



2014-00592

Page 1 of 14

Requested By: Santa Cruz County Bos

SUZANNE SAINZ, RECORDER

SANTA CRUZ COUNTY, ARIZONA

02-03-2014 03:03 PM Recording Fee \$0.00

**SANTA CRUZ COUNTY  
PUBLIC RIGHT-OF-WAY  
CONTROL ORDINANCE No.  
2013-04**

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1/29/2014

**SANTA CRUZ COUNTY PUBLIC RIGHT-OF-WAY CONTROL ORDINANCE No. 2013-04**

**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 THERE FROM; PENALTIES FOR VIOLATION OF THIS ORDINANCE; AND REPEALING ALL ORDINANCES IN CONFLICT THEREWITH**

**RECITALS**

WHEREAS, A.R.S. §11-251 authorizes the Board of Supervisors to control and manage public ways and to regulate the extent and conditions of improvements within such Right-of-Way; and

WHEREAS, it is in the public interest that all uses of the right 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; and

WHEREAS, it is for the benefit of the public that the "RIGHT-OF-WAY FEE SCHEDULE" attached as Exhibit 1 be established to recover the costs associated with the review, approval, and administration of the Right-of-Way permits; and

WHEREAS, Exhibit 2 are examples of approved standards for repairing Santa Cruz County Roadways.

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

**SECTION 1 TITLE**

This Ordinance shall be known as the Santa Cruz County Public Right-of-Way Control Ordinance.

**SECTION 2 PURPOSE**

The purpose of this Ordinance is to provide for regulation of public Rights-of-Way in accordance with the powers granted to Santa Cruz County by the State of Arizona and to advance the health, safety, and welfare of the public by proscribing regulations for the use of and work in public Rights-of-Way.

**SECTION 3 DEFINITIONS**

Unless otherwise defined expressly below, the words and phrases used in this Ordinance shall have their ordinary and customary meaning attached to them.

- 3.1 Emergency:** a condition that (1) poses a danger to life or health, or of a significant loss of property; or (2) requires immediate repair or replacement of facilities in order to restore service to a customer.
- 3.2 Right-of-Way:** any and all rights and interests in land held by County or other public bodies, or hereinafter acquired by the same attendant to the roads, streets, alleys and public ways in Santa Cruz County, to include the full width of any such Right-of-Way and not limited to any paved or graded portion thereof. Such term shall include any and all such interests, whether owned in fee or held by easement, no matter how acquired.
- 3.3 Utility:** a person, service or company carrying on an enterprise which provides accommodations to the public, including but not limited to the provision of telephone, electricity, natural gas, cable television, fiber optic, water, waste water, and similar services.
- 3.4 Permittee:** a person, corporation, association, or other political subdivision requiring the use of the Right-of-Way for the purpose of using or performing any construction, reconstruction, or removal.

- 3.5 **Driveway:** shall mean access for vehicles from any public or private road leading to property adjacent thereto and shall include the driveway approach, which is the portion of the driveway from the traveled roadway to the property line.
- 3.6 **Linear Cuts:** shall mean excavation in Right-of-Way that is ten (10') feet or greater in length and no more than two (2') feet in width.
- 3.7 **Cuts:** shall mean excavation in the Right-of-Way of any length that is greater than two (2') feet in width.
- 3.8 **Structure:** shall mean any material placed or affixed to the land, including buildings, walls, fences, stones, signs, mailboxes, culverts and catch basins. It shall also mean any deposits (by hand or machine) of material such as fill, gravel, crushed stone, bark mulch, loam, or similar materials.
- 3.9 **Director:** shall mean the Santa Cruz County Public Works Director or his or her designee

#### SECTION 4 GENERAL PROVISIONS

- 4.1 **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.
- 4.2 **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.
- 4.3 **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;
  - C. Deemed neither to limit nor repeal any other powers granted under state statutes.

