

6-1-1: SHORT TITLE; APPLICATION OF PROVISIONS:

A. Short Title: This chapter shall be known as the *SADDLE CREEK COMMUNITY SERVICES DISTRICT ENCROACHMENT PERMIT CODE*.

B. Application Of Provisions: The provisions of this chapter apply to permits for the making, or causing to be made, in any district real property easement or roadway, of excavations, and for the placing, constructing, repairing, changing or removing of encroachments.

6-1-2: PERMIT REQUIRED:

Each applicant for an excavation or encroachment permit shall file with the application a plat in quadruplicate showing the location in which the proposed excavation or encroachment will be placed, together with the exact location and dimensions of the proposed excavations or the specifications and characteristics of the encroachment, together with any other details which the general manager requires. When excavations are made for service connections or for the location of trouble in conduits, cable, or pipe, or for making repairs thereto, the general manager may waive the filing of a plat. Approved plats shall become public records.

6-1-3: RESTORATION OF EXCAVATION:

A. Restoration Required: Immediately upon completion of the work necessitating the excavation or encroachment permitted by any permit issued, the permittee shall promptly and in a workmanlike manner restore the area affected by his activity to a condition satisfactory to the general manager.

B. Refilling Excavation:

1. A permittee shall refill an excavation in the manner which is satisfactory to the general manager and is most effective to accomplish through compaction and enable the area to be restored to a condition equivalent to that in which it was prior to the excavation.

2. Upon completion of the refilling of the excavation, or completion of the cut or fill, the permittee shall so notify the general manager, in writing, on a form prescribed by the general manager. Whenever a plat was required, and there were substantial deviations approved during the work from the dimensions or locations as shown on the plat, the permittee shall transmit to the general manager a concise as built plat within one week after completion of his work.

C. Relocation Of Pipes, Poles: Every application shall contain a statement, signed by the applicant, that if any tank, pole, pipe, cable, conduit, duct, obstruction or tunnel placed in the excavation or the encroachment for which a permit is issued, interferes with the future use of the area by the district, then the applicant and his successors or assigns will, at his own expense, remove or relocate to a location satisfactory to the general manager such tank, pole, pipe, cable, conduit, duct, tunnel or obstruction.

D. Time Limit For Permit Application: Nothing in this chapter prohibits any person from maintaining by virtue of any law, ordinance or permit, any pipe, cable, or conduit in any roadway, or from making such excavation as may be necessary for the preservation of life or property if the person making such excavation applies for a permit not later than the next business day.

6-1-4: WORK REQUIREMENTS AND SAFEGUARDS:

The general manager may establish such requirements as he may find necessary to apply to the work to be done by any person in order to prevent interference with users of the district property and with holders of other permits.

A. Warning Devices, Flagmen: Any person engaged in performing work regulated by this chapter which interferes with or endangers the safe movement of traffic shall have the work safeguarded by adequate warning signs, barricades, lights, devices or flagmen. He shall be responsible for placing and maintaining adequate warning signs, lights, barricades and devices during all periods of his activity in order to promote the safe movement of traffic, including, but not limited to, periods of twilight, nighttime, fog and/or rain. All warning signs, barriers, barricades, flags and other devices shall comply with (or exceed) the standards required in the California Vehicle Code.

B. Specifications: All work shall be performed in accordance with the district standard specifications or according to the plans and specifications referred to in the permit and, in addition, to any special requirements and/or specifications which are made a part of the permit. In case of conflict between two (2) specifications, the higher specification shall apply.

C. Failure To Obtain Permit; Work Stopped: Except in the case of an emergency any person who shall commence any work for which a permit is required by this chapter without first having obtained a permit therefor shall stop work and apply for such permit.

6-1-5: INSPECTIONS:

A. Authorization: A person shall not obstruct the general manager, or his duly authorized representative, in making any inspection authorized by this chapter or in taking any sample or in making any test.

