repair normal wear and tear, repair, replace or modify existing structures including, but not limited to, poles, culverts, pipelines, guardrails, signs or other items consistent with the existing condition and design specifications of the roadway

MUTCD means the most recent edition of Manual on Uniform Traffic Control Devices promulgated by the Federal Highway Administration of the U.S. Department of Transportation.

New Construction means any activity which changes the current condition of the roadway or rights-of-way including, but not limited to, the installation, realignment, relocation, upgrading of poles, culverts, pipelines, concrete pads or aprons, or other objects or structures in, on or under the roadway or rights-of-way, and the upgrading, construction, reconstruction, surfacing or resurfacing of a roadway and any necessary effects of such activity on the rights-of-way.

Permittee means an applicant who has received an encroachment permit.

Supervisor means the Sevier County Road Department Supervisor or her/his agent actually authorized to exercise the functions of the Supervisor under this ordinance. This term does not permit reliance upon apparent authority, apparent agency or actions by county road employees in general. The term Supervisor in this ordinance may also be referred to as he or she.

Utility means any entity providing public services, which consist of or require transportation of gas, oil, water, electricity, telecommunications, television or radio signals, or provide sewer service, through underground pipelines, cables or conduits.

Servient Estate means land adjacent to impact area under other authority.

SECTION II: PERMITS FOR ROADWAY ENCROACHMENT

1. Three classes of encroachment permits may be issued under this Ordinance:
 - 1.1 Class 1, single, short time private homeowner encroachments as defined in this ordinance.
 - 1.2 Class 2, for single, short-term encroachments, including any new construction or commercial haulage.
 - 1.3 Class 3, for single short-term encroachments by utilities for the installation, repair and/or maintenance of cables, pipelines, etc.
2. A Class 1 Permit may be obtained by completing and submitting an application in a form which shall be adopted and provided by the Sevier County Road Department and which shall require the applicant to set forth:
 - 2.1 The name, address and telephone number of the applicant.
 - 2.2 The location of the proposed encroachment or the road(s) or portion(s) thereof to be affected thereby.
 - 2.3 A description on a route map of the proposed encroachment including the purpose therefor, the type and scope of activity, the dimensions thereof, the materials to be used, the times and dates thereof, and such other information as the Supervisor shall deem pertinent.
 - 2.4 An undertaking by the applicant guaranteeing the completion of any improvements or construction proposed therein in conformance to the specifications contained in the application, and an agreement that upon failure to do so, the County may complete the same to its satisfaction and charge the costs thereof to the applicant.
 - 2.5 A non-refundable application fee in the amount set forth in the most current fee schedule issued hereunder shall accompany each application.
 - 2.6 The Supervisor shall review the application and shall within a reasonable time, either grant the same or decline it. At any time after the decision the applicant can request that the supervisor reconsider the decision. The Supervisor is authorized to waive application fees for amended applications if, in his opinion and at his sole discretion, the amended application will not entail a significant amount of additional time to review beyond that previously conducted.
 - 2.7 Applicant or their assigns, agents or contractor shall not exceed designated or existing rights-of-way. Permission is NOT given to encroach upon any privately owned property in this area.
 - 2.8 Upon granting the application, the Supervisor may impose any conditions, limit, bonds, or other guarantees he may deem necessary to protect the County or assure the compliance by the Applicant with the terms of said Permit, including liability insurance as required. The Permit shall not be issued until such bonds, guarantees, or assurances are received.
3. A Class 2 Permit may be obtained by completing and submitting an application in a form which shall be adopted and provided by the Sevier County Road Department and which shall require the applicant to set forth:
 - 3.1 The name, address and telephone number of the applicant.
 - 3.2 The location of the proposed encroachment, or the road(s) or portion(s) thereof to be affected thereby.
 - 3.3 A description on a route map of the proposed encroachment including the purpose therefor, the type and scope of activities. If haulage, enclose a route map, haul tonnage, schedules, and/or a Utility Line Agreement form provided to the Sevier County Road Department and/or such other information, as the Supervisor shall deem pertinent.
 - 3.4 An undertaking by the applicant guaranteeing the completion of any improvements or construction proposed therein in conformance to the specifications contained in the application, and agreement that upon failure to do so, the County may complete the same to its satisfaction and charge the costs thereof to the applicant.