#### SECTION 5 RIGHT-OF-WAY PERMIT AND APPLICATION REQUIREMENTS

- 5.1 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 public road, street, alley or way, 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, including but not limited to the following:
  - A. Pavement, curbs, gutters, driveways, sidewalks;
  - B. Drainage or flood control facilities;
  - C. Grading or surfacing of any road;
  - D. Water, gas, sewer, or other types of pipelines;
  - E. Irrigation and waste water facilities;
  - F. Utility services such as electric, cable, phone, and other power service and communication facilities;
  - G. Structures or signs (whether temporary or permanent);
  - H. Plantings, landscaping, watering and/or drainage systems, and decorative placements;
  - I. Any of the above which may overhang the public right-of-way.
- 5.2 All applicants requesting a Right-of-Way Permit shall complete a required application form, unless waived in writing by the Director. The application shall be submitted at least five to ten (5 to 10), as agreed upon, working days prior to the start of construction or use of the Right-of-Way, and shall be accompanied by two (2) copies of construction plans, traffic control plans, and certificate of liability insurance. In addition the following items are to be included in the construction plans:
  - A. Vicinity and/or Key Map.
  - B. Legend.

- C. Special details including, but not limited to, plan and profile sheets, cross-sections, construction notes, and general notes.
  - D. Construction quantities and construction cost estimate.
  - E. North arrow, bar scale, and drawing scale.
  - F. General notes to be added to **ALL** plans:
    - 1. All construction within the Right-of-Way shall conform to the latest Maricopa Association of Government (MAG) Specifications and ADA requirements or as approved by the Director;
    - 2. The Contractor performing excavation operations is responsible for locating and protecting all underground utilities;
    - 3. Any damage to County's or private-owned structures, equipment, materials, vegetation, and/or property located outside a utility easement shall be replaced and/or repaired in-kind to the satisfaction of the County or private owner.
  - G. Indicate County Right-of-Way, City limits, and County limits. Also include existing easement information including recordation number
  - H. Indicate the name of the subdivision or assign a job name (on all sheets).
  - I. All existing utilities within the Right-of-Way shall be located and shown dashed with the size, construction materials, and type of utility line, location, and depth below grade.
  - J. Include the Blue Stake sticker.
  - K. Drawings must include existing topographic features adjacent to or in conflict with new construction.
  - L. Indicate the street names on plan(s), including distance to nearest intersection.
  - M. Provide survey ties for project from a known section corner, quarter section corner, or other permanent survey marker. Reference points must be on the Arizona Coordinate System, Central Zone, and horizontal datum of 1983. The corresponding elevation must be provided in both 1929 NGVD and 1988 NAVD. All plans must clearly state the vertical datum used for the project.
  - N. A plan and profile drawing of any proposed boring pits or excavations must be included on the drawings.
  - O. Storm Water Quality Standards for runoff are to be followed per state statute.
- 5.3 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 Right-of-Way, or from making excavations as may be necessary for the preservation of life or property when an urgent necessity arises during the hours the office of Public Works Department is closed, except that those undertaking such emergency work shall apply for a permit within one (1) calendar day after the offices are again opened.
- 5.4 Right-of-Way Permit Types
- A. Commercial/Industrial Construction Permit:  
The permit allows for construction, reconstruction, installation, erecting or removal in Right-of-Way or within the vicinity of the Right-of-Way when such Right-of-Way will be impacted.
  - B. Residential Construction Permit:  
The permit allows for construction of driveways, landscaping, decorative structures, utility construction or other activities in the Right-of-Way which involves individual residential construction.
  - C. Non-Construction Permits<sup>1</sup>:

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<sup>1</sup> The Director reserves the right to require the permittee to obtain traffic control plan approval from the Sheriff's Department.

1. Short-term Temporary Events - A permit for use of Right-of-Way for other than construction purposes (i.e., bicycle or marathon races, parades, film production, festivals, craft shows, and "not for profit" uses by the public).
  2. Long-term Special Events (excludes races and parades) requiring road closure – A permit requesting road closures (road, shoulders, driveways etc.) requires a lead time of 90 days and a response plan detailing Emergency Management procedures (this permit excludes Historic Zones as established by Article 21 of the County Zoning and Development Code).
- D. Staging (Blanket) Permit for routine maintenance only will be issued for a period up to 6 months to stage in the Right-of-Way to maintain existing utilities consisting of transformers, cabinets, overhead lines etc. Any work requiring removal of asphalt or dirt will require a Construction Permit and is not authorized by a Staging Permit.

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

- 6.1 Applicants are required to pay in full the fee for the Right-of-Way permit before any permit can be issued. Payment shall be made to the Public Works Department. The schedule of fees set forth in Exhibit 1 of this Ordinance is established to offset the costs incurred in connection with processing permit applications and inspection work. If work is not completed within 30 days after the permit is obtained, the permit shall expire, unless stated otherwise.
- 6.2 The Public Works Department will charge a service fee for all returned checks.

