

**TWAIN HARTE COMMUNITY SERVICES DISTRICT**  
**Policy and Procedure Manual**

**POLICY TITLE:** Encroachment Permits  
**POLICY NUMBER:** 3070  
**ADOPTED:** December 20, 2005  
**AMENDED:** March 10, 2021

**3070.10 PURPOSE**

The purpose of this policy is to set forth requirements for the application, evaluation, and approval/denial of requests by property owners who desire to install or construct physical improvements that encroach on land which is encumbered by the District. Encroachments include, but are not limited to landscaping, fencing, retaining walls, culverts, bridges and/or other structures or improvements constructed or installed on, above or below the surface of any portion of land encumbered by a District facility, dedicated easement or right of way.

**3070.20 AUTHORITY**

The General Manager, or his/her designee, shall have sole authority to review, approve and/or deny applications for encroachments and to grant and record encroachment permits. Decisions to authorize or deny encroachments shall be at the sole discretion of the General Manager or his/her designee. The General Manager's decisions regarding encroachments shall consider protection of District facilities; maintaining continual access to District facilities for operation, repair, construction, improvement and/or replacement; liability; the need for future District facilities and improvements; and other factors that impact the District's ability to accomplish its mission.

**3070.30 ENCROACHMENT APPLICATION AND REVIEW**

**3070.31 Application:** Prior to commencement of installation or construction of an encroachment, property owners shall apply for and receive an Encroachment Permit from the District. Encroachment Permit applications shall be submitted on a form approved by the General Manager and shall, at a minimum, include the following information:

1. Property owner contact information.
2. Location of encroachment, including address, parcel number and description.
3. Description of encroachment, including drawing of encroachment with dimensions.
4. Plans for proposed encroachment improvements. The General Manager, or designee, may waive the requirements for plans if it is clear that the encroachment adequately accommodates the District's facilities and needs.

**3070.32 Fees:** A fee to cover review, inspection and recording of Encroachment Permits shall be submitted at the time of application. The fee shall be equal to two hours of District labor at the rate established in Policy #1060 – Miscellaneous Fee Schedule. Some complex encroachments may

require extensive review, inspection, other forms of agreement or other extra efforts by the District. If the General Manager, or his/her designee, determines that processing an Encroachment Permit requires extra efforts, an additional fee that covers the estimated cost of such extra will be required prior to processing the Encroachment Permit.

**3070.33 Review:** Upon receipt of a complete Encroachment Permit application and fee, the District will review the application and determine whether or not the encroachment is acceptable and if any special conditions need to be applied. The General Manager, or his/her designee, will approve or deny the encroachment. If the encroachment is approved, an Encroachment Permit will be issued to the property owner and recorded with the County.

**3070.34 Appeals:** If a property owner disagrees with the decision of the General Manager, or his/her designee, the property owner may submit an appeal to the General Manager in writing. The appeal will be heard by the District's Board of Directors at their next regularly scheduled meeting. The Board of Director's decision will be final.

#### **3070.40 ENCROACHMENT PERMIT REQUIREMENTS**

Encroachments will only be allowed with an Encroachment Permit issued by the District. Requirements for Encroachment Permits are as follows:

1. Encroachment Permits shall, at a minimum, include the General Provisions attached to this Policy. If deemed necessary, by the General Manager or his/her designee, special conditions may be added to the General Provisions to protect current and future District facilities and operations.
2. The form of the Encroachment Permit shall be as designated by the General Manager, which clearly describes the encroachment and the conditions of such encroachment, can be signed by the property owner, and recorded with the Tuolumne County Recorder.
3. An Encroachment Permit must be obtained before any installation or construction of an encroachment can occur.
4. Installation/construction of an encroachment shall be subject to inspection by District staff to ensure it complies with the conditions of the Encroachment Permit. The property owner will provide the District a signed notice of completion when the work is complete, verifying that the work was completed in accordance with the Encroachment Permit and that it is ready for final inspection.
5. Encroachment improvements made beyond those specified in the Encroachment Permit may require an additional Encroachment Permit or may be required to be removed at the property owner's expense.

#### **3070.50 UNAUTHORIZED ENCROACHMENTS**

Property owners who have installed/constructed physical improvements that encroach on District easements, property or right of way without an Encroachment Permit shall be required to obtain an Encroachment Permit from the District. The District may require that the encroachment be modified, relocated or removed by, and at the sole expense of, the property owner.

