

Chapter 300 – Exceptions to Policy

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Chapter 300

Exceptions to Policy

301 APPROVAL OF EXCEPTIONS (Rev 07/2021)

The Project Development and Procedures Manual (PDPM) Chapter 17, Section 4 Exception Requests provides guidance and explains the process of exception approvals. The PDPM can be found at:

<https://dot.ca.gov/programs/design/manual-project-development-procedures-manual-pdpm>

302 ENCROACHMENTS WITHIN ANY STATE HIGHWAY RIGHT-OF-WAY (Rev 07/2021)

The PDPM Chapter 17, Section 2 Encroachments provides guidance on encroachment policies on all State highways. The PDPM can be found at:

<https://dot.ca.gov/programs/design/manual-project-development-procedures-manual-pdpm>

303 ENCROACHMENTS WITHIN ACCESS-CONTROLLED RIGHT-OF-WAY (Rev 07/2021)

The PDPM Chapter 17, Section 2 Encroachments provides guidance on encroachment policies on any access controlled highway. The PDPM can be found at:

<https://dot.ca.gov/programs/design/manual-project-development-procedures-manual-pdpm>

304 APPEAL OF PERMIT DENIAL

This section outlines the procedure for an applicant to appeal the denial of an encroachment permit application. The costs and allocation of the costs associated with the appeal are stated in section 304.3. This section is based on California Code of Regulations (CCR) Title 21, Division 2, Chapter 8, Article 2, sections 1413 through 1413.4, inclusive.

This section does not apply to a broadband facility permit applicant. See CCR Title 21, sections 1412.1 through 1412.9, inclusive, for broadband facility permit appeals.

This section does not apply to a Visibility Improvement Request. See Section 509.4 of this manual for Visibility Improvement Request appeals.

304.1 Appeal Process to the Department Director

- a) If a 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 304.2, within 60 days after the denial letter is served by the District. 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.

304.2 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
- 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.

304.3 Final Determination and Costs (Rev 07/2021)

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 304.2. 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. **Public corporations are statutorily exempt from encroachment permit fees including administrative appeal costs (Streets and Highways Code section 671.1).**

Throughout sections 304 to 304.3 of this manual, "Administrative costs" means the estimated administrative costs to the Department on 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 304.2 is submitted to the Department.

Throughout sections 304 to 304.3 of this manual, "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.