#### SECTION 7 ADMINISTRATION

- 7.1 It shall be the duty of Director to administer and enforce this Ordinance. All other County law enforcement officials and agencies shall, whenever requested by the Director, participate in and assist the Director in the enforcement of this Ordinance to the extent that they are lawfully authorized to do so. Duties of the Director shall include, but not be limited to:
  - A. Review of all development applications and permits to determine that:
    1. The permit requirements of this Ordinance have been satisfied;
    2. All other required state and federal permits have been obtained.
  - B. Issue Right-of-Way Permits authorized by the provisions of this Ordinance.
- 7.2 All applicants requesting a Right-of-Way Permit shall complete a required application form which shall be submitted at least ten (10) working days prior to the start of construction or use of the Right-of-Way, and shall be accompanied by submittal requirements as stated in Section 5. The Director has the authority to require less disruptive construction techniques to minimize impacts to the public or to the Right-of-Way. Right-of-Way permits are not transferable, and are voided if the original applicant is not performing the work. Permitted work must be completed within the specified timeframe on the permit or within six (6) months, whichever is less. If the work is not completed within the time frame, a new permit must be obtained. Permit extensions may be requested and may be granted upon a showing of good faith by the applicant.
- 7.3 All work done in the Right-of-Way shall be done in accordance with the permit requirements and according to applicable County specifications for such work. The Director may require permit provisions or conditions as determined by him/her to properly provide for the health, safety, and welfare of the public, including but not limited to, traffic control, providing access to adjoining property and maintenance of other facilities in the area. Permit applicants shall be responsible for:
  - A. Provision, installation and maintenance of necessary construction traffic safety control devices as prescribed by the most recent edition of the Manual on Uniform Traffic Control Devices (MUTCD). The applicant shall submit, with the permit application, a traffic control plan for review and approval.
  - B. 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

protection of said utilities from damage from construction activities associated with the permit.

- 7.4 The permittee is responsible for scheduling inspections for any work completed in the Right-of-Way under the issued permit. The Public Works Department requires 24 hours' notice to schedule inspections.
- 7.5 The County will use the best available data to determine the limits of Right-of-Way in order to issue a permit. It is the responsibility of the applicant to verify through title search or other means any inconsistencies found in county records.
- 7.6 Should the work present or become a hazard to the public, the Director may take any necessary immediate corrective actions and bill the permittee for the full cost of such corrective actions.
- 7.7 Modification or revision of approved plans shall be requested in writing and must be approved by the Director. Failure to do so may result in corrective action at the sole cost of the permittee.

## SECTION 8 SPECIAL PROVISIONS

- 8.1 Any construction or installation within the Right-of-Way by permit is not warranted by the County and must be maintained entirely by the owner of the constructed feature. Repair or replacement of an existing structure, whether originally permitted or not, requires a Right-of-Way permit, which must be obtained before structure can be repaired/replaced.
- 8.2 It is the responsibility of the utility companies to replace or remove structures that do not comply with approved standards. Utility companies should perform routine inspections at their discretion to assure the structure compliance.
- 8.3 Construction of all private residential driveways which connect to the Right-of-Way requires a Residential Construction Permit, and the design is to conform to the County standards. Submittal requirements for a Residential Construction Permit for a driveway include:
  - A. Required application form.
  - B. Site plan illustrating the location of the property line, property address, buildings, roads, and proposed driveway.
  - C. Material type that will be used to construct the driveway.
  - D. Cross-section illustrating the proposed improvements to maintain natural flow per the Flood Control District Standards for Private Driveways Crossings.

All private driveway maintenance including driveway surfaces, drainage, object markers is the responsibility of the owner. Non-permitted driveways may be removed at the discretion of the Director.

- 8.4 New utilities proposed within the Right-of-Way require a Construction Permit and an executed franchise agreement between the County and the utility provider. Plans must show at a minimum:
- 8.5 There shall be a moratorium on pavement cuts on newly paved or resurfaced roadways.
  - A. The moratorium will be in effect as follows:
    - 1. Newly constructed roadways accepted for maintenance – 10 year moratorium.
    - 2. Resurfaced roadways (overlays, chip seal, fog seal, seal coat, etc.) – 5 year moratorium.
  - B. Any utility crossings proposed during the moratorium will be required to bore under the pavement below the sub-grade or be assessed a fee of \$500.
- 8.6 Mitigation of multiple pavement cuts will be required under any of the following circumstances:
  - A. (Number of Pavement cuts/length of project) > 1 cut per 300 feet of pavement length
  - B. Five or more cuts are made on a single roadway segment regardless of length of project.