- 3.5 Each application shall be accompanied by a non-refundable application fee in the amount set forth in the most current Fee Schedule issued hereunder.
- 3.6 The Supervisor shall review the application and shall within a reasonable time, either grant the same or decline it. At any time after the decision the applicant can request that the supervisor reconsider the decision. The Supervisor is authorized to waive application fees for amended applications if, in his opinion and at his sole discretion, the amended application will not entail a significant amount of additional time to review beyond that previously conducted.
- 3.7 Applicant or their assigns, agents or contractor shall not exceed designated or existing rights-of-way. Permission is NOT given to encroach upon any privately owned property in this area.
- 3.8 Upon granting the application, the Supervisor may impose any conditions, limit, bonds, or other guarantees he may deem necessary to protect the County or assure the compliance by the Applicant with the terms of said Permit, including liability insurance as required. The Permit shall not be issued until such bonds, guarantees, or assurances are received.

4. A Class 3 permit may be obtained by completing and submitting an application in a form which shall be adopted and provided by the Sevier County Road Department and which shall require the applicant to set forth.

- 4.1 The name, address and telephone number of the applicant.
- 4.2 The location of the proposed encroachment and/or the road(s) or portion(s) thereof to be affected thereby.
- 4.3 A description on a route map of the proposed encroachment including the purpose therefor, the type and scope of activities. If haulage, enclose a route map, haul tonnage's, schedules, and/or a Utility Line Agreement Form provided by the Sevier County Road Department, and such other information as the Supervisor shall deem pertinent.
- 4.4 An undertaking by the applicant guaranteeing the completion of any improvements or construction proposed therein in conformance to the specifications contained in the application, and an agreement that upon failure to do so, the County may complete the same to its satisfaction and charge the costs thereof to the applicant.
- 4.5 Maps, plats or engineering drawings displaying the current locations in pertinent views of utility lines within the county right-of-way to be affected by the proposed encroachment and the proposed alignment of any new or replacement lines or pipelines for which the permit is requested.
- 4.6 The Supervisor shall review all applications with a view toward eliminating or minimizing potential overlaps, conflicts or interference between utilities using the rights-of-way and may, at his discretion specify where the applicant may place its proposed line or lines in relation to existing utility lines, and may impose any additional conditions, limits, bonds, insurance, waivers or other guarantees he may deem necessary to protect the County and other utility users of the right-of-way and to assure the compliance by the Applicant with the terms of said Permit .
- 4.7 Applicant or their assigns, agents or contractor shall not exceed designated or existing rights-of-way. Permission is NOT given to encroach upon any privately owned property in this area.
- 4.8 A waiver by the applicant of any and all liability for damage to its lines by the County or by other utilities whose existing lines are located within the vicinity of the proposed new or replacement line.

5. Annual Blanket Permits may be obtained by completing and submitting an application in a form which shall be adopted and provided by the Sevier County Road Department and which shall require the applicant to set forth:

- 5.1 The name, address and telephone number of the applicant.
- 5.2 The locations of the proposed encroachments, or the road(s) or portion(s) thereof to be affected thereby.

