



## **BOARD MEETING AGENDA SUBMITTAL**

TO: CVCS Board of Directors

FROM: Peter Kampa, General Manager

DATE: October 17, 2023

SUBJECT: 7a) Consideration of a first reading of an Encroachment Ordinance that prohibits encroachment onto District easements, property and rights-of-way without a permit, and establishing the terms and conditions for the encroachment permit issuance

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### **RECOMMENDED ACTION:**

I move to approve the first reading of an Encroachment Ordinance that prohibits encroachment onto District easements, property and rights-of-way without a permit, and establishing the terms and conditions for the encroachment permit issuance

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### **BACKGROUND:**

During three regular meetings earlier this calendar year, the Board considered Encroachment Ordinance language to allow the District to better monitor and control new construction access to and across District owned roads and property. Multiple modifications to the language was made and the final draft was submitted to our new engineering firm for review and input.

Additional languages changes have been made to clarify the applicability of the ordinance to new home construction and new land development work. Attached is the final revised ordinance language for your review and first reading if approved. If approved, a public hearing will be scheduled and noticed in the newspaper, and a second reading and adoption considered thereafter.

ORDINANCE NO. 2023 - 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 Public Hearing was provided and was published in the Sonora Union Democrat on \_\_\_\_\_, 2023; and

**WHEREAS**, this Ordinance was introduced by the Board of Directors at its meeting held on \_\_\_\_\_, 2023; and

**WHEREAS**, the Board of Directors took second reading of this Ordinance at its regular meeting held on \_\_\_\_\_, 2023.

**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, storm drains, wetland easements, public landscaped areas, and other District owned public 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 private property within the service area of the District that shall require construction vehicles or equipment to travel on District-maintained roads to access the private site for the purpose of performing new home construction work or construction on new roads or public infrastructure, the owner of the property must obtain an Encroachment Permit from the District.

**SECTION FOUR:** 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 FIVE:** 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 SIX:** 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 SEVEN:** 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 EIGHT:** 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 NINE:** This Ordinance shall take effect and be in full force and effect thirty (30) days after its final passage.

**SECTION TEN:** 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:

\_\_\_\_\_  
Clerk of the Board