C. Pavement cut is longitudinal (parallel) to roadway within pavement. Mitigation shall consist of roadway being resurfaced with like material or other as approved by the Director for a continuous distance of 20 feet outside of the first cut to 20 feet outside of final cut. The Director has the option of permitting less stringent requirements at his/her discretion.

## SECTION 9 UNAUTHORIZED ENCROACHMENTS OR TRESPASSING

- 9.1 Unauthorized encroachments in the Right-of-Way will not be permitted per A.R.S. §28-7053 and are subject to penalties under Section 11 of this Ordinance. Example of violations include the following:
- A. Mobile eatery units.
  - B. Vehicle sales.
  - C. Fencing, walls, or post.
  - D. Monumentation or shrines.
  - E. Advertising signs.
  - F. Trees or vegetation.
  - G. Sale of goods.
  - H. Unauthorized driveways.
  - I. Staging or obstructing any portion of the Right-of-Way.
- 9.2 Political signs within the Right-of-Way shall conform to A.R.S. §16-1019. If the sign falls within the Right-of-Way, it should be a minimum of 12 feet away from the edge of pavement or travelway.
- 9.3 It is unlawful to park any vehicle having a total gross vehicle weight rating in excess of twenty thousand (20,000) pounds ("restricted vehicle"), including, but not limited to, trucks, truck tractors, road tractors, trailers, semi-trailers, vehicle transporters, or any combination of such vehicles:
- A. On residential areas or roads
  - B. On the paved or unpaved shoulders of the Right-of-Way
  - C. Notwithstanding the prohibition in Subsections A and B above, a restricted vehicle may temporarily stop in those locations for the following purposes only:
    1. Delivery, pickup, loading, or unloading merchandise, materials, or equipment, including furniture and other household goods.
    2. Providing construction, repair, or similar services to a property.

## SECTION 10 INSURANCE OR LIABILITY REQUIREMENTS

- 10.1 Right-of-Way permittees shall procure and deliver to the Director, prior to issuance of such permit, an acceptable certificate or insurance naming the County as a co-insured and shall provide not less than the following limits of coverage:
- A. One million dollars (\$1,000,000) for death or bodily injury or loss sustained per occurrence.
  - B. One million dollars (\$1,000,000) for damage or loss of property per occurrence.

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

- 10.2 In addition to any liability imposed upon the permittee by law, the permittee shall indemnify and agree to hold harmless Santa Cruz County and its elected or appointed offices, 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.

10.3 Federal, State, County and municipal agencies and Residential Construction driveway and mailbox permittees are exempt from the insurance requirements of this Section.

SECTION 11 VIOLATIONS AND PENALTIES

11.1 Any violations of this Ordinance pertaining to construction, reconstruction, removal, repair, maintenance, permit conditions or requirements or other unauthorized activities occurring within county Right-of-Way are hereby declared to be a class II misdemeanor.

11.2 If any work is undertaken prior to securing a permit, the Director may require the Right-of-Way to be restored to its original condition prior to granting a permit, and may impose a fee for inspection and examination of the work done prior to the issuance of a permit. All work shall cease until the Director determines whether the Right-of-Way should be restored to the original condition or that a permit should be granted in accordance with this Ordinance. Fines shall be levied via the following guidelines:

A. Commercial Violator – fine shall be \$500/day and period of violation shall be from the initial commencement of violation until the time that a valid permit application is filed with the Director.

B. Residential (or other) Violator – fine shall be a \$500 flat fee.

11.3 The County reserves the right to take the necessary corrective actions if deemed necessary by the Director, and bill the applicant the full cost for such corrective actions.

SECTION 12 SEVERABILITY

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 portion thereof.

SECTION 13 EFFECTIVE DATE

This Ordinance shall become effective on the 1<sup>st</sup> day of March, 2014.