B. Permit Inspection: The permittee shall make the permit available for inspection by the general manager or by any peace officer. (Ord. 09-230, 1-8-2009)

6-1-6: PERMIT ISSUANCE:

A. Application Of Provisions: Whenever this chapter requires a permittee to perform any work, take any action, or be liable for any fees and costs, such requirement also applies to any person who commences any work for which a permit is required by this chapter whether such person obtains such a permit or not.

B. Right To Use Of Roadway: Every permit issued under this chapter for activity or work in, along, on, over, across or under a roadway shall be granted subject to the right of the district or of any other person entitled thereto, to use that part of such roadway for any purpose for which such roadway may lawfully be used. Proof of the applicant's right to use the roadway for the purposes set forth in the application shall be filed with the general manager.

6-1-7: COMPLETION OF WORK AND COMPLIANCE WITH CHAPTER:

A. Work Completion: Every person who commences any activity or work regulated by this chapter shall safeguard and complete the activity or work within a reasonable time. Any part of a roadway facility of any nature removed or disturbed shall be repaired, restored and replaced in a condition satisfactory to the general manager. All material of any kind shall be removed from the roadway. Any surplus materials shall be hauled off site.

B. Compliance: Every person who commences any activity or work regulated by this chapter shall comply with the provisions of this chapter, the provisions made part of any permit, and the provisions of the specifications referred to by this chapter.

6-1-8: RESTORATION OF AREA OF ACTIVITY:

A. Restoration: Upon completion of the permittee's activity, the general manager, at his option, may require the permittee to restore that portion of the district facilities damaged by the permittee's activity, or the general manager may elect to do such restoration himself, at permittee's cost.

B. Pavement: Where the pavement or surface has been removed, the permittee shall replace it to a thickness one inch (1") greater than that of the surrounding pavement or surface, but, in no event, to a thickness less than three inches (3").

C. Base Course: The base course removed shall be replaced to the same thickness as that of the surrounding base course.

D. Seal; Slurry: When the street surface has been treated with a seal or slurry prior to the work under permit, the seal and/or slurry shall be replaced upon the portion repaired.

E. Replacement Of Sections: When the structural section removed varies from (or exceeds) the average existing section, the general manager may elect to require the replacement of an equivalent section which would meet the average structural section requirements.

6-1-9: PERMIT CANCELLATION:

The general manager may cancel a permit unless the activity therein permitted is commenced within the time specified and is diligently prosecuted to completion.

6-1-10: INVESTIGATION OF FACILITIES:

The permittee shall investigate and be aware of all existing facilities lawfully within the roadways which are within the limits of his activity. The permittee shall not interfere with any existing public or private facility without the consent of its owner. If it becomes necessary to relocate an existing facility, this shall be completed by its owner or to the satisfaction of its owner. The cost of moving publicly and/or privately owned facilities shall be borne by the permittee unless he makes other arrangements with the owner of the facility.

6-1-11: PROTECTION OF UNDERGROUND APPARATUS:

The permittee shall support and protect all wires, cables, pipes, conduits, poles, and other apparatus by a method satisfactory to the general manager. The district has the right to support or protect any of its facilities at the sole expense of the permittee. In case any of said wires, cables, pipes, conduits, poles or other apparatus should be damaged (and for this purpose, pipe coating or other encasement of devices

should be considered as part of a structure), they may be repaired by the general manager at the expense of the permittee under the supervision of the general manager. The expense of repairs to any damaged facilities shall be borne by the permittee.

6-1-12: LIABILITY INSURANCE:

The permittee shall save harmless, indemnify and defend the district, its officers, agents, and employees of and from any and all liability or responsibility for any property damage or loss, or injury, or death to any person arising out of or occurring as the proximate result of any of the work undertaken. The general manager may, in his discretion, require the permittee to furnish a policy of liability insurance naming the district as an additional insured to cover the cost of the permittee's duty to hold harmless, indemnify and defend the district.

6-1-13: FAILURE TO COMPLETE ACTIVITY:

When paving, excavated material, barricades, lights, or other devices are not properly placed or maintained; when the work started is not completed; when the work does not comply with the specifications or any special requirement; when the person fails or refuses to remove any obstruction; when any roadway facility has been damaged and the person fails or refuses to repair or restore; the general manager with his own forces or otherwise may cause such to be placed, erected, completed, repaired, restored, removed, and/or maintained. The permittee shall pay for any and all costs.