- 5.3 A description on a route map of the types of encroachments anticipated, including the purpose therefor, the type and scope of activities, route maps, haul tonnage's, schedules, and/or a Utility Line Agreement form provided by the Sevier County Road Department, and such other information as the Supervisor shall deem pertinent.
- 5.4 An undertaking by the applicant guaranteeing the completion of any improvements, construction or repairs anticipated during the period covered by the application in conformance to the specifications contained therein and an agreement that upon failure to do so, the County may complete the same to its satisfaction and charge the costs thereof to the applicant.
- 5.5 A non-refundable application fee in the amount set forth in the most current Fee Schedule issued hereunder shall accompany each application.
- 5.6 The Supervisor shall review the application and shall within a reasonable time, either grant the same or decline it. At any time after the decision the applicant can request that the supervisor reconsider the decision. The Supervisor is authorized to waive application fees for amended applications if, in his opinion and at his sole discretion, the amended application will not entail a significant amount of additional time to review beyond that previously conducted.
- 5.7 Applicant or their assigns, agents or contractor shall not exceed designated or existing rights-of-way. Permission is NOT given to encroach upon any privately owned property in this area.
- 5.8 Upon granting the application, the Supervisor may impose any conditions, limit, bonds, or other guarantees he may deem necessary to protect the County or assure the compliance by the Applicant with the terms of said Permit, including liability insurance as required. The Permit shall not be issued until such bonds, guarantees, or assurances are received. Holders of Annual Blanket Permits may, as directed by Supervisor, be required to provide a liability policy, as required by Section IV, for the period covered by the permit.

6. No permit shall be required hereunder where the encroachment involved constitutes county maintenance, as defined herein. All other aspects of this Ordinance, including, but not limited to, liability insurance, notice, fees and minimum construction standards, shall apply to any encroachment of any County roadway.

7. If the Supervisor determines that the encroachment proposed will unreasonably or excessively interfere with traffic patterns, or will disrupt use of the roads involved for an unreasonably extended period, or cause violation of County Agreements with other agencies, or cause degradation to roads or Servient Estate, or encroachment is not reasonably necessary to a legitimate activity or can be avoided by other reasonable measures he may decline a permit application absolutely. The Supervisor shall issue such denial in writing and shall state his findings with regard to the application and state his reasons for denying the application, and shall mail or deliver a copy of such denial to the applicant and to the Sevier County Board of Commissioners by submitting a written request for review within thirty days after the date the denial is mailed or delivered. The Board of Commissioners shall allow the applicant an opportunity to appear at a public meeting, either specially called or a regularly scheduled commission meeting, no later than 20 days following the filing of said request and shall render their decision no later than 10 days following such meeting.

SECTION III: BOND REQUIREMENTS

1. Whenever a bond or guarantee is required hereunder, the same shall be conditioned upon the complete restoration of the site of the encroachment, except for those holding a Class 3 (Annual Blanket) Permit, and shall be as follows:

Hard Surface Road:	\$5,000 minimum per disturbance
Gravel Surface Road:	\$3,000 minimum per disturbance
Dirt Surface Road:	\$3,000 minimum per disturbance
2. The bond for new construction, maintenance, resurfacing and/or realignment of a roadway may be integrated with a project contract bond or special agreement.

3. The Supervisor, as part of his review of each Permit Application shall determine the amount of the bond required, based upon the location, duration, and extent of the proposed encroachment together with all other pertinent factors.
4. The Road Department shall condition the granting of a permit upon the delivery and acceptance of the bond.
5. Bonds given pursuant to this Section shall remain in force and effect for a period of three years from the date the job is completed when the roadway or right-of-way is disturbed or when any object, including, but not limited to, utility lines, culverts, etc., is placed beneath the surface of the roadway or right-of-way. Bonds in all other cases remain in force for one year from the completion of the project.

SECTION IV: LIABILITY INSURANCE

The Supervisor is authorized to require, as a condition for the granting of a permit hereunder, a policy of liability insurance to be obtained by the applicant, naming Sevier County as co-insured, insuring against liability for property damage and personal injury in an amount not less than \$5,000,000, unless a different amount is specified and approved by the Supervisor, which may result from road conditions created by the encroachment. When such insurance is required, no permit shall be issued until the policy or a valid binder therefor has been delivered to the Road Department. Such insurance policy shall remain in force and effect for so long as is specified by the Supervisor, not to exceed five years after the completion of the project.

