



## **BOARD MEETING AGENDA SUBMITTAL**

**TO:** CVCS Board of Directors

**FROM:** Peter Kampa, General Manager

**DATE:** December 20, 2022

**SUBJECT:** Item 7b) Approval of the First Reading of a Revised Ordinance Prohibiting Unpermitted Encroachment on District Maintained Roads, Property, and Infrastructure and Establishing Encroachment Permit Requirements for Temporary Encroachments

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### **RECOMMENDED ACTION**

Staff recommends a motion to Approve the First Reading of a Revised Ordinance Prohibiting Unpermitted Encroachment on District Maintained Roads, Property, and Infrastructure and Establishing Encroachment Permit Requirements for Temporary Encroachments.

### **BACKGROUND**

On October 4 and November 15, 2022, the Board of directors considered the adoption of an encroachment ordinance. As discussed at the prior meetings, an ordinance is required for the district to enforce its requirements for encroachment on district property and district easements. At our November meeting, comments were received from the public and the board requesting that the requirement for encroachment permitting related to construction on private property be clarified. The concern was that there may be misunderstanding that a district encroachment permit could be required for construction of a walkway or installation of a hot tub in the backyard or even construction inside the house.

Revised version of the ordinance has been prepared with slightly modified language in Section Three to clarify that encroachment permits are only required for construction vehicles and equipment used on new land development projects such as grading and construction of new roads. Section Two is clear in its applicability to work within District maintained property and easements.

In November there was also discussion regarding the encroachment permit fee and whether it should be included within the ordinance. As is the case with our district, fee schedules are normally adopted and amended as policy documents rather than contained within the ordinance. Ordinances are considered a local law adopted by our board to set forth specific mandatory requirements that include penalties for violation. It is expected that this permit fee will be evaluated regularly and adjusted as needed to cover the administrative and inspection costs associated with the permit. If we include the fee within the ordinance, then we must amend the ordinance every time we make changes to the fee and the process for ordinance amendment requires two readings and publications in the newspaper before and after adoption, which is

typically several hundred dollars. Therefore, it is recommended that the encroachment permit fee remain in our master fee schedule, which is included below for reference. There is nothing in the proposed encroachment ordinance or fee schedule that requires the payment of the full permit fee for each home built in a cluster of model homes built at the same time, for example. It is possible for a master permit to be issued for a cluster of homes under a single application and fee. However if it is determined that a master permit for four homes is as much administrative and inspection time as four individual homes built at separate times, then individual permits may be required in the future for each new home construction.

It is staff's recommendation that for all potential outdoor projects that do not involve new home construction such as landscaping or patios, that we seek to have property owners notify the District and we conduct a courtesy inspection prior to requiring an encroachment application and payment of fees. In most cases, a permit application will likely not be necessary.

**PRIVACY GATE RELATED FEES**

<b>RFID Tags</b>	Two RFID tags issued on initial conversion	Free
	Third and all additional/replacement RFID Tags	At District cost + \$5 processing fee

**ENGINEERING FEES**

District Engineer Fee (Applicant/Customer requests requiring engineering review; contract hourly rate +15%)		At District Engineer Hourly Rate + 15%
<b>Easement Abandonment Requests (site inspection, records research, documentation)</b>	Non-Refundable Application Fee	\$240
	Actual District Engineer Fees	At District Engineer Hourly Rate (Deducted from \$575 Refundable Deposit)
<b>Encroachment Permit</b>	Non-Refundable Application Fee	\$240
	Non-Refundable Administration Fee	\$100
	County Recording Fees	Actual Recording Cost
	Actual District Engineer Fees if needed	At District Engineer Hourly Rate (Deducted from \$575 Refundable Deposit)
<b>Service Application for New Development Projects</b>	Non-Refundable Application Fee	\$200
	Non-Refundable Administration Fee	\$500
	Actual District Engineer Fees	At District Engineer Hourly Rate (Deducted from \$2500 Refundable Deposit)