6-1-14: DRIVEWAYS:

All work performed on private driveway approaches across district property or right of way shall be performed in strict accordance with the plans and specifications set out in the district standard specifications and drawings.

6-1-15: APPLICATION FOR AND ISSUANCE OF PERMITS:

A. Form; Contents:

1. Application for a permit shall be made in writing to the general manager, on the forms provided by the general manager.
2. An applicant for a permit shall state in his application: name and address, such other information as is required by this chapter and such other information as the general manager may require.
3. The general manager may make such changes or additions in any application for a permit as in his opinion are necessary for the protection of the district property, for the prevention of undue interference with traffic, for the safety of persons using such district property, as to the route over which to move any over height, over width, over length, or overweight load; as to the location, depth, dimension, character, and number of excavations; as to encroachments made or placed; and, as to other permits issued pursuant to this chapter.
4. Each permit shall specify the time the permit shall become null and void and the permit shall become null and void on the date so specified unless the general manager extends the time. The general manager may extend the time if, in his opinion, the work for which the permit was issued was delayed in completion because of inclement weather, strikes, an act of God, or other causes not within the control of the permittee.

5. The general manager may require that evidence be submitted with the application to satisfy him that a proposed overhead structure or encroachment shall not, insofar as he can foresee, create a hazard of any kind.

B. Additional Requirement: The general manager may establish additional requirements for the work to be done under the permit, including equipment to be used, type of backfill, compaction, paving, traffic regulations, hours of work, flagmen, lights, inspection, and other similar requirements and conditions by attachments to the permits, and they shall be an integral part thereof. If any of the requirements of the permit are violated, the general manager may revoke the permit and require that a new permit be secured before further work is done.

C. Blanket Permits: Blanket permits, renewable annually, may be issued subject to compliance with all applicable provisions of this chapter. The general manager may revoke any such blanket permit if the permittee fails to comply with any of the provisions of this chapter. The issuance of a blanket permit does not relieve the permittee from making such reports of activity under the blanket permit as may be required by the general manager and for paying for inspection, repairs and other costs incurred by the district due to the permittee's activity.

D. Cost Of Relocation Of Structures: The general manager may require the permittee to make proper arrangements for, and bear the cost of, the relocation of any structure, publicly owned facility, tree, or shrub, where such relocation is made necessary by the proposed work for which a permit is issued. The general manager may elect to do the necessary relocation at the permittee's expense.

E. Permit Issued: If the applicant complies with every applicable provision of this chapter and all applicable provisions of all other ordinances and statutes, the general manager may issue to the applicant a written permit to perform the work set forth in the application. The general manager may refuse to issue a permit if he finds that it is not in the best interest of the district to do so.

F. Revocation Of Permit: The general manager, for cause, may cancel the privilege granted by the permit and may remove the permit from the job location.

G. Permits Nontransferable: Permits issued under the authority of this chapter are nontransferable.

6-1-16: FEES AND COSTS CHARGEABLE:

A. Issuance Fee:

1. All persons, except as otherwise specified in this chapter, shall pay an issuance fee and all other costs and charges as established for the work covered in this chapter.
2. The issuance fee shall be established by resolution of the board of directors. The fee shall be sufficient to defray the cost of handling by the district.

B. Exemptions:

1. The following shall be exempt from paying the issuance fee: the United States, this state, all departments of this county, any municipal corporation, any school district, and any special district organized under state law.

2. The general manager may grant a permit without issuance fee if he finds that the work to be done has been requested by the board of directors of the district in connection with proposed public works.

C. Waiver Of Fees: If the general manager determines that the waiver of any part of the fees is necessary to promote the safety and public welfare, he may, in specific instances, waive all fees and deposits.

D. Establishment Of Unit Fees: By order, the board of directors of the district may establish unit fees for inspection, transportation, tests, or any other costs incurred by the general manager due to the permittee's activity.