SECTION V: ENCROACHMENT PROCEDURE

1. Once an Applicant has obtained a Permit work or haulage may begin during the specified time. Said work shall progress in a prompt and orderly fashion without unnecessary delays and shall be performed in a good and workmanlike manner in accordance with the plans, specifications and conditions set forth in the encroachment permit.
2. The encroachment must be completed within the time set forth in the permit; unless extended in writing by the Supervisor the extension shall be granted for good cause upon request by the Permittee. Failure by the Permittee to complete the permitted work by the completion date shall constitute grounds for the forfeiture of its bond.
3. Excavation operations shall be conducted in such a manner that minimum interference or interruption of road traffic and/or inconvenience to residents and businesses fronting on public roads will result. Suitable, adequate and sufficient barricades as specified in the MUTCD shall be provided by the Permittee and used where necessary to prevent accidents. Barricades must be in place until all excavators' equipment is removed from the site and excavation has been backfilled and proper temporary gravel surface is in place. From sunset to sunrise all barricades and excavations must be clearly outlined by acceptable warning lights, lanterns, flares, and other devices as specified in the MUTCD. The County Sheriffs Office, Utah Highway Patrol, cities and towns within a ten-mile radius, and local fire departments shall be notified at least 24 hours in advance of any planned excavation requiring road closures or detours.
4. Where required by the Supervisor, haulage activities shall require continuous dust control and maintenance of the haul route to assure the safety of other users.
5. Special signing shall be required as indicated by the MUTCD. Damages to roadway will be promptly reported to the Road Supervisor.
6. All loads shall be state legal with strict observation of all applicable vehicle laws.
7. Unless otherwise agreed to by Road Supervisor all dust control maintenance, signing, repairs or preventive measure costs shall be borne by the Permittee.
8. The Permittee, its employees, contractors and associates shall be bound by conditions and agreements in effect between Sevier County and other government, private agencies or individuals, to the degree such matters are set forth in the permit or are actually known to the Permittee.

SECTION VI: EMERGENCY EXCAVATIONS

The Board of Sevier County Commissioners recognizes that from time to time emergency conditions may arise requiring encroachment upon County roadways. Should such conditions exist an applicant may;

1. Proceed with the encroachment, provided that it shall notify the Sevier County Sheriffs Office at once and make diligent efforts to notify the Supervisor as soon as possible of the situation.
2. The applicant shall apply for an appropriate encroachment permit on the next working day following the encroachment.
3. The encroachment may continue, so long as application has been made, unless and until the applicant is ordered by Supervisor to cease encroachment.
4. If an application for encroachment has been made as required in this Section, the applicant will incur no penalty, otherwise all fees will be assessed in twice the normal amount.
5. All emergency work shall be in strict compliance with all the standards set forth in this ordinance.

SECTION VII: NOTICE REGARDING MAINTENANCE

1. When encroachment for maintenance is necessary, the entity intending to engage in the encroachment shall notify the Supervisor, in writing, no later than ten (10) working days before the encroachment is made.
2. The Supervisor shall, within five (5) working days following receipt of a notice pursuant to paragraph 1. of this section, notify the party giving notice of the amount of the bond required, the necessity of any liability insurance and the amount of fees to be deposited. No work may commence until all fees have been paid and the applicant has met other requirements.

SECTION VIII: FEES

1. Fees required to be paid under this ordinance shall be fixed in an amount reasonably calculated to compensate the County for costs and time incurred in for inspecting and reviewing the plans for the intended encroachment, the work in progress and the completed project. The Supervisor is authorized and directed to prepare and distribute a schedule of fees assessable under this ordinance and to amend the same from time to time as needed to reflect changing conditions.
2. All applications, fees, bonds, insurance policies or other documents required by this Ordinance shall be delivered to the Sevier County Road Department office presently located at 650 West 2630 South, Richfield, Utah 84701.