PASSED AND ADOPTED THIS 29<sup>th</sup> DAY OF Jan., 2014

ATTEST:  
Melinda Meek  
Melinda Meek, Clerk of the Board

Manuel Ruiz  
Manuel Ruiz, Chairman

John Maynard  
John Maynard, Vice-Chairman

APPROVED AS TO FORM:  
Charlene Laplante  
Charlene Laplante, Deputy County Attorney

Rudy Molera  
Rudy Molera, Member

## EXHIBIT 1

## RIGHT-OF-WAY PERMIT FEE SCHEDULE

Type	Base Fee	Work Description	Unit Fee
COMMERCIAL/INDUSTRIAL CONSTRUCTION PERMIT	\$132.00	a. Linear Cuts	35¢/LF
		b. Cuts	15¢/SF
		c. Structures	\$5.00/Each
STAGING/BLANKET PERMIT	n/a	Staging & routine maintenance	\$600.00
RESIDENTIAL CONSTRUCTION PERMIT	\$132.00	a. Driveways	n/a
	\$10.00	b. Mailbox	\$5.00/Each
NON-CONSTRUCTION PERMIT	\$132.00/year	Parades, Races, Festivals, Events, Road Closures, etc.	\$45/Event

## FEE INFORMATION

- Permit Fee Calculation: Base Fee + (feet/ area/ structures X unit fee) = Total Fee**
- All permit fees have a base fee that includes construction plan and traffic control plan reviews, and associated administrative tasks for issuing the permit. Permit fee also includes pre- and post-construction inspections. Additional construction plans and traffic control plan reviews are \$45.00 per review.
- Cut and trenching permits requiring compaction tests/construction surveillance to be performed by the County will be assessed a fee of \$100 per day. Permittee has the right to hire a qualified firm to perform third party compaction testing/construction surveillance.
- Permittee is responsible for scheduling inspections with County personnel at least 24 hours in advance. Cancellation of a scheduled inspection is to be made at least 24 hours in advance. Failure to cancel in a timely fashion will result in a \$50 fee.
- A permit bond may be required if the construction is greater than \$50,000 or as required by the Director.

THIS FEE SCHEDULE IS ATTACHED AS AN EXHIBIT TO SANTA CRUZ COUNTY ORDINANCE #2014-04 AND IS EFFECTIVE \_\_\_\_\_.

THIS FEE SCHEDULE MAY BE REVIEWED AND AMENDED BY THE BOARD OF SUPERVISORS AS NECESSARY.

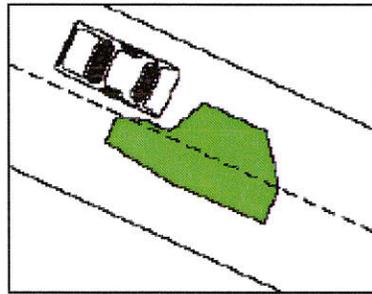
### EXHIBIT 2

Examples of repair methods that are not acceptable and the corresponding acceptable method are provided in the following Figures 1 through 8.

#### Example 1

Existing pavements should be removed to clean, straight lines parallel and perpendicular to the flow of traffic. Do not construct patches with angled sides and irregular shapes. All repairs shall be full lane width.

NOT ACCEPTABLE



ACCEPTABLE

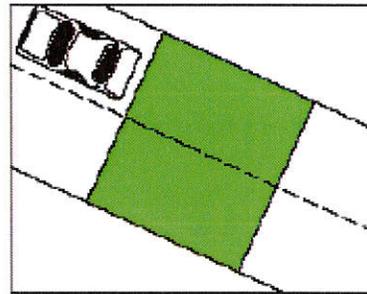
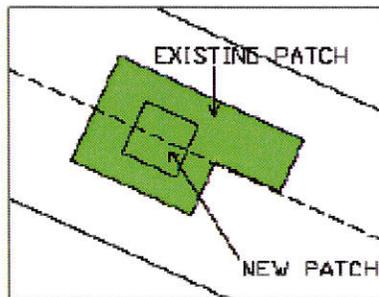


Figure 1

#### Example 2

Avoid patches within existing patches. If this cannot be avoided, make the boundaries of the patches coincide. All repairs shall be full lane width.