ORDINANCE NO. 2022 - 01

ORDINANCE OF THE BOARD OF DIRECTORS OF THE COPPER VALLEY COMMUNITY SERVICES DISTRICT PROHIBITING UNPERMITTED ENCROACHMENTS ON DISTRICT MAINTAINED ROADS, PROPERTY, AND INFRASTRUCTURE AND ESTABLISHING ENCROACHMENT PERMIT REQUIREMENTS FOR TEMPORARY ENCROACHMENTS

**WHEREAS**, the Copper Valley Community Services District (District) maintains the roads, storm drains, wetland easements, certain landscaped areas, and other infrastructure within the service area of the District (collectively, "District Infrastructure"); and

**WHEREAS**, the District Infrastructure exists and is maintained for the benefit of all residents of the District and should not be altered, damaged, incommoded, or otherwise encroached upon without proper reason; and

**WHEREAS**, to allow for construction on and repair of private property adjacent to and served by the District Infrastructure, the District wishes to establish an encroachment permitting system to allow for temporary encroachments onto the District Infrastructure; and

**WHEREAS**, the District's purpose in issuing encroachment permits will be to ensure that work performed within and utilizing District Infrastructure shall be conducted safely and with as little disruption as possible, as well as to ensure that the District Infrastructure remains in good repair and to District's standards upon the conclusion of the permitted encroachments; and

**WHEREAS**, notice of this proposed Ordinance and Notice of Public Hearing was provided and was published in the Sonora Union Democrat on \_\_\_\_\_; and

**WHEREAS**, this Ordinance was initially introduced by the Board of Directors at its meeting held on October 4, 2022 and following revisions, reintroduced on December 20, 2022; and

**WHEREAS**, the Board of Directors directed said revisions to the Ordinance at its regular meeting held on November 15, 2022.

**NOW THEREFORE**, THE BOARD OF DIRECTORS OF THE COPPER VALLEY COMMUNITY SERVICES ORDAINS AS FOLLOWS:

**SECTION ONE:** The recitals set forth above are true and correct and are hereby incorporated herein by this reference as if fully set forth in their entirety.

**SECTION TWO:** General Prohibition. It shall be unlawful to block, obstruct the use of, alter, construct, or perform work upon or within roads and road easements, storm drains, wetland easements, public landscaped areas, and other

infrastructure within the service area of the District and maintained by the District (collectively, "District Infrastructure") without first obtaining an Encroachment Permit.

**SECTION THREE:** Construction Vehicles and Equipment. Prior to beginning construction on new land development projects that are approved for construction by the County of Calaveras on private property within the service area of the District, and which require vehicles or equipment to travel on District-maintained roads to access the private site for the purpose of performing the work, the owner of the property must obtain an Encroachment Permit from the District.

**SECTION FIVE:** Encroachment Permits. The General Manager of the District shall maintain and provide upon request an Encroachment Permit Application form. Applicants shall supply all information required by the Application form and all other documentation reasonably necessary for the District to issue permits and ensure safety and the protection of the District Infrastructure. Encroachment Permits shall be issued upon the approval of the District's General Manager and shall allow encroachment onto or within District Infrastructure for a temporary duration to be specified in the Encroachment Permit.

**SECTION SIX:** Fees. Applicants for Encroachment Permits shall pay the then-applicable permitting and inspection fees, as established by the District through its Master Fee Schedule.

**SECTION SEVEN:** Standard Permit Conditions. As a standard condition of all Encroachment Permits issued by the District, whether or not explicitly stated on a permit, the permittee shall ensure that any District Infrastructure damaged or disturbed is returned to its prior or better condition to the satisfaction of the District. As a further standard condition of all Encroachment Permits, the permittee shall indemnify, defend, and hold harmless the District and its officers and agents against any and all claims of damage brought against the District and alleged to have been caused by work performed pursuant to or authorized by the Encroachment Permit.