SECTION IX: MINIMUM CONSTRUCTION STANDARDS

1. New Construction shall be completed according to the plans and specifications approved in connection with an encroachment permit issued pursuant to this ordinance.
2. All construction, maintenance and repairs following encroachments shall comply with the following minimum standards or with the minimum standards listed in the most current edition of the State of Utah Standard Specifications Manual for Road and Bridge Construction, promulgated by the State of Utah Department of Transportation.
 - 2.1. Preparation: In instances of a high use asphalt or gravel road boring under the roadway shall be required whenever possible. If the pavement, sidewalk, driveway, or other surface must be cut it shall be cut vertically along the lines forming the trench in such a manner as to prevent damage to the adjoining pavement or hard surfacing. An undercut level at the rate of one inch per foot of thickness will be provided at the proposed junction between the old and new surfaces. The

portion to be removed shall be broken up in a manner that will not cause damage to the pavement outside the limits of the trench. Any pavement damaged by operations outside the limits of the trench shall be replaced. All waste material resulting from the excavation shall be removed immediately from the site of work.

2.2 Backfill:

- 2.2.1 Material for backfill will be of a select nature. All broken concrete, peat, decomposed vegetable or other similar matter WILL NOT BE integrated into the backfill materials, but removed entirely from the site. All backfill will be placed in layers not over eight (8) inches loose measure in thickness. Compaction will be accomplished by mechanical rollers, mechanical tampers or specified means. Material for back filling will have optimum moisture to insure compaction to a degree equivalent to that of the undisturbed ground in which the trench was dug. Jetting or internal vibrating methods of compacting sand fill or similar methods of compacting sand or similar granular-free draining materials will be permitted as specified in the State of Utah Standard Specifications or AASHTO.
- 2.2.2 The density (dry) of the backfill under pavements, sidewalks, curbs, or other structures will be not less than that existing prior to excavation will. The fill shall be restored and placed in a good condition, which will prevent settling (State of Utah Standard Specifications).

2.3 Restoration of Surfaces:

- 2.3.1 General. All road surfacing, curbs, gutters, sidewalks, driveways, or other hard surfaces falling in the line of the excavation which must be removed in performance of the work shall be restored in kind by the Permittee, unless otherwise directed by the Supervisor, in accordance with the specifications contained herein and applicable standards per State of Utah Standard Specifications and other applicable regulations governing the various types of surfaces involved.
- 2.3.2 Protection of Paved Surfaces: In order to avoid unnecessary damage to paved surfaces, track equipment shall use pavement pads when operating on or crossing paved surfaces. All outriggers or miscellaneous gear, which may compress road surfaces, shall have pad protection at points of contact.
- 2.3.3 Time: In traffic lanes of paved roads, the excavator shall provide temporary gravel surfaces or cold mulch in good condition immediately after backfill has been placed, and shall complete permanent repairs on the road, sidewalk, curb, gutter, driveway and other surfaces, within five (5) days from the date of completion of the backfill except for periods when permanent paving material is not available or an extension of time is granted by Supervisor.
- 2.3.4 Safety: The Permittee shall maintain all construction or repairs at acceptable safe standards until final repair is complete and accepted.
- 2.3.5 Temporary Repair: If temporary repair has been made on paved road with gravel and a permanent repair cannot be made within the time specified above due to any of the above-mentioned conditions, then the Permittee is required to replace the gravel with cold mulch as soon as possible. Permittee is required to monitor and maintain repairs at acceptable safe standards until final repair is complete and accepted.