NOT ACCEPTABLE



ACCEPTABLE

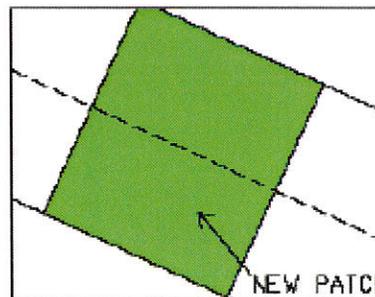
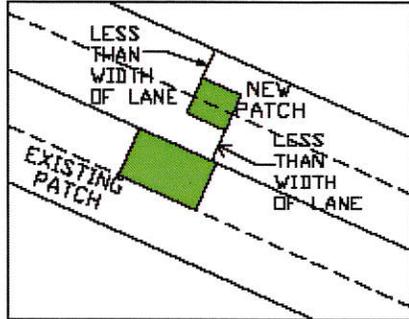


Figure 2

**Example 3**

Strips of pavement less than one-half the lane in width from the edge of the new patch to the edge of an existing patch or the lip of the gutter is not allowed.

NOT ACCEPTABLE



ACCEPTABLE

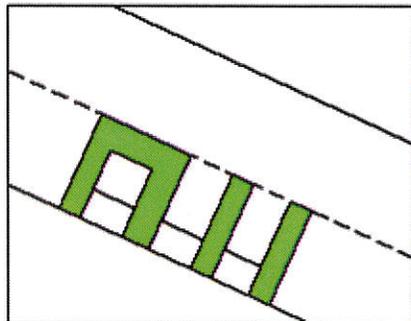


Figure 3

**Example 4**

In the case of a series of multiple cuts or new cuts ten (10) feet or less from existing cuts, the pavement is to be repaired as shown below with in kind material or as required by the Director.

NOT ACCEPTABLE



ACCEPTABLE

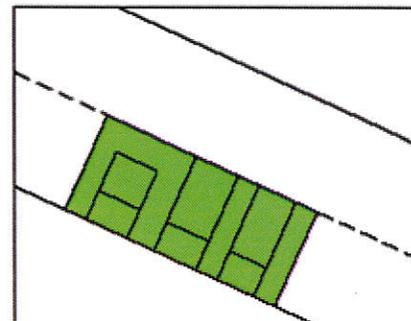


Figure 4

**Example 5**

Completed street repairs shall have ride-ability at least as good as, if not better than, the pavement prior to the repairs. A patch shall provide a smooth ride with smooth transitions on and off the repair and all joints shall be located outside the wheel path. Overlays shall be placed by first removing the existing pavement to the desired depth by grinding or milling, and then placing the pavement flush with the adjacent surfaces.

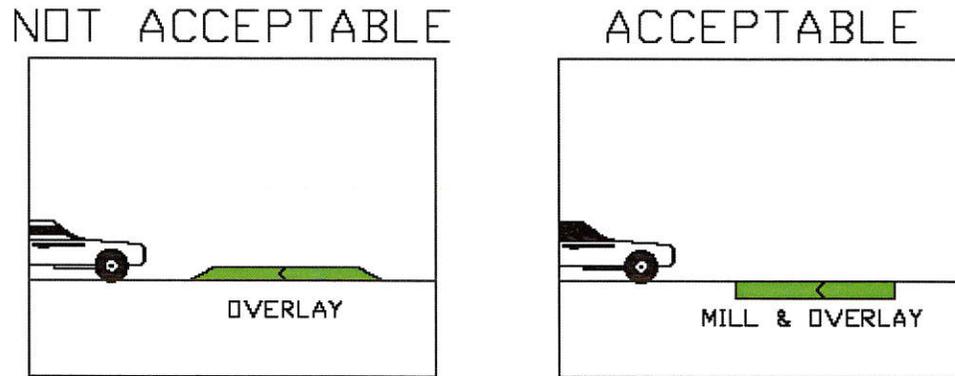


Figure 5

**Example 6**

Transverse patches on arterial and collector streets shall be overlaid across the entire street width for a distance of one (1) foot minimum on all sides. The pavement is to be repaired as shown below with in kind material or as required by the Director.

