

**BOARD OF DIRECTORS  
APPALOOSA ROAD COMMUNITY SERVICES DISTRICT**

Original Date: January 21, 2007

Amended Date: \_\_\_\_\_

**ORDINANCE            ORDINANCE SETTING FORTH OBLIGATIONS,  
NO. E-2007            CONDITIONS, AND PENALTIES IN CONNECTION WITH  
ROAD ENCROACHMENTS AND DAMAGE**

THE APPALOOSA ROAD COMMUNITY SERVICES DISTRICT BOARD OF DIRECTORS  
FINDS AS FOLLOWS:

1. The Appaloosa Road Community Services District (“District”) is responsible for construction, installation, and maintenance of roads and appurtenant improvements within the District; and
2. Some existing encroachments and improvements constructed and erected by existing property owners have had detrimental and adverse effects ~~of on~~ existing roads within the District; and
3. Future encroachments and improvements completed by property owners without the Board’s oversight could lead to significant further damage to roads and other District improvements within District rights-of-way and serious adverse economic consequences to the District; and
4. There is a need to maintain consistency of encroachments and nearby construction and property development in a responsible manner and to prevent any interference with, or impeding of travel or access on District Roads.

THEREFORE, THE APPALOOSA ROAD COMMUNITY SERVICES DISTRICT BOARD  
HEREBY ORDAINS THAT:

Section 1. No property owner shall engage in any encroachment within District rights-of-way without a permit issued by the **District Road Manager or the** Board of Directors that conforms to all criteria set forth in Section 4.

Section 2. Encroachment shall be defined to include, but not be limited to, any excavation or disturbances of the right-of-way; erection or construction of any culvert, **driveway**, embankment, pathway, conduit, cable, pipe, post, mailbox, sign, pole, fence, guard rail, wall, platform or any other structure, designed to be either temporary or permanent, that goes over, under, or through the right-of-way; planting or introduction of any tree, shrub, grass, dirt or material within the right-of-way; placing or leaving any rubbish, trash, brush, fill or material within the right-of-way; or lighting or building of any fire within the right-of-way.

Section 3. Right-of-way shall mean all land or interest therein which by map, deed, conveyance, agreement, easement, dedication, usage or process of law is reserved for or dedicated to or for the Appaloosa Road Community Services District.

**NOTE: RIGHTS OF WAY OF DISTRICT ROADS ARE AS FOLLOWS:**

**- Appaloosa Road, 30 feet from the centerline of the road.**

**All other roads, 25 feet from the centerline of the road. The District will not approve a permit to install a fence within the road right of way, and any fence so installed is a violation of this ordinance, Government Code section 61103, California Streets and Highway Code section 1480, et seq., and is illegal.**

**PLEASE NOTE; Existing fences located within the District's right-of way prior to the adoption of this ordinance may be repaired without requiring relocation, but, if the repair includes the removal and replacement of existing fence posts, braces or gates, the new fence line must be relocated outside the right-of- way as indicated above.**

Section 4            ~~Every encroachment application/permit shall be valid for 90 days.~~ Every application/permit shall be on a form approved by CSD Directors. Every application/permit shall include, **but not be limited to**, the following criteria which shall be addressed in each application/permit:

- the dates at which work is **estimated** to commence and be completed;
- the name, address, and contact information for the permit applicant;
- the name, address, contact information and license number of any contractor who is the applicant or agent for the applicant;
- description of the precise nature of work for which the permit is sought, in sufficient detail to empower the ~~Directors~~ **Road Manager or District Board** to

approve or deny the permit based on the criteria established in this ordinance and in this section. ~~and also to establish commencement and completion dates;~~

- indemnification language whereby the applicant agrees to indemnify the District for any negligent acts or omissions which may cause damage to District property or property owners within the District.
- an agreement to either provide a ~~cash~~ **check** deposit and/or bond deposit, through a bond tendered by a California admitted surety in good standing, sufficient to cover the cost of restoring the right-of-way to its former condition in the event of damage or to complete construction or work set forth in an approved permit, and also providing for additional ~~cash~~ **check** or bond deposit in the event original sums tendered are insufficient;
- an agreement that all work performed under any permit issued shall comply with recognized standards of construction and approved practices under legal codes in effect on the date of issuance;
- proof of consent for use of property of adjacent property owners if the scope of work permitted requires adjacent access to private property;
- proof submitted by the applicant that all utilities affected by the proposed work have been notified, and such utilities have either approved or filed no objection within reasonable time frames; and
- space for the ~~Directors~~ **District** to require any special conditions that will mitigate or remove any incidental harm to the right-of-way or adjacent property.

Section 5.

The ~~Board~~ **District** shall not approve any encroachment permit that does not comply with the terms of this Ordinance.

- Section 6. No property owner shall conduct burns or start fires, move or remove soil, or encroach upon, near, or within District roads or rights-of-way in any manner that damages, harms, or degrades District roads or rights-of-way, either through fixed or temporary objects or improvements, or through unnatural channeling, creation, alteration or acceleration of water or watercourses.
- Section 7. In addition to any other remedies or penalties provided by law, the District may seek any remedies or penalties for any injury or damage to, or impermissible encroachment on, District roads and rights-of-way, pursuant to Government Code section 61103 and Streets and Highways Code sections 1480, et seq.
- Section 8. Any act in violation of this Ordinance is punishable as a misdemeanor under **Government Code 61064 pursuant to section 19 of the Penal Code.**
- Section 9. Effective Date. This ordinance shall take effect thirty (30) days from the date of its passage and shall be published once within fifteen (15) days of its passage in a newspaper of general circulation printed and published in the County of Calaveras with the names of the Directors voting for and against same.

ON A MOTION by Director \_\_\_\_\_,  
seconded by Director \_\_\_\_\_, the foregoing **Amended** Ordinance  
was duly introduced on \_\_\_\_\_; and passed and adopted by the  
Board of Directors of the Appaloosa Road Community Services District on this \_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_ by the following vote:

**AYES:**

**NOES:**

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CHAIR, Board of Directors

ATTEST:

\_\_\_\_\_  
Clerk