2.4 Restoring Bituminous, Concrete or Asphalt road surfaces:

- 2.4.1 Temporary Grade Surface: Where excavations are made in paved areas, the surface shall be replaced with a temporary gravel surface. The gravel shall be placed deep enough to provide a minimum of six (6) inches below the bottom of the bituminous or concrete surface. Normally, this will require nine (9) inches of gravel for bituminous surfaces, twelve (12) inches of gravel for concrete and concrete base for asphalt wearing surfaces. The gravel shall be placed in the trench at the time it is backfilled. The temporary gravel surface shall be maintained by blading, sprinkling, rolling, and adding gravel, to maintain a safe,

uniform surface satisfactory to Supervisor until the final surface is laid. Excess material shall be removed from the premises immediately. Material for use on temporary gravel surfaces shall be obtained from sound, tough, durable gravel or rock meeting the following requirements for grading:

Passing 1-inch sieve.....	100%
Passing 3/4-inch sieve.....	85% - 100%
Passing No. 4 sieve.....	45% - 65%
Passing No. 10 sieve.....	30% - 50%
Passing No.200 sieve.....	5% - 10%

2.4.2 **Bituminous Surface:** The exposed edges of existing pavement shall be primed with Type MC-1 Bituminous material or better. Supervisor shall approve the type, grade, and mixture of the asphalt to be used for road surface replacement. The thickness shall be equal to the adjacent surface thickness but not less than three (3) inches. The complete surface shall not deviate more than one-half (1/2) inch between old and new work.

2.4.3 **Concrete Surfaces:** The sub-base for concrete surfaces shall be sprinkled with clean water just before placing the concrete. Joints and surfaces shall be made to match the original surfaces. The thickness of concrete shall be equal to the adjacent concrete but in no case less than six (6) inches thick. The Supervisor will approve the mixing, cement, water content, proportion, placement, and curing of the concrete. In no case shall the concrete have less compressive strength than 3,000 pounds per square inch at the end of 28 days.

2.4.4 **Concrete Base, Bituminous Wearing Surfaces:** This type of surfacing shall be constructed as above described.

2.4.5 **Gravel Surfaces:** Trenches excavated through gravel-surfaces area, such as gravel roads, shoulders and unpaved driveways, shall have the gravel restored and maintained as described in paragraph 4 of this part, except that the gravel shall be a minimum of one inch more than the existing gravel.

2.5 **Relocation and Protection of Utilities:** An excavator shall not interfere with any existing utility without the written consent of the Supervisor and without advance notice to the owner of the utility. If it becomes necessary to relocate an existing utility, it shall be done by its owner unless the owner otherwise directs. No utility, whether owned by a governmental entity or by a private enterprise, shall be removed to accommodate the Permittee unless the cost of such work shall be borne by the Permittee or an expressly written agreement is made whereby the utility owner and the excavator make other arrangements relating to such costs. The Permittee shall support and protect by timbers or otherwise all pipes, conduits, poles, wires, or other apparatus which may be in any way affected by the excavation work, and shall do everything necessary to support, sustain and protect them under, over, along, or across the work. In case any of the pipes, conduits, poles, wire, or apparatus should be damaged (and for this purpose pipe coating or other encasement or devices are to be considered as part of a substructure), they shall be repaired by the agency or person owning them, but the utility owner shall be reimbursed for the expense of such repairs by the Permittee. It is the intent of this part that the Permittee shall assume all liability for damage to substructures, and any resulting damage or injury to anyone because of such substructure damage and such assumption of liability shall be deemed a contractual obligation, which the Permittee accepts upon acceptance of an excavation permit. By Utah law the Permittee is required to be aware of the existence and location of all underground utilities and protect the same against damage.

2.6 **Jetting and Boring:** Jetting of pipe or utility lines shall not be used without prior express permission from the Supervisor. Any damage to road surfaces, structures or utility lines due to jetting or boring operations shall be repaired to the satisfaction of the Supervisor by the Permittee or contractor conducting such operations, or may be repaired by the County and charged to the bond of such Permittee or contractor.

to jetting or boring operations shall be repaired to the satisfaction of the Supervisor by the Permittee or contractor conducting such operations, or may be repaired by the County and charged to the bond of such Permittee or contractor.