**SECTION EIGHT:** Any violation of this Ordinance shall be an infraction. The District may also redress violations of this Ordinance by civil action. District shall be entitled to recover from violators of this Ordinance all fees and costs, including reasonable attorneys fees, upon prevailing in a civil action.

**SECTION NINE:** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of the Ordinance or any part thereof. The Board of Directors hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or ineffective.

**SECTION TEN:** This Ordinance shall take effect and be in full force and effect thirty (30) days after its final passage.

**SECTION ELEVEN:** The Clerk of the Board of Directors shall cause this Ordinance to be published within 15 days in accordance with California Government Code Section 25124.

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Passed and adopted by the Copper Valley Community Services District Board of Directors at a regular meeting thereof held on the \_\_\_\_ day of \_\_\_\_\_, 2023, by the following vote of the members thereof:

- AYES, and in favor thereof, Board members:
- NOES, Board members:
- ABSENT, Board members:
- ABSTAIN, Board members:

\_\_\_\_\_  
President of the Board

ATTEST:

\_\_\_\_\_  
Secretary of the Board

RESOLUTION NO. \_\_\_\_2022

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE COPPER VALLEY COMMUNITY SERVICES DISTRICT APPROVING AN ORDINANCE PROHIBITING UNPERMITTED ENCROACHMENT ON DISTRICT MAINTAINED ROADS, PROPERTY, AND INFRASTRUCTURE AND ESTABLISHING ENCROACHMENT PERMIT REQUIREMENTS FOR TEMPORARY ENCROACHMENTS**

**WHEREAS**, the Copper Valley Community Services District was formed and is authorized by state law to acquire, construct, improve, maintain, and operate street lighting and landscaping on public property, public rights-of-way, and public easements.; and

**WHEREAS**, the District was formed and is authorized by state law to acquire, construct, improve, and maintain streets, roads, rights-of-way, bridges, culverts, drains, curbs, gutters, sidewalks, and any incidental works.; and

**WHEREAS**, state law allows the District to adopt, by ordinance, and enforce rules and regulations for the administration, operation, and use and maintenance of the facilities and services it provides; and

**WHEREAS**, the District Infrastructure exists and is maintained for the benefit of all residents of the District and should not be altered, damaged, incomed, or otherwise encroached upon without proper reason; and

**WHEREAS**, to allow for construction on and repair of private property adjacent to and served by the District Infrastructure, the District wishes to establish an encroachment permitting system to allow for temporary encroachments onto the District Infrastructure; and

**WHEREAS**, the District's purpose in issuing encroachment permits will to be ensure that work performed within and utilizing District Infrastructure shall be conducted safely and with as little disruption as possible, as well as to ensure that the District Infrastructure remains in good repair and to District's standards upon the conclusion of the permitted encroachments.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE COPPER VALLEY COMMUNITY SERVICES DISTRICT** that the District does hereby adopt Ordinance 2022-01, Prohibiting Unpermitted Encroachment on District Maintained Roads, Property, and Infrastructure and Establishing Encroachment Permit Requirements for Temporary Encroachments and authorize the General Manager to develop, implement and administer the Encroachment Permitting process, standards and requirements.

**PASSED AND ADOPTED** by the Board of Directors of the Copper Valley Community Services District on November 15, 2022 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED

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PRESIDENT

ATTESTED:

\_\_\_\_\_  
SECRETARY

**CERTIFICATE OF SECRETARY**

I, Peter Kampa, the duly appointed and acting Secretary of the Board of Directors of the Copper Valley Community Services District, do hereby declare that the foregoing RESOLUTION NO.

\_\_\_\_\_ was duly passed and adopted at a Regular Meeting of the Board of Directors of the Copper Valley Community Services District duly called and held on November 15, 2022.

*SIGNED:* \_\_\_\_\_ *DATED:* \_\_\_\_\_