## ENCROACHMENT PERMIT

### General Provisions

1. **Definition:** The term *encroachment* is defined as the installation of an obstruction on a District easement, roadway or property.
2. **Acceptance of Provisions:** It is understood and agreed by the Permittee that the commencement of any work under an Encroachment Permit shall constitute acceptance of the provisions.
3. **Prior Right:** It is understood and agreed that the District has a prior right to use of its rights-of-way.
4. **Notice Prior to Starting Work:** Before starting work for which an inspector is required, or whenever stated on the fact of a permit, the Permittee shall notify the designated employee of the District at least three (3) days in advance of the date work is to begin.
5. **Permission from Property Owners:** Whenever necessary to secure permission from abutting property owners, such authority must be secured by the Permittee prior to starting work.
6. **Keep Permit on Site:** The permit shall be kept at the site of the work.
7. **Protection of Traffic:** The Permittee shall cause to be placed, erected and maintained all warning signals, lights, barricades, signs and other devices or measures essential to safeguard travel by the general public over and at the work authorized.
8. **Minimum Interference with Traffic:** All work shall be planned and carried out so that there will be the least possible inconvenience to the traveling public except for the specific work permitted.
9. **Clean Up Right-of-Way:** The Permittee shall, at all times, during the progress of the work, keep the District owned roadway in as neat and clean a condition as is possible and upon completion of the work granted, shall leave the road in a thoroughly neat, clean and usable condition.
10. **Storage of Material:** No material shall be stored within eight (8) feet of the traveled way.
11. **Standards of Construction:** All work shall conform to recognized standards of construction and the District Standard Specifications and details, if applicable.
12. **Borrow and Waste:** Only such borrow and waste will be permitted and within the limits as set forth of the face of the permit.
13. **Supervision:** All the work shall be done subject to the supervision and satisfaction of the District.
14. **Future Moving of Installation:** It is understood by Permittee that whenever construction, reconstruction, repair or maintenance work on the District's utilities and facilities is required, the installation provided for herein shall, upon request of the District, be immediately moved by, and at the sole expense of, the Permittee. Any replacement of the installation shall also be by, and at the sole expense of, the Permittee.
15. **Liability for Damages:** The Permittee is responsible for all liability for personal injury or property damage which may arise out of work herein permitted, or which may arise out of failure on a Permittee's part

to perform his obligations under this permit in respect to maintenance. In the event any claim or such liability is made against the District, or any department, officer or employee thereof, Permittee shall defend, indemnify and hold them and each of them harmless from such claim. Further, Permittee shall obtain a similar provision in its contract with any contractor to perform the work permitted, which indemnification and hold harmless shall include not only the Permittee, but also the District, any department, officer or employee thereof.

16. Making Repairs: If the District so elects, repairs to the utilities, facilities or roads which have been disturbed shall be made by its employees and the expenses shall be borne by the Permittee. All payments to laborers, inspectors, etc. employed by the District for or on account of the work herein contemplated, shall be made by said Permittee forthwith on receipt of written statement approved by the District. The District may elect to require a deposit before starting repairs, in an amount sufficient to cover the estimated cost thereof.

17. Care of Drainage: If the work contemplated shall interfere with the established drainage, ample provision shall be made by Permittee to provide for it as may be directed by the District.

18. Maintenance: The Permittee agrees to exercise reasonable care to maintain properly the encroachment and to exercise reasonable care in inspecting for and immediately notifying the District of any injury to any portion of District utilities or facilities which occurs as a result of the maintenance of the work done under this permit, including any and all injury to the utilities or facilities which would not have occurred had such work not been done or such encroachment not placed therein. Maintenance shall include, but not be limited to, cleaning and keeping free from debris all structures included as a part of this encroachment. No assignment of maintenance responsibility may be made without approval of the District.

19. Crossing Roadway: Service and other small diameter pipes shall be jacked or otherwise forced underneath pavement without disturbing same. Pavement or roadway shall not be cut unless specifically permitted. Service pipes will not be permitted inside of culverts used as drainage structures.

20. Depth of Pipes: There shall be a minimum of 36 inches of cover over all pipes or conduits crossing a District roadway, unless approved by the District in writing.

21. Backfilling: All excavations shall be backfilled and mechanically compacted immediately after work therein has been completed. No portion of the excavation shall be compacted by ponding or jetting. Back filling material shall comply with District Standards.

22. Restoration: All pavement, curb, gutter, sidewalk, borrow ditches, pipes, headwalls, road signs, trees, shrubbery and/or other permanent facilities impaired by or as a result of construction operations at the construction site, or at other ground occupied by materials and/or equipment, shall be restored immediately to a condition as good as or better than existed prior to the construction.

23. Completion: Immediately following completion of construction permitted herein, Permittee shall fill out and submit the "Notice of Completion" form provided by the District.

24. Responsible: The District will not be held responsible for any damage to any of the Permittee's underground or other facilities or structures that have been caused during the course of the District's normal maintenance procedures or by failure of District utilities within the easement or property subject to this encroachment permit.