E. Liability Of Permittee: The permittee is liable for and shall pay for all the district's costs related to the permit, including, but not restricted to, the following:

1. The permit issuance fee, if that has not otherwise been paid;
2. Engineering, which includes design, inspection, survey, and tests;
3. The cost of inspection, transportation, or test made;
4. The cost of repairing or restoring the roadways and all appurtenant facilities to the same or equal condition that they were in before being cut or damaged as a result of the permittee's activities;
5. The cost of furnishing and/or maintaining any lights, barricades or warning devices;
6. The cost of alteration, removal, replacement, and/or repair to traffic signals and devices, the removal of temporary and/or permanent traffic stripes and any other expense for traffic control;
7. The cost of removing or remedying any hazardous condition;
8. The cost of tree trimming;
9. Any other cost to the district caused by the permittee's activity.

F. Actual Costs: Whenever in the provisions of this chapter, any costs are to be charged to any permittee and no other method for the calculation of such costs is specified, such costs are the actual costs including overhead and depreciation in accordance with current practice in charging for work performed for the public.

6-1-17: DEPOSITS, SURETIES REQUIRED:

A. Deposits:

1. Every applicant for a permit, unless exempt by law, other than the United States, this state, departments of this county, municipalities, and special districts, shall be required to provide a cash deposit or other adequate security, as determined by the general manager, to guarantee payment of charges due under this chapter. The amount of the deposit or security shall be sufficient to recover all costs of any nature which the general manager estimates he will incur if the permittee does not fulfill his permit requirements.

2. A cash deposit may be in the form of a special deposit for each permit or in the form of a general deposit to be maintained as security for all the permits issued to an applicant. If an applicant maintains a general cash deposit, it shall be with the understanding that he will pay all bills sent him by the general manager for work covered by this chapter.

B. Surety Bond: In lieu of a general cash deposit, the general manager may accept a surety bond in a sum of not less than one thousand dollars (\$1,000.00), executed by a corporation incorporated for the purpose of making, guaranteeing, or becoming a surety upon bonds. It shall guarantee the payment of all fees and other charges required by this chapter which may become due because of any permits issued during the life of the said surety bond.

6-1-18: BILLINGS AND COLLECTIONS:

A. Billing By Manager: The general manager shall bill the permittee or deduct from the deposit made or maintained by the permittee for all fees and costs chargeable under this chapter.

B. Failure To Pay Bill; Collection: If, within thirty (30) days after a bill has been sent, the permittee does not pay the same in full, such amount may be deducted from his general deposit, or the general manager may recover the amount due from any security the permittee has filed. If the deposit or security is insufficient to pay the amount due, the district may enforce collection by legal means. In addition, the district shall further be entitled to costs and reasonable attorney fees, to be paid by permittee.

C. Costs Of Additional Repairs: If, at any time subsequent to first repair of a surface of a roadway damaged or destroyed by an excavation or encroachment operation in such roadway, it becomes necessary again to repair such surface due to settlement or any other cause directly attributable to such excavation or encroachment operation, the permittee shall pay to the general manager the cost of such additional repair; provided, however, that the general manager shall have the option of either making the repair or requiring the permittee to make the repair.

D. Unpaid Bills; Withholding Further Permit Issuance: The general manager may elect not to issue further permits to the permittee and may hold any deposits, guarantees, or bonds of the permittee as long as any bill remains unpaid.

6-1-19: REFUNDS:

A. Deposits: The remainder of any deposit, if there is a remainder, shall be refunded to the person making such deposit, or to his assigns.

B. Issuance Fee: An issuance fee may be refunded when a permit has been issued as the result of an error not made by the permittee.

C. Erroneous Collection Of Fees: The fee deposited for inspection or any other unit fee established may be refunded if it was erroneously collected or if the work was not constructed by the permittee.

6-1-20: PRIVATE DRIVEWAY APPROACH:

Details regarding private driveway approaches are contained in the SCCSD standard specifications and drawings and are available in the district office.