



ASOCIACIÓN DE CARTOGRAFÍA
COLABORATIVA DE COLOMBIA

— LEGAL NOTE · OPEN LICENSES

Why CC-BY data doesn't always work for OSM

When you need permission to map in OpenStreetMap from openly-licensed data and imagery — and how to resolve it.

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FOR

Organizations that share geographic
imagery and data

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THE KEY IDEA

01 It all hinges on one word: the fact

Many organizations publish geographic imagery and data under a CC-BY license and assume that, because it is open, the OpenStreetMap (OSM) community can already use it freely. That is not always the case. To understand when permission is needed, you have to start with a single word.

What is a fact?

An **objective reality** that exists regardless of who records it: that there is a building at certain coordinates and with a certain shape, that a road follows a certain path. A fact is not "created" by anyone; it is a datum of the world.

Copyright does not protect facts

Copyright protects the **original creative expression** — how something is chosen, composed and presented—, not the facts, ideas or data. This is the idea/expression dichotomy (case Feist v. Rural, U.S. 1991).

APPLIED TO MAPPING

Tracing a building records a fact; it does not copy the photo

An aerial photo does have copyright (the framing, the moment, the processing are creative expression). But when you trace a building by looking at it, you are recording a —where it is and what shape it has—, not the creative expression of the photo.

THE DIVIDING LINE

02 Minor vs. mass use: what changes is how much you extract

Let's clear up something that can confuse: you **always** trace by looking at the representation (the image), and that never changes. What decides whether you need permission is not where you look, but **how much you extract**.

— Minor use — no permission needed

You trace a few features: from the image you extract a few **facts** (where it is, what shape it has). Even though you take them by looking at the image, it is an insubstantial part (de minimis). No permission needed.

— Mass or systematic use — permission required

Tracing entire municipalities, imports or AI processing. Here it is no longer "**taking a few facts**", for three reasons:

1. you extract a **substantial part** of the work or database;
2. at that scale you may reproduce the **expression** —the selection, detail and arrangement with which the source represented those facts—, not only the facts themselves;
3. in the European Union the **sui generis database right** applies, protecting substantial extraction even if the data are facts.

In one sentence

You always trace from the representation; what decides is **how much**: a few facts need no permission; a substantial part —where you reproduce the source's selection and arrangement, not just facts— does.

THE CENTRAL POINT

03 Why CC-BY data can be incompatible with OSM

The fact that data is under CC-BY —an open license— does not make it automatically compatible with OSM. There are two points of friction between CC-BY and OSM's license (the **ODbL**).

— 1. Attribution

CC-BY requires attributing the rights holder in a "reasonable manner" (§3(a)(1)). But OSM data is used by millions of people who **cannot individually attribute each source** on every use. OSM's attribution is collective (via the Contributors page). Without an agreement, that collective attribution might not literally satisfy what CC-BY requires.

— 2. Restrictions on what comes next

CC-BY prohibits imposing "additional terms" on the material (§2(a)(5)(B)). The ODbL requires **open access / parallel distribution** of the data, which could be read as an additional term imposed on the CC-BY material.

When you don't know how the data will be used

If you cannot anticipate whether the use will be minor or massive, do not assume "it's CC-BY, so it works": for mass use, the two frictions above do matter. When the use is undetermined, the prudent thing is to treat it as massive and clear compatibility in advance.

And remember: a license is only valid if it is granted by **the rights holder**. A third party uploading data to a platform and tagging it CC-BY **does not bind the owner** of the work.

THE SOLUTION

04 The official OSM waiver

The OSM community resolved these frictions with a short, standard instrument: the **CC-BY waiver**. With it, the rights holder agrees that OSM's collective attribution is sufficient and waives, only towards OSM, the clause that would clash with the ODbL. CC-BY data becomes fully compatible with OSM when its rights holder signs this waiver.

Permission to Incorporate CC BY Data Into OpenStreetMap

With respect to **[dataset]**, **[entity]** agrees to the following:

1. Attribution by OpenStreetMap and its users through <http://wiki.openstreetmap.org/wiki/Contributors> is sufficient to provide attribution to **[entity]** in a "reasonable manner" in accordance with Section 3(a)(1) of the CC BY 4.0 license.
2. **[Entity]** waives Section 2(a)(5)(B) of the CC BY 4.0 license as to OpenStreetMap and its users with the understanding that the Open Database License 1.0 requires open access or parallel distribution of OpenStreetMap data.