SECTION X: NON-PERMITTED ENCROACHMENT UNLAWFUL

1. Any person making or causing an encroachment upon any Sevier County roadway, except for emergency encroachments, without having first obtained a Permit from the Supervisor as required by this Ordinance shall be guilty of a Class C Misdemeanor.
2. Any Person having obtained an encroachment permit under this Ordinance who shall fail to comply with the terms of said permit or to fulfill its conditions shall be guilty of a Class C Misdemeanor.
3. Any person who shall undertake an emergency encroachment hereunder and fails to make application for a permit on the first working day following commencement thereof shall be guilty of a Class C Misdemeanor.
4. Any entity, whether public or private, who engages agents, general contractors, or subcontractors for a project that requires roadway encroachment and permits violations of this ordinance to be committed by such agents, general contractors, or subcontractors shall be guilty of a Class C Misdemeanor.

SECTION XI: CATTLEGUARDS

1. Any person desiring to install a cattleguard on a county road must file a detailed application and request for a Class 1 Encroachment Permit with the Sevier County Road Department, stating the designation of the county road involved and the exact location of the proposed installation, and providing designs, drawings, plans and specifications for the same. The Supervisor shall review the application and shall within a reasonable time, either grant the same or decline it. If he declines the application, he shall return it to the applicant and set forth in writing attached thereto his reasons for doing so. The Supervisor is authorized to waive application fees for amended applications if, in his opinion and at his sole discretion, the amended application will not entail a significant amount of additional time to review beyond that previously conducted. Upon granting the application, the Supervisor may impose any conditions, limits, bonds, or other guarantees he may deem necessary to protect the County or assure the compliance by the Applicant with the terms of said permit.
2. The applicant will be required to supply all materials for the installation, in compliance with all material design specifications required by the Supervisor, including, but not limited to, concrete work, bases, re-bar, wings, fence posts and gates, etc., as needed.
3. The applicant will be responsible to install a side gate and connect any adjacent fences to the cattleguard.
4. The applicant shall supply the necessary labor to construct and install the cattleguard according to current specification requirements, using materials and components provided by applicant at the permitted site. In no event, however, shall the county assume liability, or be held liable, to the applicant for its performance of the construction.
5. Upon completion of the installation, the Supervisor shall inspect the same and upon his approval and acceptance, the Sevier County Road Department will assume responsibility for future maintenance of the unit as long as the road is part of the county road system.

extent such ordinance is less stringent than the provisions herein, and any clause contained herein which shall be declared, by court of competent jurisdiction, to be unconstitutional or contrary to the laws of the State of Utah, shall in no way nullify any other part of this Ordinance.

SECTION XIII: INJUNCTION

Supervisor may request initiation of the proper legal proceeding, in a court of competent jurisdiction, to obtain an injunction against any natural person, partnership, corporation, firm, association or legal entity violating this Ordinance.

SECTION XIV: LIABILITY, LOSS, OR DAMAGES

Applicant shall indemnify Sevier County from any and all liability; loss or damage Sevier County may suffer as a result of claims, demands, costs or judgments arising from such encroachment.

SECTION XV: EMERGENCY CLAUSE EFFECTIVE DATE

The Sevier County Commission finds and declares it is necessary for the immediate preservation of peace, health, and safety of the residents of Sevier County that this Ordinance becomes effective upon its passage and publication, in accordance with law, and upon a copy being deposited in the office of the Sevier County Clerk, Richfield Utah.

Passed and approved by the Board of Sevier County Commissioners at a regularly scheduled meeting of the Board on the 20~~th~~ day ^{Nov} of 2006, Commissioners Doug Peterson, Gary Mason,
Ralph Okerlund, Voting "aye" and _____, Voting "nay"

BOARD OF SEVIER COUNTY COMMISSIONERS

By: Ralph Okerlund
Chairman

ATTEST:

Steve Wall
Sevier County Clerk

Date of Publication: _____ (day) of _____ (month), 2006