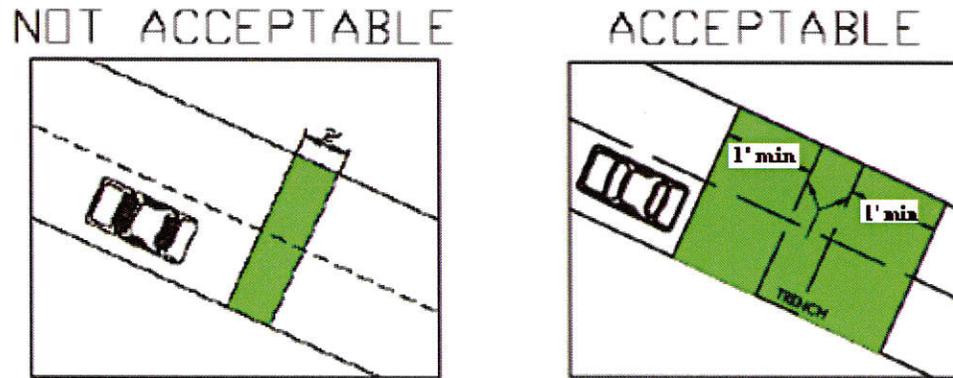
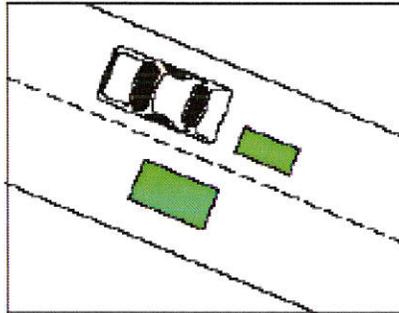


Figure 6

**Example 7**

Patches are not allowed to fall in the existing wheel paths. The edges of patches parallel to the direction of traffic shall be limited to the boundaries of lanes or to the centerline of travel lanes.

NOT ACCEPTABLE



ACCEPTABLE

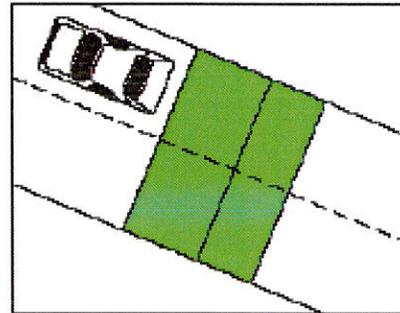
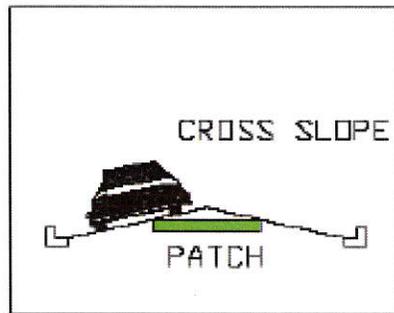


Figure 7

**Example 8**

Patches are to have a smooth longitudinal grade consistent with the existing roadway. Patches shall also have a cross slope or cross section consistent with the design of the existing roadway.

NOT ACCEPTABLE



ACCEPTABLE

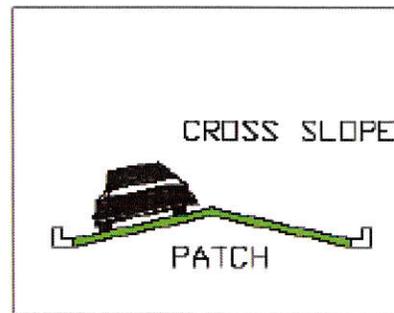


Figure 8

**Example 9**

All opened trenches left unattended must be covered with a steel plate as shown in figure 9 or as directed by county personnel. All temporary methods must be secured and properly signed per the MUTCD.

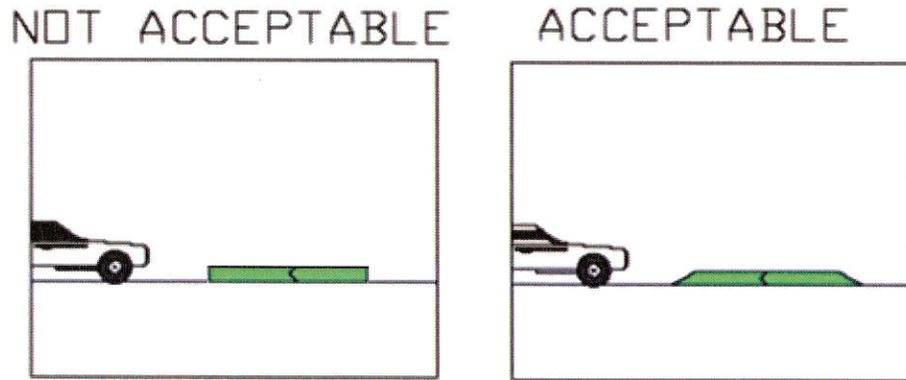


Figure 9