

South Placer Municipal Utility District Code

Chapter 5 Encroachments on District Easements and Rights of Way

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CHAPTER 5 ENCROACHMENTS ON DISTRICT EASEMENTS AND RIGHTS OF WAY

CHAPTER 5.00 PURPOSE

This Chapter in whole or in part is based on excerpts from Ordinance 15-03 adopted by the Board of Directors on September 3, 2015 to establish the criteria whereby the District may grant a property owner permission to encroach on a District easement or right of way, either upon the request of a property owner or upon the discovery of an unlawful encroachment on District property or rights of way. District facilities are located within established easements, property held by the District in fee and rights of way located within roads, subdivisions and undeveloped areas. The District's property and right of way interests must be protected and preserved at all times against unauthorized use, damage to District property and/or facilities, or hindrance of access to said facilities. The District may remove any encroaching structures from its property and rights of way at the property owner's expense. The purpose of this Chapter is to establish guidelines and requirements for certain types of encroachments which may be permitted.

CHAPTER 5.01 Definitions

5.01.005 Applicant

The owner or authorized agent of the owner, or subdivider of real property who applies for a permit to encroach on a District-owned property, easement or right of way or who is discovered to have encroached thereon without approval from the District.

5.01.010 Board

Board of Directors of the South Placer Municipal Utility District (District).

5.01.015 District

The South Placer Municipal Utility District, a statutorily created district operating under the authority of and pursuant to the provisions of the California Municipal Utility District Act (Public Utility Code commencing at Section 11501 et seq).

5.01.020 District General Manager

The General Manager as appointed by the Board of Directors of the South Placer Municipal Utility District in accordance with the California Municipal Utility District Act (Public Utility Code commencing at Section 11501 et seq) or any District employee or agent of the District authorized by the General Manager to act on their behalf to enforce the provisions of this code.

5.01.025 Person

Any individual, partnership, co-partnership, firm, company, association, society, corporation, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by context.

CHAPTER 5.02 PROHIBITED ENCROACHMENTS

5.02.001 Access

The District must maintain access to its properties and rights of way so that it retains the immediate ability to construct, reconstruct, maintain, repair, test, inspect, relocate, and or operate any of its facilities.

5.02.002 Prohibited Encroachments

The District may permit certain encroachments in its right of way so long as the encroacher completes an encroachment permit on a form prescribed by the District General Manager and signs an encroachment agreement. The following are encroachments that are prohibited and subject to immediate removal:

- A. Structures/buildings, whether above or below ground, that prohibit free and complete access to District facilities;
- B. Deep rooted trees; however, shallow rooted trees that grow no higher than 15 feet and have a mature root spread of no more than 10 feet may be permitted, provided the trees are planted no closer than 25 feet from the closest edge of the District's pipeline. Bushes and shrubs are generally allowed where they do not block access and they are no more than 3 feet tall. Additionally, trees cannot make the District's easement impassable, even if they comply with the aforementioned criteria.
- C. Large boulders;
- D. Blasting and heavy equipment; and
- E. Permanent structures within 10 feet of a District facility that cannot be removed without damaging other buildings or improvements.

CHAPTER 5.03 GUIDELINES FOR PERMISSIBLE ENCROACHMENTS

- A. All requests for an encroachment permit are determined on a case-by-case basis depending on the recorded document that originally fixed the legal rights of the District, the location or anticipated location of District facilities, and any other factors that affect the District ownership, use, operation and access to said facilities. All requests for an encroachment permit are subject to review and approval by the District Board of Directors.
- B. The applicant must execute and record an agreement satisfactory to the District in all respects, which shall provide that the property owner shall indemnify and hold the District harmless for any damage to the District's facilities and also any damages to the encroachments, including all expenses incurred by the District, when removal by the District is required.
- C. The applicant must always supply the District with as-builts.
- D. Generally permissible items in an encroachment permit are as follows:
 - 1. Turf and other minor landscaping (trees and deep rooted shrubs not permitted per above);
 - 2. Asphalt per District approved design;
 - 3. Concrete per District approved design.
- E. When an unauthorized use of a District property or easement is discovered, the General Manager shall give notice of the infraction to the Person responsible.
- F. The decision whether to permit an encroachment shall be at the sole discretion of the Board of Directors of the District.
- G. The District may order the immediate removal of any otherwise permitted encroachments in the event such encroachments impair District access, and the cost of such removal shall be borne by the property owner.

CHAPTER 5.04 MISCELLANEOUS PROVISIONS

5.04.001 Conflicts:

In the event of a conflict between any provision of this Code and the provisions of any other ordinance, rule or regulation promulgated by any California city or county or by any federal or state agency, the provisions of this Code shall prevail except in cases where Federal or California law provide otherwise.

5.04.002 Severability:

It is hereby declared that in the event any provision or section of this Code is declared void or invalid by any Court of competent jurisdiction, that the remaining sections of the Code shall not be affected thereby, and it is the intent of said Board of Directors to enact each and every, all and singular, of the provisions of this Code irrespective of any provision which may be declared null and void.

5.04.003 Vested Contractual Rights Not Affected:

No provision of this code shall be construed as altering or affecting any vested contractual rights between the District and any person, firm, or corporation with whom a valid contract exists as of the effective date of this code.